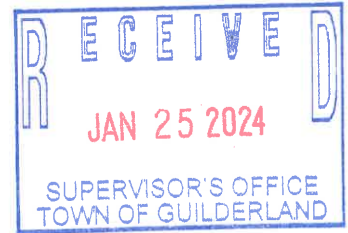


TOWN OF GUILDERLAND

MEMORANDUM



TO: Supervisor Barber and Town Board Members

FROM: Jacqueline Coons, Chief Building & Zoning Inspector

DATE: January 25, 2024

RE: Zoning Code Changes

The Town Board will be considering changes to the Town Code related to the creation of a new Zoning Use.

Proposed is a new use for "Short-Term Rentals" due to the fact that a recent interpretation by the Zoning Board generated further discussion regarding allowing single-family or two-family dwellings to be occupied on a transient basis. It seems appropriate that the use be regulated differently than commercial hotel/motel occupancies as it is a less intense use and as such could be compatible with locations that may not be zoned a commercial district.

In summary, on behalf of the Building and Zoning Departments, I support the language of the proposed Code changes.

Chapter 280 (Zoning)
Section 240 (Supplemental Regulations)

AA. Short-Term Rental. A short-term rental shall comply with the following additional requirements

(1) **Purpose.** The Town Board has determined that short-term rentals should be regulated to promote compatibility with the privacy, community character, and ambience currently enjoyed in residential neighborhoods in the Town. The Town Board also recognizes that short-term rentals can attract visitors to the Town, support local businesses, and provide additional income to Town residents. The Town Board issues these regulations to protect against potential adverse effects while allowing short-term rentals under appropriate circumstances. This section is adopted pursuant to New York Municipal Home Rule Law.

(2) **Definitions.** As used in this section, the following words shall have the meanings indicated:

DWELLING UNIT

One or more rooms designed, occupied or intended for occupancy as separate living quarters, with provision for living, cooking, sanitary and sleeping facilities provided for the exclusive use of one family or household.

QUIET HOURS

The time between 10pm and 8am when noise from the short-term rental property is discernable at nearby residential property by a reasonable person and the use of outdoor areas, including, but is not limited to, yards, decks, patios, courts, and pools is prohibited

RENTAL

The granting of the possession or use of a dwelling unit, in whole or part, to a person or group in exchange for consideration.

SHORT-TERM RENTAL

A dwelling unit, which may or may not be inhabited by the owner of record or their immediate family, that is rented, in whole or in part, for a period of less than 30 consecutive days to any person or entity, but not including a bed-and-breakfast, boardinghouse, family apartment, hotel, inn, or motel, as defined in this chapter.

SHORT-TERM RENTAL OWNER

All persons or entities having an ownership interest in a dwelling unit which is used as a short-term rental.

SHORT-TERM RENTAL PROPERTY

The entire area which is under the ownership or control of the short-term rental owner, including, as applicable, the parcel of land on which a short-term rental is located, together with the dwelling in which it is located and any other structures on the parcel.

- (3) **Short-term rental standards.** Short-term rentals shall comply with the following requirements:
- (a) On an annual basis on or before January 15, the short-term rental owner shall submit a complete short-term rental application, with the required annual fee, to the Chief Building Inspector attesting to compliance with the requirements of this section.
 - (b) No primary or accessory structure, or portion thereof, for which there is no certificate of occupancy for habitable space shall qualify as a short-term rental.
 - (c) The number of bedrooms shall not exceed the number of bedrooms set forth for the short-term rental property in the New York State Real Property System database maintained by the Town Assessor's office.
 - (d) The maximum occupancy per bedroom shall not exceed two persons unless the bedroom does not comply for more than one person under the New York State Property Maintenance Code.
 - (e) Single- or multiple-station smoke alarms and carbon monoxide alarms shall be installed and maintained in compliance with the New York State Property Maintenance Code.
 - (f) Portable fire extinguishers shall be installed for Group R-1 occupancies in compliance with the New York State Property Maintenance Code.
 - (g) All exterior doors shall be operational, and passageways to such doors shall be freely accessible and unobstructed.
 - (h) Each sleeping room shall have an emergency escape opening that is in compliance with the New York State Property Maintenance Code.
 - (i) Electrical and mechanical systems shall be serviceable with no visible defects or unsafe conditions.
 - (j) All fireplaces, fireplace inserts or other fuel-burning heaters and furnaces

shall be vented and properly installed. If installed, all fireplaces, fireplace inserts or other types of fuel-burning heaters (excluding furnaces) shall have proper, written, safe operating instructions provided to any party renting the short-term rental.

- (k) There shall be off-street parking spaces for one vehicle per bedroom. Overnight on-street parking is not allowed. On-street day parking shall not impede local residents or the public use of Town roads.
- (l) Short-term rental owners shall establish written rules for the short-term rental that require full compliance with the regulations set forth in this section. The rules shall apply when short-term rentals are active. The rules shall assure public health, safety and general welfare by promoting a clean and attractive environment for the short-term rental property, adjacent property owners, and the neighborhood. The rules shall specify the penalties contained in section § 280-40(AA)(4)(e). The rules shall be enforced by the short-term rental owner. The rules shall prohibit fighting, violence, tumultuous or threatening behavior, unreasonable noise, abusive or obscene language or gestures in public. The rules shall provide for quiet hours between 10:00 p.m. and 8:00 a.m. and shall be maintained by all rental occupants and visitors at the short-term rental property.
- (m) Provisions shall be made by the short-term rental owner for weekly garbage removal during rental periods. Garbage containers shall be secured with tightfitting covers at all times to prevent leakage, spillage and odors, and shall be placed where they are not clearly visible from the street or road except as required for pickup times.
- (n) The premises location for the short-term rental shall be installed in compliance with the New York State Property Maintenance Code. The address number of the short-term rental shall reflect the address assigned in the local 911 dispatch system.
- (o) A short-term rental shall comply with all local, state and federal laws and regulations.
- (p) A short-term rental property shall not be rented for short-term rental purposes for more than 240 days in total per calendar year. This limitation shall not apply where the short-term rental property or an immediately adjacent property is the principal residence of the short-term rental owner.
- (q) The short-term rental owner shall provide all owners of property within 100 feet of property lines of the short-term rental property with the name, address

and telephone number of a contact person or entity who shall address any complaint received regarding the short-term rental site within one hour of receiving the complaint. The contact person or entity shall document all complaints and responses, and submit them to the Chief Building Inspector within 24 hours. A copy of the contact person or entity name, address and phone number shall be included on the front page of the written rules for the property and made immediately available upon request from law enforcement officers or a Town Building Inspector.

(4) Enforcement; penalties for offenses.

- (a) Any individual, partnership, corporation or other firm owning, operating, occupying or maintaining short-term rental property or a short-term rental shall comply with all the provisions of this section and all orders, notices, rules, regulations or determinations issued in connection therewith.
- (b) The Chief Building Inspector or designee shall be granted access upon reasonable request to the short-term rental property for the purpose of inspection and/or enforcement of compliance with short-term rental regulations and/or Town and State building codes.
- (c) Whenever it is found that there has been a violation of this section or any rule or regulation adopted pursuant to this chapter, a notice of violation and/or appearance ticket or summons and complaint may be issued to the person, individual, partnership or corporation owning, operating, occupying or maintaining the short-term rental or short-term rental property in which such violation has been noted.
- (d) The Chief Building Inspector or designee shall have the authority, pursuant to the Criminal Procedure Law, to issue an appearance ticket or summons and complaint, directing a designated person to appear in court at a designated time in connection with the commission of a violation of this section.
- (e) Any person who shall violate any provision of this section, any order made hereunder, or any rules or regulations adopted pursuant to this section in addition to other penalties provided for in this section and/or the owner of any property at which a such violation occurs shall be guilty of an offense punishable in the following manner: a fine of not more than \$950 per day for each offense. Any person who shall violate any provision of this section, any order made hereunder, or any rules or regulations adopted pursuant to this section in addition to other penalties provided for in this section and/or the owner of any property at which a such violation occurs shall be liable for

civil penalties of not more than \$950 per day for each violation.

- (f) A civil action or proceeding in the name of the Town may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this section or any rule or regulation adopted pursuant hereto and to seek monetary penalties. Such remedy shall be in addition to penalties otherwise prescribed by law and may be commenced with the consent of a majority of the Town Board.
 - (g) No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section. The Town may initiate enforcement proceedings under this section at any time following receipt of a complaint or if the Chief Building Inspector determines that a violation has occurred.
- (5) **Severability.** The invalidity of any clause, sentence, paragraph or provision of this section shall not invalidate any other clause, sentence, paragraph or part thereof.