

Proposed Ordinance (STRCF/TB1)
ORDINANCE REGULATING SHORT-TERM RENTALS
IN THE TOWN OF HAGUE

ARTICLE 1. PURPOSE AND INTENT: AUTHORITY

The Town Board acknowledges the increase in short term rentals in residential zoning districts, and recognizes that this proliferation has the potential to be incompatible with the character of residential neighborhoods. Many members of the community wish to engage in short-term renting of their properties, just as many members of the community are concerned about increased noise and a reduction in available, affordable housing. The Town Board desires to strike a balance between maintaining the peace, privacy, and safety of our northern Lake George residential neighborhoods, while recognizing individual property rights and the fact that Hague has a tourist based economy in which short-term rentals provide accommodations, customers for Hague businesses, income for property owners, and tax revenue for Warren County.

The Board recognizes that the increasing number of short-term rentals has affected the local housing market, reducing the availability of affordable housing—a pattern that has been documented in resort communities across the United States. This trend can provide hardship to members of our community who provide needed services to us all. In addition, the increasing number of short-term rental properties—especially those with absentee owners—may well depress the number of year-round residents, with the effect of reducing the off-season population from which we draw local fire and emergency volunteers, as well as the children in our local schools.

All these factors lead the town to conclude there is now a need to provide local law including supplementary rules and regulations to ensure that short-term rentals operate in the best interests of the entire community.

This Ordinance is adopted pursuant to provisions of New York Municipal Home Rule Law, New York Town Law, and furtherance of municipal police powers exercised to protect and maintain public health, safety and well-being for the Town of Hague and its residents.

ARTICLE 2. DEFINITIONS

As used in the Ordinance, the following words shall have the meanings indicated:

DWELLING UNIT- One or more rooms designed, occupied or intended for residential occupancy and living quarters, with provisions for habitation, cooking, sanitary and sleeping facilities.

RENTAL- Granting residential use or possession of a Dwelling Unit in whole or part to a person or group in exchange for some form of valuable consideration.

SHORT-TERM RENTAL- A Dwelling Unit, which may or may not be inhabited by the owner of record or the owner's immediate family, which is or is intended to be rented for residential purpose in whole or in part. Short-term rentals are permitted throughout the year; however, between May 15 and October 15, short-term rentals are permitted for an occupancy period of no less than six (6) days and nights and up to twenty-eight (28) consecutive days. Rentals at any

time of the year for a continuous period longer than twenty-eight (28) days are not considered to be short-term rentals and are, therefore, excluded from this Ordinance. In addition, this Ordinance specifically excludes any property rental by a commercial tourist accommodation such as a hotel, resort, motel, inn, or campground, and further excludes all employee housing.

SHORT-TERM RENTAL OWNER- All persons or entities having an ownership interest in a Dwelling Unit which is to be used as a Short-Term Rental. All persons or entities that purchase a property in Hague in an arms-length transaction after the enactment of these regulations are not eligible for a short-term rental permit for a period of three (3) years after the date of purchase.

SHORT-TERM RENTAL PROPERTY- The entire area that is under the ownership or control of the Short-Term Rental Owner including, if applicable, the parcel of land on which a Short-Term Rental is located, together with any dwelling(s), buildings, structures and residential amenities utilized on the parcel.

BEDROOM- For purposes of calculating maximum occupancy of a short-term rental, a bedroom is defined as a room, used primarily for sleeping, having an operating door, and at least one window. A living room with a couch or roll-out bed does not qualify as a bedroom.

LOCAL REPRESENTATIVE- A person who resides locally and is responsible for receiving and responding to a complaint involving the rental property or the renters occupying the property. "Local" should be understood to mean a person who would normally be able to arrive at a rental property within thirty (30) minutes.

TOWN OF HAGUE ZONING OFFICE- All persons appointed or designated by the Town Board including the Zoning Enforcement Officer or their designated agents authorized by the Town Board to enforce the Codes and Ordinances of the Town of Hague.

ZONING BOARD OF APPEALS - The Zoning Board of Appeals hears appeals from persons seeking interpretation or reversal of any determination made by the Zoning Enforcement Officer.

ARTICLE 3. PERMIT REQUIRED

A. An owner of a Dwelling Unit shall be required to obtain from the Town of Hague a revocable Short-Term Rental Permit identifying a Dwelling Unit that is to be offered and intended to be used as a Short-Term Rental.

B. A Short-Term Rental Permit shall be obtained prior to offering or using the Dwelling Unit as a Short-Term Rental.

C. A Short-Term Rental Permit shall be valid for a period of three (3) years or until the date of the next renewal period, and in all cases must be re-applied for as a renewal every three years thereafter and for as long as the Dwelling Unit or portion thereof is offered or used as a Short-Term Rental.

D. Short-Term Rental Permits are non-transferable and non-assignable. If a Short-Term

Rental property is sold or ownership is otherwise transferred, the new owner or ownership entity must apply for and obtain a Short-Term Rental Permit in their own name prior to any use or offering of the Dwelling Unit as a Short-Term Rental. All persons or entities that purchase a property in Hague in an arms-length transaction after the enactment of these regulations are not eligible for a short-term rental permit for a period of three (3) years after the date of purchase.

E. Any failure to abide by the requirements this Ordinance and the rules and regulations promulgated by the Town of Hague in furtherance of this Ordinance may result in a suspension or revocation of a Short-Term Rental Permit and such additional penalties as specified herein and as otherwise provided by law.

F. The cost of a permit to engage in short-term renting shall be \$300.00, an amount that will be prorated every six months in the case of permits that take effect at least six months after the permit renewal date.

ARTICLE 4. PERMIT APPLICATION REQUIREMENTS.

An application for a Short-Term Permit or renewal of any existing or expired permit shall:

A. be submitted to the Hague Town Clerk on an application provided by the Town of Hague and available from the Town Clerk (518-543-6161 ext 13; townclerk@townofhague.org; 9793 Graphite Mountain Road, Hague, NY 12836).

B. identify the property address and tax map number of the premises;

C. be signed by all persons and entities that have an ownership interest in the proposed Short-Term Rental Property;

D. be accompanied by:

i) A non-refundable application fee of \$300.00, an amount that may be changed from time to time by Resolution of the Town Board.

ii) A copy of the vesting deed or other instrument demonstrating the manner in which ownership of the proposed Short-Term Rental property is held of record in the Warren County Clerk's Office.

iii) A valid copy of Certificate of Authority issued by the Warren County Treasurer's office authorizing collection of the Warren County Occupancy Tax from Short-Term Renters.

iv) A current Certificate of Compliance issued by the Town of Hague Zoning Officer evidencing that the premises proposed as a Short-Term Rental property and offered to the public as a Short-Term Rental property is in conformity with all requirements of the Town of Hague Zoning Code and that there are no open or pending Zoning Code violations or pending Zoning Code enforcement proceedings related to the property to be offered as a Short-Term Rental.

v) A site plan of the proposed Short-Term Rental Property (not required to be professionally drawn) depicting all buildings or structure locations and parking areas available for the rental occupants' vehicles(s).

vi) A copy of written rules and regulations imposed upon the renters by the owner for the proposed Short- Term Rental.

vii) A copy of any written agreement required to be signed by the rental occupants for the proposed Short-term Rental.

viii) Contact information for each Short-Term Rental Owner and owner's local representative including names, addresses, telephone numbers, and email addresses.

E. All persons or entities that purchase a property in Hague after the enactment of these regulations in an arms-length transaction are not eligible for a short-term rental permit for a period of three (3) years after the date of purchase of the property.

ARTICLE 5. APPLICATION PROCEDURE.

A. Upon the filing of a Short-Term Rental Permit Application with the Hague Town Clerk, accompanied by the permit fee and all supporting documents required by this Ordinance as essential to the application, the Town of Hague Zoning Office shall within thirty (30) days of receipt of a complete submission determine whether to either issue the Short-Term Rental Permit, with or without conditions, or notify the applicant in writing that the application has been denied stating the reason or reasons for such denial. The Zoning Office will also designate the maximum rental occupancy, which will appear on the permit. All adjoining property owners will be notified of any application for a Short Term Rental Permit, including the maximum occupancy. All issued Short-Term Rental Permits shall bear the signature of the Town Zoning Officer and, upon issuance of such Permit, two copies of the Permit shall be provided to the applicant. The applicant shall post a copy of the current Permit in a conspicuous location within the Short-Term Rental property. The Zoning Officer shall file a copy of the Permit at the Town Clerk's Office with five days of issuance.

B. In instances where the Town of Hague Zoning Office determines that a permit application with supporting information is complete and, before issuance of a permit it is necessary to inspect the premises in support of the application, the Town of Hague Zoning Office shall have the opportunity to physically inspect the proposed Short-Term Rental Property to verify all application information including the number of qualified bedrooms, available parking areas, and the state of the septic system. Failure on the part of the applicant to allow access and inspection of the Property shall terminate the application process.

C. In instances where the Town of Hague Zoning Office determines that permit application or supporting information is incomplete or insufficient, the Town of Hague Zoning Office shall notify the applicant in writing and afford the applicant an opportunity to correct any deficiencies or inadequacies. An incomplete permit application submission shall suspend the time for review and processing of the application.

D. At the time of the issuance of a Short-Term Rental Permit by the Town Zoning Office, the Zoning Administrator may impose reasonable conditions and restrictions which are directly related and incidental to the use of the Short-Term Rental property so long as such conditions and restrictions are consistent with the requirements of this Ordinance, and the Town Zoning Code. Such conditions or restrictions shall be appropriate to Code and Ordinance compliance and to protect public health and safety or to minimize noise and other adverse impacts that the proposed Short Term Rental activity may have on the community, the neighborhood, or adjacent properties.

E. The Town Zoning Officer shall deny issuance of a Short-Term Rental permit for any one or more of the following reasons:

i) if the application form is incomplete or supporting documents are not provided within a reasonable time after notification of incompleteness.

ii) if any required application fee is not provided.

iii) if there are reasonable grounds to conclude that the applicant has engaged in short-term renting of the property at any time after the enactment of these regulations by the Town of Hague without having first obtained a short-term rental permit.

iv) if any Short-Term Rental Permit for a property is revoked, the revocation period shall be for one year and, within that period, the property shall be ineligible for a Short-Term Rental Permit. In a case in which the Town Board shall determine that the circumstances that resulted in any revocation have been substantially abated, the one-year ineligibility provision may be waived by resolution of the Town Board, with or without conditions, for good cause shown by the applicant.

v) where a physical inspection of the proposed Short-Term Rental Property demonstrates that information provided in the permit application or its supporting documentation cannot be verified, or the Property does not comply with the Town of Hague Zoning Code and cannot meet the requirements of this Ordinance, or the property fails to comply with the rules or regulations promulgated in furtherance of this Ordinance. In such instances the Zoning Officer shall set forth in writing specific reasons for a denial of the Permit and that determination shall be appealable by the applicant to the Town Zoning Board of Appeals (ZBA) in accordance with the requirements of Town Law. The applicant shall be afforded every reasonable opportunity to correct the condition or incomplete application as part of the permitting process.

vi) An applicant shall be afforded an opportunity to appeal any denial or determination made by the Zoning Officer in furtherance of this Ordinance upon presenting to the Town of Hague Zoning Board of Appeals (ZBA) a written notification served upon the Office of the Town Clerk within thirty (30) days of such determination or denial. The ZBA shall consider such appeal conducted in accordance with the requirements of Town Law and, upon the conclusion of a hearing on such appeal, by resolution, the ZBA shall either confirm, amend, or rescind such determination or denial. Where the applicant may demonstrate by competent evidence that the circumstances for denial or determination by the Zoning Officer are created by

a practical difficulty in meeting the strict application of the requirements of this Ordinance the ZBA shall have authority to grant a variance from such requirement upon the same grounds provided for under Town Law or, in the alternative, the ZBA may also grant relief on appeal upon satisfactory proof of substantial error in the Town of Hague Zoning Officer's denial or determination.

ARTICLE 6. REQUIREMENTS FOR ALL SHORT-TERM RENTAL PERMITS

Short-Term Rental Permits issued pursuant to this Ordinance shall state, at minimum, the following:

- A. The names, address, telephone numbers and email address of each person or entity that has an ownership interest in the Short-Term Rental Property.
- B. The name, addresses and telephone number of a local, primary contact person or Short-Term Rental property agent who shall be available during the entire period that the Short-Term Rental is permitted to operate.
- C. Specification of the maximum occupancy requirements for the Short-Term Rental as may be determined by the Town of Hague and the Warren County Department of Fire Prevention and Building Codes office for such occupiable and habitable space. The Town of Hague code limits short-term rental occupancy to a number of persons calculated by multiplying the number of qualified bedrooms in the home by two, plus two. However, in no case shall maximum occupancy exceed the provisions of the New York State Department of Health regulation (Appendix 75A) residential onsite wastewater treatment system specifications where the Short-Term Rental property is serviced by a septic system.
- D. The date on which the permit shall expire.
- E. All persons or entities that purchase a property in Hague after the enactment of these regulations in an arms-length transaction are not eligible for a short-term rental permit for a period of three (3) years after the date of purchase of the property.

ARTICLE 7. SHORT-TERM RENTAL ESSENTIAL PERFORMANCE STANDARDS.

Short-Term Rentals shall comply with the following essential performance standards and requirements:

- A. During the period between May 15 and October 15, short-term property rentals shall be for a period of no less than six (6) consecutive calendar days and nights.
- B. Short-Term Rental Properties shall comply with all current Federal, State and Local laws, codes, rules and regulations.
- C. Rules and regulations imposed by the Short-Term Rental Owner shall be provided in writing to each renter/occupant, and made available at all times when the Short-Term Rental is rented in a conspicuous location within the Short-Term Rental premises that is readily accessible to the renters/occupants.

D. The Short-Term Rental Permit issued by the Town of Hague shall be posted inside the Short Term Rental in a conspicuous location, along with the Town of Hague Tenant Information Sheet that references our E-Code Section 160-61, and the Lake George Septic & Sewer Waste Water Care Card. These must remain posted during any period that the Short-Term Rental is rented pursuant to the Permit.

E. Each Short-Term Rental premises shall provide for a minimum of weekly trash and garbage removal and recyclables removal during the rental periods. Garbage containers and recyclable containers shall be secured with tight fitting covers at all times to prevent leakage, spillage, odors, and animal invasion, and shall be placed and maintained where the receptacles are not directly visible from the street or road except as required during pick-up times.

F. A house number visible from the street or road shall be maintained.

G. The Town of Hague shall provide, upon request of any property owner, a copy of any current Short-Term Rental Permit.

H. The Short-Term Rental Owner shall maintain current and accurate owner and agent or representative information and contact information in the Town of Hague Zoning Office, and the short-term rental owner shall immediately notify the Town of Hague Zoning office of any material changes from the information originally supplied at the time of issuance of their permit. If, based on the information changed, the Town of Hague Zoning office issues an amended Permit, the amended Permit shall be immediately conspicuously posted in the Short-Term Rental premises replacing the original Permit. Issuance of an Amended Permit shall not be construed as extending the period of permission to operate under the originally issued permit. No fee shall be imposed for an amended permit.

I. Every owner and/or agent for the owner of a Short-Term Rental premises shall require that their rental occupants conduct themselves in a manner that displays proper consideration for the peace and well-being of their neighbors, and is not in violation of New York State Penal Law or in violation of the Zoning Code of the Town of Hague.

J. Short-Term Rental Permits may be suspended or revoked for violations of these regulations or upon any violation of the specific terms of the permit.

K. Short-Term Rental property shall be operated in accordance with all special conditions imposed specific to the Permit.

L. The operation of a Short-Term Rental property in accordance with a validly issued Short-Term Rental Permit shall require continuing compliance with all rules and regulations in existence at the time of issuance of the permit, and such other rules and regulations that the Town of Hague shall determine to be necessary standards that further the purposes of the Ordinance. Rules or regulations promulgated in furtherance of this Ordinance shall be considered after a public hearing conducted by the Town Board at least thirty (30) days after a notice is published in the municipality's official newspaper and owners of short-term rental properties and their neighbors are notified of the hearing by email. This hearing will provide an opportunity for the public to be heard on such matters, and all issues and concerns shall be considered at a public hearing

before the Town Board shall act to promulgate or adopt any new rules or regulation in furtherance of this Ordinance. Adoption of any application fee or amendment thereto shall not require a public hearing and maybe authorized by a Town Board resolution.

M. No tent, canopy, travel trailer, motorhome, camper, yurt, vessel, motor vehicle, or temporary structure shall qualify for use or occupancy as a Short-Term Rental in the Town of Hague.

N. The operation and appearance of a Short-Term Rental property shall not interfere with the residential character of the premises, and may not undermine the peace, quiet, and safety of the surrounding properties or the neighborhood.

O. No use of fireworks shall be permitted at a Short-Term Rental property.

P. In a single family home, only one (1) short-term rental is permitted at a time.

Q. Parking shall be limited to the areas shown on the site plan submitted on the short-term rental application. No on-street parking is permitted.

R. An owner or an owner's local representative must be available to respond to concerns or complaints be able to arrive at a rental property within thirty (30) minutes.

ARTICLE 8. ENFORCEMENT AND PENALTIES.

A. All rules and regulations included in this Ordinance are subject to enforcement, and violations of any rule or regulation may result in various penalties. Enforcement of the rules and regulation within this Ordinance, as well as the imposition of penalties, is a responsibility of the Town of Hague Zoning Enforcement Office. Complaints concerning the operation of any Short-Term Rental property shall be directed to the Zoning Enforcement Officer by telephone (518-543- 6273), email (zoning@townofhague.org), or Fax (518-543-6273). The location of the zoning office is 9793 Graphite Mountain Road, Hague, NY 12836.

B. Notice to owners of Short-Term Rental properties of a possible violation normally shall be made by the Zoning Enforcement Officer as specified below. The process of determining whether a violation has or has not occurred may involve investigation by the Zoning Enforcement Office. Any rental owner who receives notice of a possible violation will be informed of how, when, and to whom a response must be made.

C. Agents, employees, or consultants acting on behalf of the Town of Hague shall be granted access to any short-term rental upon reasonable request for the sole purpose of inspection and/or enforcement and compliance with this Ordinance, and all short-term rental and state and local codes.

D. A short-term rental permit may be suspended or reasonably conditioned by the Town Zoning Office, or revoked by the Zoning Board of Appeals, in accordance with the following:

i. For a first or second violation of this Chapter or the terms of a Short-Term Rental Permit by the Short-Term Rental Owner related to a particular Short-Term Rental

Property, the Zoning Enforcement Officer shall immediately place a phone call as well as send a written Notice of Violation to the Short-Term Rental Owner or agent by certified or registered mail, return-receipt requested, to the address set forth on the Short-Term Rental Permit. The Notice of Violation shall specify the violation, and what actions must be taken by the rental property owner. If a property owner fails to remedy the violation as requested within the timeframe specified, the Zoning Enforcement Office may revoke, suspend, or attach reasonable conditions to an existing Short-Term Rental Permit.

ii. For a third or any subsequent violation of this Chapter or the terms of a Short-Term Rental Permit by a Short-Term Rental Owner related to a particular Short-Term Rental Property, the Zoning Enforcement Officer shall revoke, suspend, or attach reasonable conditions to an existing Short-Term Rental Permit. The Notice of Violation and any determination to revoke, suspend, or condition an existing Short-Term Rental Permit shall be provided to the Short-Term Rental Property Owners by phone call, e-mail, and in writing to the addresses set forth in the Short-Term Rental Permit by certified or registered mail, return-receipt requested.

iii. The Zoning Enforcement Officer may suspend or revoke a Short-Term Rental Permit immediately, regardless of the number of prior violations, in the event of a violation that poses a threat to the health, safety, or welfare of any occupants or the general public. In the case of an immediate suspension or revocation, the Zoning Enforcement Officer shall notify the Short-Term Rental Property Owners by phone call, e-mail, and in writing to the address set forth in the Short-Term Rental Permit by certified or registered mail, return-receipt requested.

iv. Short-Term Rental Property Owners may appeal any determination of the Zoning Enforcement Office to suspend, revoke, or condition a Short-Term Rental Permit no later than thirty (30) days after the mailing of notice of determination. The appeal must be made in writing to the Town Clerk and such appeal shall be heard by the Town Board at a regularly scheduled Town Board meeting. During the time following a submission of appeal and prior to the decision of the Town Board, the determination of the Zoning Enforcement Officer shall be stayed. At the hearing, the Town Board shall accept evidence offered by the Short-Term Rental Owner, any complaining parties, the Zoning Enforcement Officer, and any other witness with relevant evidence. The Town Board shall make its determination after hearing and reviewing all evidence for or against and make a determination and/or decision by resolution at the conclusion of the hearing, and may uphold, reverse, or modify the determination of the Zoning Enforcement Office. The Town Board's determination shall be provided to the Short-Term Rental Owners in writing to the addresses set forth in the Short-Term Rental Permit by certified or registered mail, return-receipt requested.

v. If a Short-Term Rental Permit is revoked, no Short-Term Rental Permit may be obtained for the subject property for at least one year following the revocation.

E. Where circumstances may require, the Zoning Enforcement Officer or designee shall have the authority, pursuant to the Criminal Procedure Law, to issue an appearance ticket or criminal summons or complaint, subscribed by him or her, directing a designated person to appear before the Town Justice or any other court of competent jurisdiction at a designated time in

connection with the commission of any violation of this Ordinance or a violation of any rule or regulation promulgated hereunder.

F. Monetary Penalties. In addition to any penalties or other relief to which the Town of Hague may be entitled under the provision of this Ordinance, upon a determination by the Zoning Enforcement Office, Town Justice, any other court of competent jurisdiction that a person or entity has violated a provision of this Ordinance, or violated any rule or regulation promulgated in furtherance of this ordinance, or violated any rule made hereunder, or violated any term, provision or condition of a Short-Term Rental Permit, in addition to other sanctions provided for in this Ordinance, such person or entity shall also be liable for the imposition of a civil penalty determined in the following manner:

For any first offense, a civil penalty of not less than \$100.00 or more than \$500.00;

For any second offense within a three-year period, a civil penalty of not less than \$500.00 or more than \$1,000.00;

For any third or subsequent offense in a three-year period, revocation of the Short-Term Rental Permit.

Any violation and any penalty imposed shall be a matter of record in the Zoning Enforcement Office. Any violation and any penalty shall be considered along with all other relevant evidence and information by the Zoning Enforcement Officer should a request to renew a Short-Term Rental Permit be received by that office.

G. In addition to all other penalties, sanctions, or remedies specified in this Ordinance, or as may be provided in law or equity, a civil action or proceeding may be commenced by the Town of Hague in any court of competent jurisdiction at any time, to compel compliance with or restrain by injunction any threatened violation or actual violation of any provision of this Ordinance, a violation of any rule or regulation promulgated in furtherance of this Ordinance, or any violation of any permit specification. Where such application is permitted in a court of law, the Town of Hague shall, in addition to all other available remedies, be entitled to recover its actual attorneys' fees and costs incurred in the enforcement hereof, to be paid by any violator as may be determined by the court and all such remedies and relief shall be in addition to sanctions prescribed by this Ordinance and shall be considered to be cumulative.

H. No remedy, sanction, or penalty specified in this Ordinance shall be the exclusive remedy, sanction, or penalty available to address any violation, and each remedy, sanction, or penalty specified in this Ordinance shall be in addition to, and not in substitution for, or limitation of, the other remedies or penalties specified in this Ordinance, or in any other applicable law. Any remedy, sanction, or penalty specified in this Ordinance may be pursued at any time prior to, simultaneously with, or after the posit of any other remedy or penalty specified in this Ordinance. The town may initiate enforcement proceedings under this Ordinance at any time following receipt of complaint if the Town of Hague Zoning Office determines that a violation has occurred.

I. Unless otherwise specified herein, each day a violation continues shall constitute a separate and distinct offense to which separate penalties shall apply.

ARTICLE 9. SEVERABILITY

The invalidity of any clause, sentence, paragraph or provision of this Ordinance shall not invalidate any other clause, sentence, paragraph or part thereof.

ARTICLE 10. EFFECTIVE DATE

This Ordinance shall become effective ten (10) days after publication in the Towns' official paper.