

## Chapter 236

### Short Term Rentals

#### **236-1. Purpose and intent.**

Legislative intent. The purpose of this section is to control and regulate the use of Short-Term Rentals within the Town of Mendon. The provisions of this section are intended to preserve and protect the health, character, safety, and general welfare of the residential neighborhoods where such uses may exist, in a manner that is consistent with, and in furtherance of the Town Comprehensive Plan, including to assure that the properties being rented meet certain minimum safety requirements, as well as to protect against adverse impacts thereof, including relative to the character of the neighborhoods in which they are located, which are often residential, and otherwise to protect against the adverse effects relating to noise, traffic, excessive gathering of people and general disruption to town residents. Understanding that one is not constitutionally entitled to the most beneficial use of their property, it is not the inherent right of a property owner to rent their property on a short-term basis, rather a privilege.

#### **236-2. Title and applicability.**

In order that all Short-Term Rentals, be established and operated consistently with the values of the Comprehensive Plan, and in the best interests of the community, this chapter is hereby adopted and shall be known as the "Short-Term Rental Local Law of the Town of Mendon." Upon approval of this chapter by the Town Board, all Short-Term Rentals within the Town of Mendon will require an operating permit in accordance with the provisions of this Chapter.

#### **236-3. Definitions.**

Any words or terms not defined in this section are to have their common meaning.

**SHORT-TERM RENTAL OR STR** –Any dwelling or portion of real property rented for compensation in exchange for lodging for a period of not less than one day and not more than 30 consecutive days. For the purpose of this chapter, the term "Short-Term Rental" shall not include a bed-and-breakfast, boarding/lodging house, hotel, motel, sites at campgrounds or ongoing month-to-month tenancies.

**[NY] BED AND BREAKFAST DWELLING.** An owner-occupied residence resulting from a conversion of a one-family dwelling, used for providing overnight accommodations and a morning meal to not more than ten transient lodgers, and containing not more than five bedrooms for such lodgers (See also *Bed and Breakfast* in Chp. 5-4)

**[BG] BOARDING HOUSE.** A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit.

#### **ADJACENT PROPERTIES**

(1) Other than as defined in paragraph (2) of this definition, properties, parcels, lots, or units that are contiguous, or abutting the subject STR, whether on the same side of the road, across the road, or behind the subject STR; and

(2) When the subject STR is a condominium unit or apartment that is a portion of a building containing other units on multiple floors with multiple condominium units on each floor, this shall mean all units on the same floor as the subject STR and also those units adjoining directly above and below the subject STR.

**HABITABLE SPACE** – The spaces in a building for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, storage or utility spaces, garages, halls, and laundry rooms are not considered habitable spaces. (See also, **Floor Area, Habitable** in Chp. 5-4)

**OWNER** – Person(s) and/or entity(ies) that hold(s) legal and/or equitable title to the property housing an STR.

**RESPONSIBLE PERSON(S)** – Owner of the property, or a person designated by the owner(s) to act as an agent of owner. Said Responsible Person shall act as a point of contact, and shall be capable of identifying existing and predictable hazards in the surrounding property relating to conditions which are a nuisance, unsanitary, hazardous, or dangerous to occupants, and shall have authorization to take prompt corrective measures to eliminate such conditions. The Person shall be competent by way of training and/or experience, be knowledgeable of applicable conditions and standards, be capable of identifying hazards or unfavorable conditions relating to the specific rental operation, and have the authority to correct them. The Responsible person shall respond promptly to the Town and be responsible for ensuring compliance with this chapter.

**MASS GATHERING** – Shall be defined as a group of twenty-five (25) persons or more unrelated persons.

**HOSTED** – The on-site presence of the owner at the property during the duration of the rental period.

**236-4. Presumption of dwelling unit as Short-Term Rental property.**

- A. The following shall create a presumption that all or a part of the property is a Short-Term Rental: All or a part of the subject property is offered for lease for 31 days or less through any form of advertising, including but not limited to on a Short-Term Rental website, such as Airbnb, Home Away, and/or VRBO.
- B. The foregoing presumption may be rebutted by sufficient evidence presented to the Code Enforcement Officer that the premises is not operated as a Short-Term Rental.

**236-5. Operating Permit Required.**

- A. A property shall not be used as a Short-Term Rental without obtaining a revocable Short-Term Rental operating permit, in accordance with the Schedule of Zoning Districts herein.
- B. A new Short-Term Rental permit shall be valid for a maximum of one (1) year. Renewal permits shall be valid for a maximum of two (2) years. All STR permits shall expire on December 31st of the relevant calendar year. Renewal applications shall be applied for at the Town of Mendon Building Department and such applications

shall be received no later than December 1<sup>st</sup> of the current year if the premises is to continue to operate as a Short-Term Rental. Permits that expire and have not been re-applied for will be handled as a new application.

- C. The Short-Term Rental permit is non-transferable. Any new owner of the subject premises must apply for new permit to operate any Short-Term Rental.

**236-6. Short-Term Rental Operating Permit Application Requirements.**

- A. Applicants for a Short-Term Rental shall submit a completed application for an Operating Permit to the Town of Mendon Building Department, accompanied by payment of a non-refundable application fee to be determined from time to time by resolution of the Town Board. The application shall include the following:
  - 1. A signed statement authorizing the Code Enforcement Officer to inspect the property prior to the issuance of the permit and from time to time, upon reasonable notice to the Owner and *Responsible Person*, to ensure compliance with this Chapter. The Code Enforcement Officer shall reject incomplete applications, such as where an application fails to meet the requirements of this Chapter.
  - 2. All Owners and their *Responsible Persons* shall sign the application.
  - 3. A signed acknowledgement of present and ongoing compliance with the Short-Term Rental requirements as defined in this Chapter shall be provided. Standards include, but are not limited to, adequate off-street parking spaces, ingress and egress, areas for refuse, required life safety components, and emergency vehicle access.
  - 4. No Short-Term Rental shall abut or exist within 200 feet of the property line of a currently permitted STR. (See also ***Adjacent Properties*** in 236-3 Definitions)
  - 5. Contact information for the owner(s) and *Responsible Person(s)*. Contact information shall include: names, addresses, telephone numbers, and email addresses of each entity or person(s).
  - 6. The *Responsible Person* shall be authorized to act on the owners' behalf to promptly remedy any violation of the standards outlined in this section. Such Person shall respond to any correspondence or concern from the Town Code Enforcement Officer and remedy any adverse conditions within 24 hours.
  - 7. Prior to the issuance of any permit or renewal permit, the applicant shall notify *Adjacent Properties* that a Short-Term Rental permit or renewal is being applied for. Adjacent owners must be notified via certified mail, return receipt requested, and submit the return receipts with the permit application or renewal application.
  - 8. Site plan / floor plan requirements:

- a. A dimensioned floor plan, drawn in ink, to scale, measuring at least 8.5 inches by 11 inches, containing a title block with signature line(s), and certified by the applicant, including the following:
  - b. Location of all buildings, parking, and refuse areas.
  - c. Basement floor plan including bedrooms, emergency escapes and rescue openings, utilities, heating and cooling appliances, and means of egress.
  - d. First floor plan including bedrooms, emergency escapes and rescue openings, utilities, heating and cooling appliances, and means of egress.
  - e. Second floor plan including bedrooms, emergency escapes and rescue openings, utilities, heating and cooling appliances.
  - f. Means of egress including path of travel from sleeping rooms.
  - g. Locations of all smoke and carbon monoxide detectors, and fire extinguishers.
  - h. No sleeping rooms or areas are allowed two stories above the second floor.
  - i. No accessory structures, tents, recreational vehicles, or other similar arrangements are allowed for sleeping rooms/arrangements.
  
- 9. A statement from all Owners and Responsible Persons that they have not had a STR violation or revocation within the previous year that has not been resolved to the satisfaction of the Town. A list shall be provided to the Town of all properties owned or managed by the Owner and/or Responsible Person, whether wholly or in part, within the Town of Mendon or elsewhere.
  
- B. All submitted applications are subject to review and approval of the Code Enforcement Officer for completeness.
  
- C. Owners wishing for relief from any conditions herein shall be referred to the Zoning Board of Appeals, which shall have the authority to hear such appeals. Variance applications will be reviewed by the Zoning Board of Appeals in accord with § 260-92 of the Town's Zoning Code. An area variance must be obtained prior to an approval from the Mendon Town Board.

**Schedule of Zoning Districts**

- A. RA-1 – No Short-Term Rentals permitted
- B. RA -2 – No Short-Term Rentals permitted
- C. RA-5 – No Short-Term Rentals permitted
- D. RS-30 – No Short-Term Rentals permitted
- E. Industrial – Permitted with Operating Permit
- F. PUD – Subject to the conditions of the PUD
- G. Business – Permitted with Operating Permit

## **236-7. Short-Term Rental standards.**

### **A. Property requirements**

1. The subject property shall comply with all current NYS Uniform Fire Prevention and Building Codes and the Town Code. Any pre-existing deficiencies or non-compliance shall be corrected prior to permit issuance.
2. There shall be one working smoke detector in each sleeping room and one additional smoke detector on each floor. Smoke detectors and carbon monoxide detectors shall be installed as required by the New York State Uniform Fire Prevention and Building Code.
3. Evacuation procedures shall be posted in each sleeping room, the kitchen, and main living room to aid in the event of a fire or smoke condition or upon activation of a fire or smoke-detecting or other alarm device.
4. There shall be a portable fire extinguisher(s) provided on each floor and in the kitchen, in accordance with New York Fire Code section 906. A record of inspection shall be maintained and made available to the Code Enforcement Officer at the time of application renewal request.
5. The house number shall be located both at the road and on the dwelling unit so the number is clearly visible from the road and the driveway.
6. Exterior doors shall be operational and all passageways to exterior doors shall be kept clear and unobstructed and have an exterior light at all exits.
7. Electrical systems shall be in good operating condition, labeled, unobstructed and shall be visible for the Code Enforcement Officer during the permitting process, any defects found shall be corrected prior to permit issuance.
8. The property shall have a minimum of one off-road parking space for every bedroom available for rent as per the floor plan.
9. Maximum occupancy for each Short-Term Rental unit shall not exceed two people per bedroom, with a four-bedroom maximum. One (1) full-size convertible sleeping accommodation or furniture (i.e. futon, hide-a-bed), is allowed and shall be identified on the floor plan. However, the maximum occupancy of a Short-Term Rental property, including with any convertible sleeping accommodation, shall not exceed eight (8) people, including permanent residents and renters.
10. In the event that the property has a septic system, the maximum occupancy shall be defined by the capabilities of the septic system, but in no event shall overnight occupancy for any Short-Term Rental unit exceed eight (8) people in total. The Mendon Town Board can reduce the occupancy number depending on each individual circumstance.
11. The applicant shall have the septic system certified in writing by a New York State licensed design professional who specializes in on-site wastewater treatment

systems. Occupancy cannot be increased by means of temporary facilities; thus, outdoor privies are prohibited. The septic system is required to have been pumped within the past three years and proof of pumping and satisfactory inspection by a qualified septic disposal firm shall be presented to the Code Enforcement Officer. Once a Short-Term Rental permit is issued, the septic system must be pumped/serviced at least once every three years.

12. Potable water source certification shall be submitted with the application.

13. All State, County, and Local taxes owed shall be current and paid in full when due.

14. A contact list of all owners and responsible person's, name, address, telephone number, and email shall be provided to adjacent properties and posted in the premises offered for rent.

B. Insurance and Indemnification: Prior to the issuance of any permit or renewed permit, the owner shall provide evidence of property insurance by submitting a current Accord certificate of General Liability and must reference that the premises is rated as a Short-Term Rental. An Indemnification agreement accompanying the insurance shall hold harmless and indemnify the Town of Mendon against any claims made by renters relating to the Short-Term Rental and shall be maintained throughout the term of the Short-Term Rental permit. The Code Official shall be notified upon cancellation of said insurance.

C. Provisions shall be made for weekly garbage removal 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 road except at approximate pick-up time.

D. STR - Permit Posted: Prior to the issuance of any permit or renewal permit, the *owner* or *responsible person* shall provide the Town with an affidavit of posting, that the issued permit is posted on the premises, in a visible common area, with the following terms:

1. Maximum property occupancy of the STR;

2. Maximum on-site parking provided; and

3. Good neighbor statement stating:

a) Guests are requested to observe quiet hours from 11:00 p.m. through 7:00 a.m.

b) All renters will be subject to New York Penal Law § 240.20 or any successor statute regarding disorderly conduct.

c) Littering is illegal.

- d) Recreational campfires are allowed in accordance with Chapter 121 of the Town Code.
- e) No mass gatherings are permitted.

**236-8. Procedure upon filing application:**

- A. Short-Term Rental permit applications shall be filed with the Town of Mendon Code Enforcement Officer with all supporting documentation and the nonrefundable permit fee.
- B. Only completed applications will be accepted by the Town's Code Enforcement Officer. The Code Enforcement Officer shall decline to accept an application for consideration for any of the following reasons:
  - 1. The application and documentation required by this Chapter were not included or the full permit fee was not paid.
  - 2. A previously issued Short-Term Rental permit was revoked within the past year and defects and/or violations the subject thereof not been corrected and inspected by the Code Enforcement Officer.
- C. Upon the Code Enforcement Officer's acceptance of the completed permit application, all documents and information required by this section and the permit fee, the Code Enforcement Officer will, in a reasonable amount of time, conduct a property inspection to certify and approve that all Short-Term Rental requirements have been met.
- D. Application will be referred to the Environmental Conservation Board, Historical Preservation Commission and the Planning Board for review. Upon review, these Boards and Commissions will report their findings and give a favorable or unfavorable recommendation to the Mendon Town Board. The Town Board will hold a public hearing before rendering a decision on the application, and may deny any application with prejudice.
- E. Upon approval of the Short-Term Rental application by the Mendon Town Board, the Code Enforcement Officer will issue a Short-Term Rental operating permit. Permits issued pursuant to this Section shall state the following:
  - 1. The name, address and phone number the Responsible Person, who shall be available during the duration of each rental.
  - 2. The maximum occupancy and vehicle limits for the Short-Term Rental property.
  - 3. Identification of the available number and location of parking spaces available.
  - 4. Any conditions imposed by the Town Board or Zoning Board of Appeals.

**236-9. Conformity and display of permit.**

- A. Short-Term Rental permits are subject to continued compliance with the requirements of these regulations.
  - 1. The Short-Term Rental permit, maximum occupancy limit, maximum parking, contact form and standards shall be prominently displayed inside and near the front entrance of the Short-Term Rental; and
  - 2. The owner or responsible person shall ensure that information contained on the permit is current and accurate, and shall notify the Code Enforcement Officer immediately of any change in such information. The Code Enforcement Officer shall issue an amended permit containing such updated information, and the owner or responsible person shall immediately post the amended permit inside and near the front entrance of the Short-Term Rental.
  - 3. The Short-Term Rental permit holder shall conspicuously display the Short-Term Rental permit number in all advertisements for the applicable Short-Term Rental.

**236-10. Compliance and penalties.**

- A. The Code Enforcement Officer is charged with enforcing compliance with this Chapter. Violations of this Chapter or of any Short-Term Rental permit shall be subject to the enforcement and penalties prescribed in accordance with Chapter 241 of the Town of Mendon Code.
- B. If the Code Enforcement Officer witnesses or receives a written complaint of an alleged violation of this Chapter or of any Short-Term Rental permit, the Code Enforcement Officer shall properly record such complaint and investigate the report thereon. If the Code Enforcement Officer determines there has been a violation of this Chapter, the owners and responsible persons shall be notified in writing by first class mail and certified return receipt mail of said violations and the Code Enforcement Officer shall take any or all of the following actions:
  - 1. Require the conditions of Short-Term Rental permit are achieved.
  - 2. Suspension of permit, and referral to Town Board for revocation of a Short-Term Rental permit. The notice of suspension shall be provided to the property owner and a copy filed with the Town Clerk.
  - 3. Require corrective action that remedies the violation(s). The corrective action must be completed and approved within 30 days of notice from the Code Enforcement Officer or the owner risks revocation of the Short-Term Rental permit.
  - 4. Issue an appearance ticket for violation in accordance with the Town Code (chp. 241), and pursue enforcement in a court of competent jurisdiction.



5. Revoke the Short-Term Rental permit for failure to remedy any violations after 30 days of receipt of an Order to Remedy. Should a permit be revoked, all owners of the Short-Term Rental shall be prohibited from obtaining a Short-Term Rental permit on the property for one year after the date of revocation. The Code Enforcement Officer shall send notices of revocation to the owners and responsible persons and shall file a copy with the Town Clerk.

**236-11. Enforcement, Suspension or Revocation of Permit.**

- A. The Code Enforcement Officer may immediately suspend a Short-Term Rental permit based on any of the following but not limited to:
  1. The owner or responsible person has falsified or failed to provide requisite information in the permit application or permit renewal application.
  2. The owner, responsible person, or any renter has been found to be in violation of any of the requirements of this Chapter, the Town Code, or the Uniform Code, relating to the subject property, including but not limited to, disturbing the health, safety, peace, or comfort of the neighborhood or which otherwise creates a public nuisance.
  3. Owner, responsible person, or renters have been found guilty of any crime which occurred at, or is otherwise related to the subject property.
- B. If the Code Enforcement Officer has probable cause to believe the homeowner is not in compliance with the provisions of this Chapter, the Code Enforcement Officer shall notify the owner in writing to request an inspection of the STR property for purposes of ensuring compliance. Should the property owner refuse to permit the Code Enforcement Officer access to the property within five (5) days of the receipt of written notice, the permit will be revoked. If an inspection authorized herein is conducted, the Code Enforcement Officer shall use the results of such inspection in determining whether to revoke the permit.

**236-12. Application for renewal of permit.**

Renewal permits will be granted for up to an additional two-year term, for a fee as determined from time to time by the Town Board. All renewals shall meet the following conditions:

- A. Application for renewal of the Short-Term Rental permit shall be made 30 days prior to expiration of the current permit and requires a non-refundable payment of the renewal fee.
- B. The STR is subject to and shall have a property maintenance and fire safety inspection performed by the Code Enforcement Officer within the past 24 months.
- C. Any violations shall be remedied prior to renewal of a permit for Short-Term Rental.
- D. A public hearing regarding the Town Board's review and reapproval, in which the property owner or designee's attendance is mandatory.

**236-13. Appeals and hearings.**

The property owner is entitled to appeal the Code Enforcement Officer's determination to the Zoning Board of Appeals in accordance with Town Code (260-92).

**236-14. Validity and severability.**

Should any word, section, clause, paragraph, sentence, part or provision of this local law be declared invalid by a Court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

**236-15. Repeal, amendment and suppression of other laws**

All other ordinances or local laws of the Town of Mendon which are in conflict with the provisions of this local law are hereby superseded or repealed to the extent necessary to give this local law force and effect during its effective period.

**236-16. Effective Date**

This Local Law will take effect upon filing in the office of the New York State Secretary of State. Notwithstanding the foregoing, those properties with short-term rental commitments existing on the date this section takes effect shall be permitted to honor such existing commitments and continue to make commitments for short-term rentals but must apply, within 30 days of the effective date, for all future short-term rental commitments. In the event such application is denied, all commitments must be canceled.