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NEW YORK STATE DEPARTMENT OF

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Village of Penn Yan

Local Law 2 of the year 2024

A Local Law amending regulation for short-term rental sleeping rooms/facilities in the Village of Penn Yan.

Be it enacted by the Village of Penn Yan as follows:

Section 1. Short Title.

This Local Law shall hereafter be known as the “Village of Penn Yan Short Term Rentals Law Amendment of 2024.”

Section 2. Legislative Intent and Findings.

The intent of this Local Law is to amend the regulations for short-term rental facilities in the Village of Penn Yan. The Board of Trustees previously found that short-term rentals are a new use of dwellings in the Village. Failure to regulate those short-term rentals in the Village could have a detrimental impact on residential districts. An ad hoc committee was formed to investigate whether short term rentals should be regulated in the Village of Penn Yan. That Committee undertook an extensive review and investigation of the issue. As a result, the Committee examined similar short term rentals regulations from a number of other municipalities. Members also attended presentations by legal staff of the New York Conference of Mayors. As a result of that investigation the Short Term Rentals Ad Hoc Committee identified a number of potential impacts of short term rentals in the Village of Penn Yan. Those potential impacts include and continue at the time of this amendment to be:

1. Displacement of permanent residential housing by proliferation of short term rentals in communities;
2. Driving up real property taxes as a result of increases in the assessed values of houses;
3. Short term rentals can cause traffic and parking issues on residential streets if a short term rental has multiple renters;

4. Short term rentals being recreational in nature, noise issues are a common nuisance in a residential area;
5. Absentee management without local oversight causes control problems;
6. Inadequate safety measures in short term rentals can result in harm to the renters;
7. Over occupancy of a premises built for a family size unit can result in trailers, tents and other uses of areas outside the structure;
8. Over-occupied within a structure can also result in safety problems.

At the time of enactment of the predecessor to this Local Law in January, 2023 no limits on the number of short-term rentals was included. Since enactment of that predecessor Local Law the quantity of short-term rental facilities approved by the Village has indicated to the Board of Trustees that it is necessary to place a limit on the number of short-term rental facilities permitted in the Single Family Residential (R-1) and General Residential (R-2) Zoning Districts in the Village. The reasons for a numerical limit include loss of residential properties to short-term rentals and the ability to properly supervise the short-term rental facilities.

Section 3. Legislative Authority.

This Local Law is enacted pursuant to Article 7 of the Village Law and the Municipal Home Rule Law (MHRL) of the State of New York with the procedural provisions of the MHRL controlling.

Section 4. Provision.

§202-20.14 “Short-term Rentals” of Chapter 202 “Zoning” of the Code of the Village of Penn Yan is amended to provide as follows:

§202-20.14. Short Term Rentals

A. Purpose and intent.

The purpose of this Section is to ensure that the quality of tourist rooming in short term rental facilities operating within the Village is adequate for protecting public health, safety and general welfare, as well as to address the legislative findings with respect hereto, including:

1. Establishing minimum standards of space for human occupancy and for adequate maintenance;
2. Determining the responsibilities of owners, operators and property managers offering these properties;
3. To protect the character and stability of all areas, especially residential areas, within the Village;
4. To provide minimum standards necessary for the health and safety of persons occupying or using buildings, structures or premises;

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5. Provisions for the administration and enforcement thereof.

B. Definitions.

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

BATHROOM

A room containing a group of plumbing fixtures consisting of, at a minimum, a lavatory, water closet, and shower or tub or tub/shower combination contained within the same room; a door for privacy, such that the door is provided with locking hardware capable of being opened from the outside with manufacturer supplied key or pin; and, that the room as a whole complies with applicable State code regulations.

CLERK

The Clerk of the Village of Penn Yan or his/her designee.

CODE ENFORCEMENT OFFICER

The Code Enforcement Officer of the Village of Penn Yan or his/her Deputy.

ENTITY

A corporation, partnership, limited liability company, or sole proprietorship licensed or registered to conduct business in this state.

PERMIT

The short-term rental permit issued pursuant to this Section

OWNER

The person or entity which possess legal title to premises upon which is located a short-term rental facility.

PERSON

For the purposes of this Section the word “person” shall include an individual, individuals, corporation, firm, partnership, association, organization and any other group acting as an entity, as well as individuals, including a personal representative, receiver or other representative appointed according to law. Whenever the word person is used in this Section describing a penalty or fine, as to partnerships or associations, the word shall include the partners or members hereof, and as to corporations or LLCs, shall include the officers, agents or members thereof who are responsible for any violation of such section.

PLANNING BOARD

The Planning Board of the Village of Penn Yan.

PROPERTY MANAGER

A person or entity that is not the property owner and is empowered to act as agent and/or provides property management services to one or more short-term rental facilities.

SHORT TERM RENTAL (STR)

A structure containing sleeping rooms or areas, as well as a bathroom facility, that is offered for rent for compensation for fewer than thirty (30) consecutive nights without any meals served or provided by the owner or any agent of the owner. The term short term rental does not include “Bed and Breakfast” as that term is defined in the Zoning Chapter of the Code of the Village of Penn Yan.

SLEEPING-ROOM OR AREA

That portion of the interior of a short-term rental with accommodations for people to sleep.

VILLAGE

The Village of Penn Yan, Yates County, New York.

ZONING BOARD OF APPEALS

The Zoning Board of Appeals of the Village of Penn Yan.

- C. Short Term Rental Uses are prohibited in the Industrial (I), Planned Business (PB) and Planned Residential (PR) Use districts of the Village and Permitted in all other use Districts of the Village, subject to the regulations of such use districts. The use Table is amended accordingly. There shall not be permitted more than a combined total of 36 tax map parcels approved for short-term rental facilities in the Single Family Residential (R-1) and General Residential (R-2) Districts in the Village.
- D. Required Permit
 - 1. An owner of any property shall obtain a revocable short-term rental facility permit prior to any structure being used for short-term rental purposes.
 - 2. A short-term rental facility permit shall be valid for one year and must be renewed by the owner or the owner’s agent prior to its expiration.
 - 3. The short-term rental facility permit is not transferable to a new property owner. Any new property owner of property previously used as a short-term rental facility must file a new application for a short-term rental facility permit and be subject to all of the requisites of this Section.
 - 4. In the event that the conditions or the provisions of this Section or the conditions of the short-term rental facility permit are not adhered to, the short-term rental facility permit may be revoked and the owner subject to any penalties set forth in this Section.
 - 5. Notwithstanding the foregoing, those properties with short-term rental commitments existing on the effective date of this Article shall be permitted to honor such existing commitments, but must apply, within 30 days of the effective date hereof for all future short-term rental commitments. In the event such application is denied, all commitments must be cancelled by the owner or its agent.

E. Short-term rental permit application requirements

Applications for a short-term rental facility permit may be obtained at the Office of the Clerk of the Village of Penn Yan or the Village Code Office. A completed application for (or renewal of) a short-term rental facility permit shall be submitted to the Code Enforcement Office, accompanied by payment of the non-refundable permit fee application, and contain at least the following:

1. The signature of all persons and/or entities that have an ownership interest in the subject property.
2. A copy of the most recent deed showing ownership of the subject property.
3. Permission for a property inspection by the Code Enforcement Officer.
4. An acknowledgement of compliance with applicable Village Short-Term Rental Facility Standards, including, but not limited to, the demonstration of adequate off-street parking for occupants of the proposed short-term rental facility.
5. A list of all the property owners of the proposed short-term rental facility, including names, addresses, telephone numbers and email addresses.
6. The name, address, telephone number and email address of a property manager, who shall be responsible and authorized to act on the owner's behalf to promptly remedy any violation of applicable regulations, the permit conditions or violations of other applicable local, state or federal laws or regulations.
7. An, accurate, suitable site plan, measuring at least 11 inches X 17 inches, drawn to scale and certified by the applicant. The site plan need not be prepared by a professional, but must depict the following:
 - a. The location of buildings and required parking, as well as outbuildings and property boundaries;
 - b. Basement, including all utilities, all rooms, including bedrooms, windows and exits;
 - c. First floor / All rooms showing exits, windows, bedrooms and any heating/cooling units;
 - d. Second floor / All rooms, showing exits, windows, bedrooms and any heating/cooling units;
 - e. Attic, if any. with all rooms, showing exits, windows, bedrooms, and any heating/cooling units.

8. A statement that the applicant has met and will continue to comply with the standards of this Section, as well as all applicable local, state and federal laws and regulations.
9. A statement indicating whether any of the owners of the subject property have had a short-term rental facility permit revoked within the previous three (3) years in any jurisdiction.
10. All initial short-term rental facility permit applications are a Special Use and subject to a Site Plan Review & Approval as defined in the Code of the Village of Penn Yan.

F. Short Term Rental Standards and Requirements:

1. Insurance and Registration Standards

- a. All applicants and permit holders must provide evidence of property insurance including a "Certificate of Liability Insurance" indicating that the premises is rated as a short-term rental facility. The owner must maintain such insurance throughout the term of the short-term rental facility permit.
- b. In addition to the requirements imposed by this Section, all applicants and permit holders must obtain and maintain all applicable governmental permits and licenses necessary to conduct business as a short-term rental facility. The Yates County Certificate of Authority to Collect Occupancy Tax must be posted in the premises at the entry door in proximity to the Village of Penn Yan Short-Term Rental Facility Permit. Regardless of the mode of rental or who is collecting or paying occupancy taxes the facility owner must file with the Yates County Treasurer any and all requisite reports.

2. No recreational vehicles (RVs), camper, tent, or other temporary lodging arrangement shall be permitted on the short-term rental facility site as a means of providing additional accommodations for paying guests or invitees.

3. The short-term rental **facility** must at all times comply with the Code of the Village of Penn Yan as well as the New York State Uniform Fire Prevention and Building Code and Energy Conservation Code.

4. Provisions shall be made for garbage removal on not less than a weekly basis during rental periods. Garbage containers shall be secured with tight-fitting covers at all times to prevent leakage, spilling or odors, and placed where they are not clearly visible from the street or road except at prescribed pick-up times.

5. Rental Notice

All applicants and permit holders must present renters, prior to occupancy, with a Notice which includes the following policies/statements:

- a. The maximum facility occupancy;
- b. The maximum on-site parking and that parking is not permitted on the street or

- other unpaved yard areas on the property;
- c. A Good Neighbor Statement stating:
 - i. That the short-term rental facility may be in a residential area in the Village of Penn Yan and that renters should be conscious of the residents in neighboring premises;
 - ii. A statement that no vehicular traffic shall be generated that is greater than normally expected in the neighborhood;
 - iii. A statement that there shall not be excessive music or other noise, fumes, glare or vibrations generated during the use;
 - iv. Any outdoor event held at the short-term rental facility shall last no longer than one day and occurring only between the hours of 10:00 a.m. and 10:00 p.m. Any activities shall be in compliance with noise regulations of the Village;
 - v. A statement that littering is prohibited; and
 - vi. A statement that all fires must be attended and be in compliance with applicable regulations.

G. Procedure upon filing application.

1. Short-term rental facility permit applications shall be filed with the Code Enforcement Office along with all supporting documents and the non-refundable permit application fee. Only completed applications will be accepted by the Village Code Enforcement Office. The Code Enforcement Office may decline to accept an application for consideration for any of the following reasons:
 - a. If the application is incomplete, the documentation required was not included with the application or the full permit fee, in a payment form acceptable to the Village Clerk, was not included with the application.
 - b. In the event that any of the owners of the facility applying for the permit has within the past three (3) years had a short-term rental permit revoked, such information must be provided in the application.
2. Upon acceptance of the completed initial application, the Code Enforcement Officer shall within 14 days schedule a property inspection to certify that all short-term rental requirements have been met.
3. Within 30 days of certifying compliance of the facility by the Code Enforcement Officer, the Code Enforcement Officer shall schedule a site plan review pursuant to provisions of the Village Code.
4. Upon approval of the Short-Term Rental Facility Application/Site Plan Review Application the Code Enforcement Officer shall issue to the applicant a short-term rental facility permit. Short-term rental facility permits shall state the following:
 - a. The date of issuance, the names, addresses and phone numbers of every person or entity that has an ownership interest in the short-term rental facility property and of a primary contact

person and/or property manager who shall be available during the entire time the short-term rental property is being rented;

- i. The maximum occupancy and vehicle limits for the short-term rental unit;
- ii. Identification of the number of and location of parking spaces available;
- iii. The maximum days of occupancy for the premises for individual rentals;
- iv. Any conditions imposed by the Planning Board; and
- v. That the permit shall expire one year from the date of issuance.

H. Renewal.

1. Each application for a renewal of a short-term rental facility permit shall include updated information for the documentation on file with the Code Enforcement Office, as well as a statement that all applicable taxes and utility payments are current, including the County Occupancy Tax. Payment of the applicable fee shall accompany the renewal application.

2. The Code Enforcement Officer shall verify that the information provided on the renewal application is complete and in accordance with the requirements of this Section.

3. The Code Enforcement Officer shall issue renewal permits within thirty (30) days of the filing of the complete application unless the information provided is incomplete or otherwise not in compliance with the requirements of this Section.

4. In the event that the Code Enforcement Officer finds that the permit should not be renewed, the Code Enforcement Officer shall deny the renewal. The written reasons for such denial shall be placed in the subject file and provided to the applicant/owner.

5. An appeal from a denial of renewal of a permit may be made to the Planning Board with due process applicable to such procedure.

I. Property manager requirements.

1. An owner of a short-term rental facility must have a residence or office within thirty (30) miles of the Village and be available twenty-four (24) hours per day, every day during rental periods. In the event that the owner does not have a residence or office within thirty (30) miles of the Village of Penn Yan and/or not available twenty-four (24) hours per day, every day, that owner must have a property manager as hereinafter specified. The owner shall provide to the Village the name, address, phone number and e-mail address of the property manager. Such information shall be provided to the Village Code Office Clerk, who shall transmit such information to the Village Clerk and Village Police Department.

2. A property manager must reside in or within thirty (30) miles of the Village or be an entity with offices located within thirty (30) miles of the Village. The property manager must be available 24 hours a day.

3. The property manager must be authorized by the property owner to act as the agent for the owner for the receipt of service of notices of violation of the provisions of this Section and/or permit and must be authorized by the owner to permit Village officers and their designees to enter the owner's property for purposes of inspection and enforcement of this Section and/or the state codes or regulations. The property manager must also have authority to take such action as is required to comply with the provisions hereof and those of the permit issued for the short-term rental facility for which such property manager is responsible, including the enforcement of the regulations and restrictions outlined in sub-section "F." "Short-term Rental Standards and Requirements" of this Section.

4. As a pre-requisite to act as a property manager for a short-term rental facility the person, or if an entity other than an individual person, an authorized representative on behalf of such entity, shall execute an "Acknowledgement of Responsibilities", in a form and with content prescribed by and provided by the Village of Penn Yan. Such executed "Acknowledgment of Responsibility" shall be filed with the Village Code Office, with a copy thereof provided to the Village Clerk. A Property Manager determined by the Board of Trustees of the Village to have been deficient in their obligations pursuant to this Section may be rejected and/or prohibited from acting as a property manager pursuant to this Section. In such event both the Property Manager and the Owner shall be notified verbally and by written notice as soon as is practical subsequent to the rejection and/or prohibition by the Board of Trustees. Notice shall be made to e-mail address(es) and the street address(es) on file with the Village.

5. These requirements shall apply to any replacement of a property manager.

J. Conformity and display of permit.

1. The issuance of a short-term rental facility permit is conditioned upon continued compliance with the requirements of this section and all applicable laws, codes and regulations. Failure to so comply may result in revocation of the permit.

2. In the event that the Code Enforcement Officer has probable cause to believe that the short-term rental facility is not in compliance with the provisions of the Zoning Chapter, the Code Enforcement Officer may petition a court of competent jurisdiction for a search warrant to conduct an inspection of the short-term rental facility for purposes of ensuring compliance with this section. Alternatively, the Code Enforcement Officer may request permission from an owner of the short-term rental facility or the designated property manager to enter the facility in order to conduct an inspection for purposes of ensuring compliance with applicable laws, codes and regulations. In the event that an inspection authorized herein is conducted, the Code Enforcement Officer may use the results of such inspection in determining whether to revoke the permit.

3. Prior to any renters entering into possession of the short-term rental facility:

A. The current short-term rental facility permit and certificate of occupancy shall be prominently displayed inside the facility in proximity to the front entrance of the short-term rental facility; and

B. A copy of the current short-term rental facility permit and a site plan provided as part of the application, must be provided to the Village of Penn Yan Fire Department and the Village Police Department by the Code Enforcement Office.

4. The owners must ensure that current and accurate information is provided to the Code Enforcement Office and that they notify the Code Enforcement Officer immediately upon any change in the information displayed on the short-term rental facility permit. If, based upon such changes, the Code Enforcement Officer issues an amended short-term rental facility permit the owner must immediately replace the permit displayed inside and near the front entrance of the short-term rental facility with the amended permit.

5. The short-term rental facility permit holder must conspicuously display the short-term rental permit number in all advertisements for the applicable short-term rental facility.

K. Appeal and license revocation.

1. The denial of any short-term rental facility permit or renewal permit thereof under this Section, as well as a revocation of a short-term rental facility permit, requires notice to the Owner and the Owner's property manager, which Notice shall specify the reasons for such denial or revocation. Such denial or revocation may be appealed by filing a written appeal request with the Village Clerk within fifteen (15) days of the notice of such revocation. The appeal shall be heard by the Village Planning Board. The Planning Board shall consider the appeal and may grant or deny the appeal subsequent to a hearing at which the appellant has a right to be heard and written notice of which shall be provided at least ten (10) days in advance thereof. "Due process" shall apply to the appeal procedure.

2. A short-term rental facility permit may be revoked at any time by the Code Enforcement Officer for one or more of the following reasons:

- (a) Three or more calls for police service, building inspection or the health department for nuisance activities or other violations in any twelve-month period.
- (b) Failure to comply with annual Village building inspection requirements;
- (c) Failure to maintain all required Village, County and State licensing requirements;
- (d) Failure to comply with any provisions of this Section;
- (e) Any violation of Village, County or State laws or regulations.
- (f) To become delinquent in payment of applicable taxes, utility bills or County Occupancy Tax.

L. Penalties.

Notwithstanding any other provision of this Chapter or the Code of the Village of Penn Yan any failure to comply with the provisions of this Section will be considered a violation as defined in the Penal Law of the State of New York and may be punishable as follows:

- 1.a. For conviction of a first offense a sentence of imprisonment for a period not to exceed fifteen (15) days and/or a fine not to exceed \$1,000.00.
- b. For conviction of a subsequent offense within three (3) years of the commission of the first offense, a sentence of imprisonment not to exceed fifteen (15) days and/or a fine of not less than \$250.00 nor exceeding \$1,000.00.
2. A conviction for a third offense committed within three (3) years of the commission of the first offense resulting in a conviction shall require the revocation of the permit for a period of three (3) years from the date of the conviction for the third offense.
3. Each day that a violation exists is a separate prosecutable offense. This revocation applies to the property at which the violation occurs regardless of any subsequent change in ownership thereof.
4. As an alternative to or in addition to a fine and/or incarceration, as provided herein, the person violating such provision may be sentenced to community service. Such a community service sentence shall be imposed as a definite term of hours of work to be served under the direction of the Department of Public Works of the Village of Penn Yan, and be pursuant to an Order of Conditional Discharge issued by the Court.

M. Fees.

A fee schedule shall be established by resolution of the Board of Trustees with respect to short-term rental facilities. Such fee schedule may hereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with such fee schedule, or amended fee schedule shall be charged and collected for any initial short term rental application, renewal short term rental application, re-inspections and any additional fee as deemed appropriate for this section.

N. The Board of Trustees shall provide for a review of the provisions of this Section each year in January for a recommendation as to whether any modifications hereto are advised.

Section 5. Severability.

In the event that a court determines that any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair or invalidate the remainder of this Local Law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this Local Law or in its application to the person individual, firm or corporation or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

Section 6. Effective date.

This Local Law shall take effect upon its filing with the Secretary of State of the State of New York subsequent to having been duly adopted by the Board of Trustees of the Village of Penn Yan.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only)

I hereby certify that the local law annexed hereto, designated as Local Law No. 2 of the year 2024, was duly passed by the Board of Trustees of the Village of Penn Yan on February 20, 2024, in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.



Holly Easing, Clerk/Treasurer

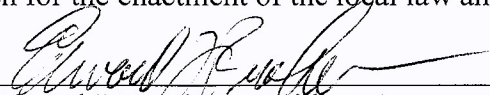
(SEAL)

Date: February 27, 2024

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality)

STATE OF NEW YORK)
COUNTY YATES) ss:

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Edward J. Brockman, Village Attorney

Village of Penn Yan

Date: February 22, 2024