



NOTICE OF PUBLIC HEARING

TO BE HELD BY THE
PLANNING BOARD & ZONING COMMISSION
OF THE TOWN OF NISKAYUNA

NOTICE IS HEREBY GIVEN that pursuant to the Code of the Town of Niskayuna, New York and the applicable provisions of the Town Law of the State of New York, a public hearing will be held by the Planning Board and Zoning Commission of the Town of Niskayuna in the Town Board Meeting Room at One Niskayuna Circle on the twenty-sixth (26TH) day of August 2024 at 7:00 p.m. to consider the following amendments to Chapter 220, Zoning, of the Code of the Town of Niskayuna:

Amend Section 220-4 to add definitions for Change in Ownership, Rental, Short-Term Rental (STR), Hosted Short Term Rental and Unhosted Short Term Rental.

Add Section 220-32.8, entitled Short-Term Rentals, to include a purpose for STR regulations, requirements for a permit, requirements for a permit application, procedures for filing an application, requirements for display of permit and notification, requirements for the STR, regulations on limits for Un-hosted and Hosted STRs, regulations for complaints and violations procedures, regulations for appeals, and regulations for penalties for offenses.

A copy of the proposed Zoning Code amendments will be available for inspection at the Planning Department in the Niskayuna Town Hall and can be viewed at <https://www.niskayuna.org/pbnotices> under the "Public Hearings" tab and will be shown electronically during the public hearing.

If you wish to express an opinion regarding the public hearing you may do so at the above-mentioned time and place. If you cannot be present, you may request a virtual login to the meeting by emailing lrobertson@niskayuna.org or calling 518-386-4531 or you may set forth your opinion in a letter which will be made part of the permanent record. Please note there is a five (5) minute time limit for each speaker at the public hearing and submitted letters will not be read out loud at the public hearing, but such letters will be included in the minutes and added to the record.

The Planning Board and Zoning Commission of the Town of Niskayuna will hear all persons interested during the aforementioned public hearing.

BY ORDER of the Planning Board of the Town of Niskayuna, New York.

DAVID D'ARPINO
Chairman, Planning Board and Zoning Commission

Proposed Local Law ? (2024)

A LOCAL LAW TO AMEND CHAPTER 220, ENTITLED ZONING, OF THE CODE OF THE TOWN OF NISKYUNA

Section 1: Amend section 220-4, entitled Definitions, of Chapter 220 of the Code of the Town of Niskayuna to add as follows:

CHANGE IN OWNERSHIP

A transfer of ownership whether by deed, by membership interest in the case of a limited liability company, by partnership interest in the case of a partnership, or by shareholder interest in the case of a corporation. Neither the death of an owner leaving a surviving joint tenant(s) with right of survivorship or tenant by the entirety, nor real property conveyances between spouses, nor real property conveyances, without consideration, from individuals to an entity of which the transferors are principals shall constitute changes in ownership for purposes of the Zoning Code.

RENTAL

Granting use or possession of a residence, in whole or part, to a person or group in exchange for consideration valued in money, goods, labor, credits, or other valuable consideration.

SHORT-TERM RENTAL (STR)

Rental of any dwelling unit, in whole or part, to any person, persons or entity for a period of less than 30 consecutive nights including any residential building or apartment, single- or two-family dwelling, condominium, townhouse, guest house, cottage, cabin, accessory dwelling unit or accessory dwelling (see definition of Accessory Dwelling or Accessory Dwelling Unit). Neither timeshare units, hotels, motels, bed and breakfast establishments and school or non-profit dormitories nor use of a short-term rental by a record owner of a property shall be considered to be a short-term rental for purposes of the Zoning Code.

HOSTED SHORT-TERM RENTAL

A short-term rental property at which an owner of the property resides and at which an owner of the property stays overnight during the entire term of each short-term rental of the property

UN-HOSTED SHORT-TERM RENTAL

A short-term rental property at which an owner of the property does not stay overnight during the entire term of each short-term rental of the property.

Section 2: Add section 220-32.8, entitled Short-Term Rentals, to read as follows:

- A. Purpose: The purpose of this section is to regulate the short-term rental of dwelling

units within the Town of Niskayuna and to establish comprehensive permitting regulations to safeguard the public health, safety and welfare by regulating and controlling the use, occupancy, oversight and maintenance of short-term rental properties. The Town of Niskayuna recognizes that the majority of the Town is a small, residential community of owner-occupied dwellings and that without appropriate regulations to maintain such character, extensive short-term rentals endanger the affordability of housing in Niskayuna, endangers the residential character of the community and may cause disruption to the peace, quiet and enjoyment of neighboring homeowners. Accordingly, due to the potential adverse and/or harmful impacts of extensive short-term rentals, these standards shall supplement the applicable regulations of 220-10, District Regulations, and the regulations of Article V of this Chapter.

B. Permit Required. An owner shall obtain a revocable short-term rental permit prior to and whenever a dwelling unit is to be used for short-term rental purposes.

1. No property may be used as a short-term rental without a short-term rental permit.
2. A short-term rental permit shall be valid for one year from the date of issue and must be renewed upon expiration as long as the unit is used as a short-term rental. The renewal application requirements shall be the same as the initial application requirements.
3. The short-term rental permit is not transferable in the event of a change of ownership of a short-term rental property.
4. There shall be only one short-term rental permit issued per property. If a property has more than one dwelling unit, the permit issued shall be limited for one dwelling unit only.
5. Violation of any provisions of a short-term rental permit or these regulations or those subsequently adopted may result in revocation of the short-term rental permit and the owner shall be subject to the penalties set forth in this Section 220-32.8 (J).
6. No permit shall be issued or re-issued unless and until: (i) the property complies with the Town of Niskayuna Zoning Code, specifically including the terms of this Section, the New York State Building Code and any other municipal code which may be applicable to the property and its use as a short-term rental; (ii) the Enforcement Officer receives the septic system inspection report required by subdivision (B)(4) of this subsection, if applicable; and (iii) payment of the permit fee.

C. Short-Term Rental Permit Application Requirements. An application for issuance or renewal of a short-term rental permit shall be submitted to the Enforcement Officer, signed by all persons and entities that have an ownership interest in the subject property, accompanied by payment of the annual permit fee in an amount to be set by Resolution of the Niskayuna Town Board, accompanied by a copy of the current

vesting deed showing how title to the subject property is held, completed on the form provided and established by the Enforcement Officer, and shall at a minimum provide the following information:

1. A list of all of the property owners of the short-term rental property including names, addresses, telephone numbers and email addresses. If owned by a limited liability company, a partnership, a corporation or other entity the names, addresses, telephone numbers and email addresses of the members, partners, shareholders, officers and principals of such entities.
2. Completion of a signed and notarized Affidavit by the property owner(s) certifying the following:
 - a. Compliance with the following standards:
 - i. There shall be one functioning smoke detector in each bedroom and at least one functioning smoke detector in at least one other room, one functioning fire extinguisher in the kitchen and in each room with an open flame source, and at least one carbon monoxide detector.
 - ii. Exterior doors shall be operational and all passageways to exterior doors shall be clear and unobstructed.
 - iii. Electrical systems shall be serviceable with no visual defects or unsafe conditions.
 - iv. All fireplaces, fireplace inserts (excluding gas inserts) or other fuel burning heaters and furnaces shall be vented and properly installed, and flues cleaned within 12 months of application for permit.
 - v. Each bedroom shall be in compliance with the New York State Building Code.
 - b. A statement of the number of bedrooms within the short-term rental property that meet the standards set forth herein.
 - c. A statement of the number of parking spaces on the property that meet the standards set forth herein.
 - d. A statement that the applicant has met and will continue to comply with the standards set forth in this Section 220-32.8.
 - e. Affidavit certifications shall be valid during the term of the short-term rental permit. If relevant circumstances on the property change or for any reason the certification is or becomes inaccurate, a new Affidavit certification shall be submitted.
 - f. The form of the affidavit certification shall be established by the Enforcement Officer.
3. A site plan, drawn to scale, showing the location of buildings, required parking and, if not served by a public sewer, the location of the septic system and leach field may be required at the discretion of the Enforcement Officer.
4. If the property is served by a private septic system, a septic inspection report issued and dated within two (2) years before the date of the application, stating the size of the tank(s) and leach or absorption field or area, and the location and

condition of all septic system components. The report must state the septic system was adequately functioning at the time of inspection. The septic system must be in compliance with the regulations of the NYS Building Codes and regulations and/or standards applicable to aerobic septic systems. The maximum occupancy of the short-term rental unit shall be limited by Section 220-32.8 (F) (1) or the number of bedrooms allowed for the size of the septic tank and leach or absorption area, whichever is more restrictive. A system failure will require a new passing inspection report.

5. The name, address, telephone number and email address of an owner or a contact person authorized to act on the owner's behalf, who shall be available to promptly remedy any violation of Section 220-32.8 or the permit. For a Hosted short-term rental, the contract person must be the owner that stays overnight during the entire term of each short-term rental of the property. For an Un-Hosted short-term rental, the contact person may be the owner or an agent designated by the owner to serve as a contact person.

6. A copy of the short-term rental agreement as required by 220-32.8 (F)(10)

D. Procedure Upon Filing Application.

1. Upon filing with the Enforcement Officer the permit application, permit fee, and all documents and information required by this Section, the Enforcement Officer shall have sixty (60) days to review the application and either issue the permit, with or without conditions, or notify the applicant in writing that the application has been denied along with the reasons for denial.

2. In reviewing the application, the Enforcement Officer shall have the right to inspect the short-term rental property for purposes of ensuring compliance with this Section after obtaining the express consent of the property owner or the contact person designated by the property owner, for such limited inspection purposes.

3. In issuing a short-term rental permit, the Enforcement Officer may impose such reasonable conditions and restrictions as are directly related to the use of the property for short-term rental so long as such conditions and restrictions are consistent with the requirements of the Town of Niskayuna Zoning Code, including this Section, and are imposed for the purpose of minimizing any adverse impact the short-term rental could have on the neighborhood or community.

4. The Enforcement Officer may deny an application for any of the following reasons:

a. If the application is incomplete, the information required by this Section or regulations adopted by the Town of Niskayuna was not included with the application or the full permit fee, in acceptable form of payment, was not included with the application.

b. If the Enforcement Officer previously issued a short-term rental permit to any

- of the owners of the property and any of such owners had a short-term rental permit revoked within the previous year.
- c. If the affidavit from the owners or if an inspection conducted by the Enforcement Officer as authorized in this Section evidences that the subject property is not in compliance with this Section or the Town of Niskayuna Zoning Code.
 - d. If the site plan required to be submitted with the application does not comply with the requirements of this Section.
 - e. If a private septic inspection report is required to be submitted with the application such report does not comply with the requirements of this Section or the Town of Niskayuna Zoning Code.
 - f. If access is not granted to the property for purposes of an inspection.
5. Short-term rental permits issued pursuant to this Section shall state the following:
- a. The names, addresses and phone numbers of every person or entity that has an ownership interest in the short-term rental property and the primary contact person who shall be available to respond within 60 minutes to or investigate complaints during the entire time (24 hours per day) the short-term rental property is being rented;
 - b. The maximum occupancy and vehicle limits for the short-term rental unit;
 - c. Identification of the number of and location of parking spaces available;
 - d. A statement that littering is illegal;
 - e. A statement that all fires must be attended and in conformance with Chapter 107 (Fires, Open) of the Code of the Town of Niskayuna.
 - f. A statement that renters must comply with and be provided with a copy of Chapter 142 (Noise) of the Town of Niskayuna, which set strict limits on noise levels between 9:00 p.m. and 7:00 a.m. in the Town of Niskayuna, which Ordinances will be enforced by the Code Enforcement Officer of the Town of Niskayuna or any other law enforcement officer of the Town of Niskayuna
 - g. A statement acknowledging Fireworks are prohibited in Schenectady County and the Town of Niskayuna;
 - h. Any conditions imposed by the Enforcement Officer;
 - i. The short-term rental permit expiration date; and
 - j. A statement that the short-term rental permit may be revoked for violations.

E. Display of Permit and Notification

1. Holding of a short-term rental permit is subject to continued compliance with the requirements of these regulations.
2. Prior to any renters taking occupancy of the short-term rental property, a hard copy of the short-term rental permit shall be prominently displayed within the interior of the short-term rental unit in an area easily viewed by its occupants. The Enforcement Officer may also require that other information be placed on prominent display within the interior of the short-term rental unit.
3. A list of short-term rental permits may be published and updated quarterly on the Town of Niskayuna webpage. Information included shall be limited to permit

number, physical address, maximum occupancy and number of parking spaces.

4. The owners must ensure that current and accurate information is provided to the Enforcement Officer and that they notify the Enforcement Officer immediately upon any change in information contained on the permit. If, based on such changes, the Enforcement Officer issues an amended short-term rental permit, the owners must immediately replace the displayed permit with the amended permit.
5. The requirements listed in section 220-32.8 (F) shall be posted upon any online listing site or advertisement used in this promotion of the short-term rental unit.

F. Short Term Rental Requirements. The following standards must be met and followed for all short-term rentals. The number of bedrooms set forth in the Town of Niskayuna's assessment records shall be used for purposes of this section.

1. Occupancy Requirements

a. The maximum number of occupants (as defined at Section 220-4) for each short-term rental unit shall be the most restrictive of the following:

- i. Two (2) times the number of bedrooms (as defined by the NYS Building Code) that are rented in compliance with Section 220-32.8 plus one (1) additional occupants, not to exceed 3 rented bedrooms or 8 occupants total.

Examples:

1 Bedroom unit = 2 occupants for 1 bedroom + 2 additional = 4 maximum.

2 Bedroom unit=4 occupants for 2 bedrooms + 2 additional = 6 maximum

3 Bedroom unit = 6 occupants for 3 bedrooms + 2 additional =8 maximum

- ii. Maximum capacity of the septic system for properties serviced by a septic system.

2. Guests of the occupants are not allowed.

3. Required Off-Street Parking.

- a. The number of vehicles permitted for each short-term rental unit is limited to one (1) vehicle per rented bedroom +1 vehicle, not to exceed three (3) vehicles for rented bedrooms and 4 vehicles total on the property.
- b. Required off-street automobile parking spaces shall be equal to the maximum number of motor vehicles permitted. The applicant must demonstrate that they have off-street parking meeting the standards of this Local Law. Spaces within a home garage shall not be counted as parking

- spaces unless the garage is actually used for and available for parking and each space meets the standards of subsection c, below.
- c. A parking space shall have a minimum of 180 square feet in a rectangular configuration of at least 9 feet by 20 feet.
 - d. Parking for the short-term rental unit is not allowed on any part of the lawn of the property.
4. A house number visible from the street or road shall be maintained.
 5. Provisions shall be made for at least 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 street or road except when awaiting pick-up.
 6. There shall be no campers located on the short-term rental property nor shall there be any overnight camping in tents or otherwise used in conjunction with short-term rentals to provide additional sleeping areas.
 7. Weddings, corporate events and commercial functions are not allowed at short-term rentals in the Town of Niskayuna.
 8. Online listings and advertisements for a short-term rental must conform to what is allowed under these regulations and the short-term rental permit and shall clearly and prominently display the short-term rental permit number.
 9. The allowable number of vehicles on a short-term rental property shall be clearly and prominently displayed in all online listings or advertisements for short-term rentals.
 10. Owners of a short-term rental shall have a short-term rental agreement in writing with every renter, which contains a provision whereby the owner or owner's representative shall terminate the rental in the event the short-term rental permit is suspended or revoked at least one full week prior to the commencement of the rental term.
 11. There shall be one functioning smoke detector in each bedroom and at least one functioning smoke detector in at least one other room, one functioning fire extinguisher in the kitchen and in each room with an open flame source, and carbon monoxide detectors as required by NYS Building Codes.
 12. Exterior doors shall be operational and all passageways to exterior doors shall be clear and unobstructed.
 13. Electrical systems shall be serviceable with no visual defects or unsafe conditions.
 14. All fireplaces, fireplace inserts or other fuel burning heaters and furnaces shall be vented and properly installed, and flues cleaned within 12 months of application for permit.

15. Each bedroom shall be in compliance with the New York State Building Code.

G. The following two types of short-term rentals shall be permitted in the Town of Niskayuna upon issuance of the applicable short-term rental permit and subject to the limitations set forth herein:

1. Un-hosted Short-Term Rental

a. Un-hosted Short-Term Rental Permits shall be limited to the following Zoning District:

- i. R-P Residential Professional
- ii. C-N Neighborhood Commercial Zoning District

b. Un-hosted Short-Term Rentals must be rented for short-term rental purposes for a minimum of 14 days per calendar year.

3. Hosted Short-Term Rental

a. Hosted Short Term Rentals as defined in Zoning Code Section 220-4 shall be permitted in all Zoning Districts.

b. Online listings and advertisements for a hosted short-term rental must clearly and prominently indicate the host will be on the premises during the time that the unit is rented.

c. In addition to the application requirements set forth at Section 220-32.8 (F), applicants for a Hosted Short-Term Rental Permit shall provide a sworn statement that they are the owner of the property and that they will stay overnight during the entire term of each short-term rental of the property.

H. Complaints and Violations. Owners, operators, managers, marketers and renters of short-term rental units shall obey all applicable Federal, State and Local Laws, including but not limited to those the Town of Niskayuna, and shall be subject to the enforcement and penalty provisions contained in the Town of Niskayuna Zoning Code and any other State or local law.

The following process shall be followed in the event of a complaint alleging a violation of this Zoning Code Section 220-32.8 or a permit issued hereunder:

1. The complaining party may contact a law enforcement agency or the Niskayuna Building Department and describe the problem from which the complaint arises.

2. Any property owner or contact person of a short-term rental shall, within sixty minutes of receiving any complaint, respond to the complaint and remedy as soon as reasonably possible any situation that is in violation of this law or the short-term rental permit for the property.

3. If the response is not satisfactory to the complaining party, the complaining party may file a written complaint with the Enforcement Officer. The form of the complaint shall be established by the Enforcement Officer and may be filed in person, by mail, by email or online. The complaint shall provide pertinent information including the date, time and nature of the alleged violation.

4. If the Enforcement Officer finds a violation of the permit or of Section 220-32.8, the Enforcement Officer may do any of the following depending on the circumstances:
 - a. Attach reasonable additional conditions to the existing short-term rental permit;
 - b. Issue a warning or violation;
 - c. Suspend the short-term rental permit; or
 - d. Revoke the short-term rental permit.
5. The Enforcement Officer of the Town of Niskayuna may also initiate enforcement proceedings under the Town of Niskayuna Zoning Code at any time following receipt of a complaint or discovery of a violation.
6. Decisions of the Enforcement Officer will be provided to the parties and may be appealed to the Town of Niskayuna Zoning Board of Appeals, within 30 days of receipt of the decision, by the owner or by the complainant in accordance with Section 220-32.8 (I).
7. The Enforcement Officer or her/his designee shall have the right to inspect the short-term rental property to ensure the situation complained of has been remedied and that it complies with the provisions of this Section, but only after obtaining the express consent of the property owner or the contact person designated by the property owner for such limited inspection purposes.
8. Two warnings or violations issued by the Enforcement Officer within a one-year period will constitute an immediate revocation of the permit. Actions to remedy the revocation will require the owner to discontinue any existing contract for a short-term rental for the property, giving the current renter three days to vacate. Further, owner will void any future contracts with potential renters until remedies are agreed on and completed. Property owner should reflect conditions that will allow them to legally discontinue an existing short-term rental agreement if said status occurs during a renter's stay.
9. Revocation of short-term rental permit. Should a permit be revoked, none of the owners of the short-term rental property may obtain any short-term rental permit sooner than one year after the date of revocation.

I. Appeals

1. The Zoning Board of Appeals shall be appointed by the Town of Niskayuna to carry out the duties hereinafter prescribed.
2. Decisions and determinations made by the Enforcement Officer under this Section shall be made in writing and provided to the owner and complainant, if any. Said decision/determination may be appealed to the Zoning Board of Appeals within thirty (30) days of receipt of the decision. The decision/determination appealed from shall not be stayed unless the Zoning Board of Appeals agrees to grant appellant a stay upon his/her/its application

for such stay. The Zoning Board of Appeals shall have all the powers and duties prescribed by this Code and may reverse, affirm, or modify wholly or partly any order, requirement, decision or determination as in its opinion ought to be made.

3. The general procedures for appeals to the Zoning Board of Appeals shall be the same as the general procedures set forth in Section 220-69 of Town Code.
4. An owner or complainant with standing who wishes to appeal the decision or determination made by the Enforcement Officer shall make a written request for a hearing to the Zoning Board of Appeals. At the hearing the Zoning Board of Appeals shall not be bound by strict rules of evidence and may accept evidence, including reliable hearsay evidence, offered by the property owner, the complaining party, the Enforcement Officer and any other witness with relevant evidence.

J. Penalties for Offenses.

1. Any person, association, firm, company, corporation or entity which violates any provision of this section or assists in the violation of any provision of this section or owns or operates a property at which a violation occurs, shall be subject to the following criminal or civil penalties:
 - a. By a fine or civil penalty of not less than \$1000.00 for a first violation.
 - b. By a fine or civil penalty of not less than \$2,000.00 for a second violation, both of which were committed within a period of two (2) years.
 - c. By a fine or civil penalty of not less than \$3,000.00 for a third violation, all of were committed within a period of two (2) years.
 - d. Each week's continued violation constitutes a separate additional violation.
2. The Town of Niskayuna may seek injunctive relief, civil penalties and any other relief available to enforce the provisions of this Section through commencement of an action in the New York State Supreme Court.
3. Violations of any provision of this Section or a permit issued hereunder may be remedied or enforced pursuant to this Section or Zoning Code 220-73. Enforcement remedies available are not exclusive and may be sought cumulatively.

Section 3. The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

Section 4. This Local Law shall take effect as provided in §27 of the NYS Municipal Home Rule Law.