

TOWN OF CLARKSTOWN
LOCAL LAW -2022

Be it enacted by the Town Board of the Town of Clarkstown as follows:

Section 1. Title

A Local Law Superseding Chapter 157 Article X of the Town Code of Clarkstown

Section 2. Delete the language in Chapter 157 Article X in its entirety and replace with the following:

§ 157-70 Title

This Article X shall be titled “Prohibition on Short-Term Rentals of Residential Dwellings”

§ 157-71 Legislative Intent; Purpose.

It is the purpose of this legislation to advance the public health, safety, and welfare of the Town of Clarkstown, its residents, and visitors. The purpose of this article is to prevent unregulated tourist or transient-oriented uses within all permitted and pre-existing nonconforming single-family, two-family, and multifamily dwellings and in residential districts and traditional residential neighborhoods to protect and ensure the safety of the Town's current and future residents and visitors to the Town as well as protect and preserve the Town's appropriately balanced commercial and residential nature and unique, tranquil neighborhood character as enacted by the Town's zoning, subdivision, property maintenance and related local laws.

§ 157-72 Definitions.

As used in this article, the following terms shall have the meanings indicated:

APARTMENT

That part of a multiple dwelling consisting of one or more rooms containing at least one bathroom and arranged to be occupied by the members of a family, which room or rooms are separated and set apart from all other rooms within a multiple dwelling.

IMMEDIATE FAMILY MEMBER

Any parent, grandparent, child, grandchild, sibling, spouse, domestic, and any other immediate relative by blood, marriage, or adoption (i.e., cousin, niece, nephew, aunt, uncle, in-law, and stepchild).

LIVING ACCOMMODATION

A dwelling or premises or portion thereof with a bed or beds and bathroom facilities for the use of the person or persons occupying the dwelling, premises, or portions thereof.

MONETARY COMPENSATION

Cash, check, money order, credit card, bitcoin, barter, or other valuable consideration.

MULTIPLE DWELLING

A dwelling which is either rented, leased, let or hired out, to be occupied or is occupied as the permanent residence or home of three or more families living independently of each other and is occupied for permanent residence purposes. "Multiple dwelling" shall include "apartment" dwellings.

OCCUPANT

A person, other than the premises owner of record filed in the Rockland County Clerk's office or an immediate family member of the premises owner, occupying living accommodations with the premises owner's express or implied consent.

OFFER TO RENT

To personally or through an agent, referral service, representative or other entity or person, communicate or advertise, verbally, in writing, or through electronic means or otherwise, including the Internet, the availability for rental or similar use of any living accommodations, or to knowingly allow, commission, authorize, or permit such communication or advertisement.

PERSON

Any individual, partnership, corporation, joint limited liability company, limited liability company, trust or other entity, stock association, and includes any trustee, receiver, assignee, or personal representative thereof, including but not limited to any booking or reservation service, lawful lessees, and premises owners.

PREMISES

Immovable property owned or leased by the premises owner or lawful lessee, as applicable.

PREMISES OWNER

A person having lawful ownership title or interest to the premises or an immediate family member of said person.

SHORT-TERM RENTAL

A dwelling unit that is rented, in whole or in part, to any person or entity for a period of less than 29 consecutive nights. "Rental" means an agreement, written or oral, granting use or possession of a residence, in whole or in part, to a person in exchange for monetary compensation. "Short-term rental" shall also mean the selling of shares, time-share ownership or the establishing of other ownership, tenancy or use arrangement in which a person obtains a right of occupancy in all or any portion of a residential dwelling unit.

TRANSIENT

A rental period of 29 nights or less.

§ 157-73 Short-term rentals prohibited.

- A. It shall be unlawful for any person in any residentially zoned district within the Town to rent or license, or offer to rent or license, any living accommodations or swimming pools for monetary compensation or other valuable consideration for a period of less than 29 consecutive nights if the living accommodations are not lawfully licensed or permitted for such use under the Town Zoning Code.

- B. No occupant, visitor, or other person may use, reside, dwell, or otherwise remain in any living accommodations or swimming pool for a period of less than 29 consecutive nights in exchange for monetary compensation or other valuable consideration.
- C. Any provision of a lease or rental agreement purporting to waive any provision of this section is unlawful.
- D. Nothing in this section shall be construed as invalidating or impairing the operation of, or the right of a landlord to restrict occupancy in order to comply with federal, state or local laws, regulations, ordinances, or codes.
- E. A person or entity (including a principal of any entity) who rents property from a premises owner or lawful lessee who is in violation of this section shall be deemed to be an accessory to the offense provided herein.
- F. Any person who shall violate any provision of this section may first receive a warning of said violation from the Building Inspector, unless the living accommodation or swimming pool is or has been occupied illegally at the time the Building Inspector is made aware thereof, at the discretion of the Building Inspector. Each violation issued thereafter shall be subject to the penalties set forth in § 157-76, titled "Penalties for offenses."
- G. In addition to the criminal penalties contained herein, it shall be the right of the Town to seek injunctive relief in any civil court having jurisdiction over this matter to prevent any violation or violations of this section.

§ 157-74 Exception.

Occupancy pursuant to a post-closing possession agreement by the seller of any living accommodations or swimming pools shall not be a violation of short-term rentals provided that title has passed to the purchaser and the deed for the living accommodations or swimming pool has been filed in the Rockland County Clerk's Office on the same day or within 5 days of closing.

§ 157-75 Applicability.

- A. The prohibition on short-term rentals shall apply to all single-family, two-family, and multiple-family residential dwellings within the Town, as well as swimming pools.
- B. The prohibition on short-term rentals shall not apply to a commercial hotel/motel business or bed-and-breakfast establishment operating exclusively as such and which is lawfully licensed or permitted for such use pursuant to the Town Zoning Code and regulated by applicable state, county and local law or ordinance.
- C. The prohibition on short-term rentals shall not preclude the creation of a mortgage, lien, easement or other similar interest that encumbers a residential property as a whole to secure a loan or for any other legitimate purpose.

§ 157-76 Penalties for offenses.

- A. Any person or entity that shall violate any of the provisions of this article or who fails to comply with any of the requirements thereof shall be guilty of a violation, punishable by:
- (1) A fine of not less than \$3,500 and not exceeding \$5,000 upon conviction of a first offense.
 - (2) A fine of not less than \$7,000 nor more than \$10,000 for a conviction of the second of two offenses, both of which were committed within a period of five years.
 - (3) A fine of not less than \$10,000 nor more than \$15,000 for a conviction of the third of three offenses, all of which were committed within a period of five years.
- B. Each week a violation continues shall be deemed a separate offense subjecting the offender to additional fines in the amount equaling the original fine.
- C. Civil remedies. In the event an owner fails or refuses to correct a violation under this article, the Town may commence a civil action, request injunctive relief against the violation, and seek money damages to compensate the Town for the costs it has and will incur because of the violation, including reasonable attorney's fees expended by the Town.
- D. Other remedies. The remedies provided for in this section are in addition to, and not in lieu of, all other legal remedies, criminal or civil, which may be pursued by the Town to address any violation of the Town Code or other public nuisance

§ 157-77 Enforcement.

- A. The Building Inspector and/or Code Enforcement Officer and/or Fire Inspector and/or his or her assistants shall be responsible for investigating and documenting violations of any case of this article within the Town of Clarkstown.
- B. Prosecutions for violations of this article may be instituted in the Town Justice Court of the Town of Clarkstown or any other court of competent jurisdiction.

§ 157-78 Termination of existing short-term rental permits.

Any valid short-term rental permit issued pursuant to the earlier short-term rentals local law by the Building Inspector or his designee shall be valid for a period of two years from the date of issuance of said permit. Thereafter, this permit shall not be renewed and it shall be a violation for the owner or lawful lease holder to rent the living accommodations or swimming pool on a short-term rental basis as described in §157-73.

§ 157-79 Severability.

If any section, paragraph, clause, provision or portion of this article shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of the balance of this article as a whole or any part or provision other than the part held to be invalid or unenforceable.

§ 157-80 Authority.

This article is adopted pursuant to the New York State Constitution and Section 10 of the Municipal Home Rule Law.

§Section 3. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.