

Adding a Chapter to the Orchard Park Village Code, “Short-Term Rental Units”

A. Purpose

The purpose of this Chapter is to regulate the Short-Term Rental of dwelling units within the Village of Orchard Park, NY and to establish comprehensive registration and licensing 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 Village also recognizes that extensive Short-Term Rentals have the potential to compromise the residential character of the community and may cause disruption to the peace, quiet and enjoyment of neighboring residents. Accordingly, in order to respect the rights and interests of all residents of the Village, this Chapter seeks to thoroughly monitor and regulate those who offer their homes as Short-Term Rental properties in order to minimize any potential detrimental impact this commercial enterprise may have upon the residential character of predominantly owner-occupied neighborhoods.

B. Definitions

Local Contact – the Owner's representative who is the point of contact for any guest(s) for the duration of the guest(s) stay in the Short-Term Rental.

Owner – any person, partnership, business, corporation or other entity that has an ownership interest in the subject property.

Platform – a reservation and/or payment service provided by a person or entity that facilitates a Short-Term Rental transaction between a Short-Term Rental operator and a prospective Short-Term Rental guest, and for which the person or entity collects or receives, directly or indirectly through an agent or intermediary, a fee in connection with the reservation and/or payment services provided for the Short-Term Rental transaction.

Short-Term Rental – also referred to Vacation Rental and or Transient Rental, is a non-owner-occupied dwelling unit consisting of a detached single-family residential structure or a dwelling unit in a two-family residential structure (duplex) that is rented as a whole unit and under a single booking for a period of less than 30 days.

Special Permit – an authorization issued by the Village Board of Trustees for a particular land use permitted by the Village Zoning Ordinance, which is subject to the requirements imposed by Chapter 225 to ensure that the proposed use is in harmony with said Zoning Ordinance and will not adversely affect the surrounding community if such requirements are met.

C. Short-Term Rental Standards

For Short-Term Rentals which require a Special Permit, the following conditions shall be required and cannot be waived:

1. It is unlawful for any person to operate a Short-Term Rental within the Village of Orchard Park without first obtaining a Special Permit issued by the Village Board of Trustees as set forth in this Chapter below. Subsequent to the issuance of a Special Permit, the Owner of a Short-Term Rental must also obtain a Short-Term Rental operator license, issued by the Department of Code Enforcement.
2. Only the Owner of record (not a renter or lessee) is eligible to apply for a Special Permit.

3. Special permits for Short-Term Rentals are non-transferable; any change in ownership requires a new Special Permit and licensing.
4. The Short-Term Rental must be Owner-managed and operated.
5. Short-Term Rentals within the Village of Orchard Park shall only be permitted in the geographic boundary area delineated in Section "D" of this Chapter.
6. Short-Term Rentals shall only be permitted on properties that comply with all the requirements contained in this Chapter.
7. Short-Term Rentals are not permitted in a multi-unit (three or more) residential structure.
8. The dwelling unit must be rented in its entirety and not as separate rooms.
9. A Short-Term Rental may only be used for overnight accommodations and shall not be used for gatherings, including, but not limited to, cultural events, weddings, private events, special or sales events, bachelor or bachelorette parties or other similar party or activities, funerals, fundraisers, or similar group-type gatherings.
10. Short-Term Rentals are not permitted in dwelling units that are subject to affordable housing covenants or are income-restricted under Federal, State or Local law.
11. Only structures approved for residential use under the New York State Building Code are to be covered by a Special Permit. Mobile homes, RVs, travel trailers, yards, sheds, garages, vehicles, tents, yurts and similar non-permanent structures are prohibited from use as a Short-Term Rental.
12. No cooking facilities are permitted in the individual bedrooms or any other rooms where guests can sleep.
13. A Short-Term Rental shall comply with all residential property requirements contained in the Village of Orchard Park Codified Ordinances and New York State Codes. The Owner shall include trash/ recycling containers, the trash services collection schedule and instructions for proper trash disposal within the rental rules provided to each renter.
14. Exterior signs identifying the property as a Short-Term Rental are prohibited.

D. Permitted Area

1. Short-Term Rentals approved for a Special Permit on or after June 12, 2023 and existing within the territorial boundary of the Village of Orchard Park, NY shall only be permitted in the geographical area inside the Village:
2. Short-Term Rentals units that are not located within the geographical area described in this section shall not be permitted to operate unless they are in possession of a current a Special Permit issued prior to June 12, 2023.
3. The Village Board of Trustees shall, within one (1) year following the adoption of this Chapter, and each year thereafter, review the Boundary Area found in this Section and make changes thereto as they may so determine to be appropriate.

E. Special Permit Requirements

The Owner of a Short-Term Rental unit must first apply for and obtain a Special Permit, issued by the Village's Board of Trustees, prior to operating. As part of the application process under this Chapter, the following information must be submitted to the Department of Code Enforcement:

1. Completed application, together with all applicable fees, payable to “Village of Orchard Park.” The Special Permit fee shall be \$200.00 for a Short–Term Rental unit in a single–family dwelling and \$200.00 for a two–unit rental dwelling.
2. The Unit must be compliant with all applicable state and local building and safety codes and regulations;
3. An interior floor plan of the entire residential unit;
4. Proof of maintenance of liability insurance appropriate to cover the Short–Term Rental use in the aggregate of not less than \$1,000,000 or conduct each Short–Term Rental transaction through a Platform that provides equal or greater insurance coverage.
5. Proof that the Owner has notified all property owners within 200 feet of the subject premises that the property is to be used as a Short–Term Rental.
6. Health and Safety Requirements
 - a. All Short–Term dwelling units shall provide working fire extinguishers and NYS Fire Code compliant smoke and carbon monoxide detector/alarms,
 - b. No sleeping rooms shall be located above the second story.
 - c. A “Fire Safety Notice” shall be affixed to the occupied/interior side of the entrance door of each bedroom, indicating:
 1. Means of egress from each room within the dwelling;
 2. Location of means for transmitting fire alarms, if any; and
 3. Evacuation procedures to be followed in the event of a fire or smoke condition or upon activation of a fire or smoke– detecting or other alarm device.
7. The Owner of a Short–Term Rental unit must acquire a Short–Term Rental License as described in Section “F” below within one (1) year from the issuance of a Special Use Permit or said Special Use Permit becomes null and void.

F. License – Application; Renewal and Fees

In addition to the requirements contained in Section “E” above, the Owner of a Short–Term Rental unit must also possess a current and valid Short–Term Rental License, issued by the Code Enforcement Officer, prior to operation.

1. Application: Short–Term Rental licenses may be obtained by filing an application with Code Enforcement Officer. The Short–Term Rental license application shall be signed by all persons and entities that have an Ownership interest in the subject property, shall be accompanied by payment of the annual permit fee and shall be completed on the form provided and shall, at a minimum, provide the following information:
 - a. The name, address, phone number, and email contact information of the Owner(s).
 - b. The address of the Dwelling Unit associated with the Short–Term Rental
 - c. A signed and notarized attestation by the Owner providing that:
 1. There are no outstanding property taxes or tax liens associated with the dwelling unit, nor does the Owner owe any other outstanding taxes fees or assessments to the Village, including taxes and fees owed in connection with any other Short–Term Rentals;
 2. The Dwelling Unit complies and will continue to comply with all standards contained in this Chapter, the Village Zoning Ordinance and all other applicable laws, standards and regulations.

3. The Owner has read, understands, and agrees to comply with all legal duties imposed by this Chapter and the Village Zoning Ordinance.

4. The Owner will not discriminate in guest use or rental of a Short-Term Rental, and will comply with all applicable anti-discrimination laws, including but not limited to: Title VII of the Civil Rights Act of 1968, the Fair Housing Act (FHA), and the Americans with Disabilities Act (ADA).

5. Designation by the Owner of a registered local contact who shall be available twenty-four (24) hours per day, seven (7) days per week with the ability to respond to any complaint within forty-five (45) minutes for the purpose of responding to complaints regarding the condition, operation, or conduct of occupants of the short-term vacation rental unit and taking immediate action to resolve any such complaints.

2. Procedure upon filing Application.

a. Upon filing the License application, License fee, and all documents and information required by this section, the Code Enforcement Officer shall review the application to ensure it being complete.

b. In reviewing the application, the Code Enforcement Officer shall have the right to inspect the Short-Term Rental property for purposes of ensuring compliance with this Chapter. If an inspection authorized herein is conducted, the Code Enforcement Officer shall use the results of such inspection in determining whether to issue the License, with or without conditions, or to not issue the License.

c. The Village Planning Board will review the application and provide a recommendation to the Village Board. The Village Board will set a public hearing. Upon the completion of the public hearing, the Village Board of Trustees will render a decision on the application.

d. In issuing a Short-Term Rental License, the Village Board of Trustees may impose such reasonable conditions and restrictions as are directly related to and incidental to the use of the property for Short-Term Rentals, so long as such conditions and restrictions are consistent with the requirements of the Village Zoning Ordinance, including this Chapter, and are imposed for the purpose of minimizing any adverse impact the issuance of the Short-Term Rental License may have on the neighborhood or community.

e. The Code Enforcement Officer may decline an application for any of the following reasons:

1. The application is incomplete; the documentation required by this Chapter was not included with the application, and/or; the full License fee, in an acceptable form of payment, was not included with the application.

2. The Code Enforcement Officer previously issued a Short-Term Rental License to any owner needing to sign the Short-Term Rental License application and such owner had a Short-Term Rental License revoked within the previous year.

3. The attestation provided by the Owner evidences that the subject property is not in compliance with this Chapter, the Village Zoning Ordinance or any other applicable law, standard and/or regulation.

4. The inspection conducted by the Code Enforcement Officer authorized in this Chapter indicates that the subject property is not in compliance with this Chapter, the Village Zoning Ordinance or any other applicable law, standard and/or regulation.
3. License Renewal. Renewals shall be obtained in the same or substantially similar form and manner as the initial license, and shall also require the following information to be submitted to the Code Enforcement Officer by January 1st.
 - a. A signed and notarized attestation by the Owner providing that, in addition to the items specified in Section “F”, subsection (1)(c) above, that
 1. The Owner’s Short-Term Rental License has not been revoked in the previous year.
 2. Updated contact information, if applicable.
 3. Acknowledgement that the Owner is responsible for each and every occupant’s compliance with the Village of Orchard Park’ Codified Ordinances while they are on the property.
 4. Acknowledging that the Owner agrees to indemnify and defend the Village against any third-party claims based upon the Village of the foregoing statements
4. Annual License Fee. An applicant who receives a Special Permit in calendar year 2023 shall be issued a Short-Term Rental License, valid for one year from date of issuance, at no cost. Commencing in calendar year 2024, the Owner of a dwelling unit shall comply with the requirement of Subsection (3) above and shall remit an annual renewal fee of \$50.00 for a single-unit rental dwelling and \$ 50.00 for a two-unit rental dwelling.
5. Application Process for Current Special Permit Holders. Any Owner possessing a current and valid Special Permit, issued pursuant to this Chapter prior to June 12, 2023, must apply for a Short-Term Rental License as set forth in Section “F”(1) above the next January 1st. Any Owner that fails to apply within time period set forth herein shall not be permitted to operate a Short-Term Rental. Owners that timely apply for a Short-Term Rental License shall be permitted to operate until the Code Enforcement Officer either approves or denies the application. Commencing in calendar year 2024, the Owner of a dwelling unit shall comply with the requirement set forth in Subsection (3) above and shall remit an annual renewal fee of \$50.00 for a single-unit rental dwelling and \$50.00 for a two-unit rental dwelling.

G. Occupancy

1. Overnight occupancy of the Short-Term Rental unit shall not exceed two persons per room, which are designated as bedrooms.
2. The Owner shall maintain a guest registry identifying the names and addresses of adult guest(s), as well as the arrival and departure dates for each adult guest.
3. The guest registry shall be made available to any of the various departments of the Village of Orchard Park, NY, upon request.

H. Owner/Tenant Responsibilities

1. The Owner of a Short-Term Rental shall be responsible for any nuisance violations arising at a property during Short-Term Rental activities.
2. The Owner of a Short-Term Rental shall fully comply with all applicable State and Local fire, building, health and safety laws, and all relevant local ordinances, including Village parking standards.

3. The Owner must conspicuously post the Short-Term Rental License in a protected mounting in the public corridor, hallway or lobby of the dwelling for which the license was issued. This posting shall be in a common entrance. If no common entrance exists, then posting shall be made at the entrance of each dwelling unit.
4. It shall be the responsibility of the Owner to acquire and maintain a valid sales tax certificate as required by New York State Law. Except for those instances in which a Platform bears the responsibility for collecting and remitting taxes and fees applicable to Short-Term Rentals, the Owner shall timely remit all applicable local, state, federal taxes and fees. The failure of a Platform to collect and remit taxes and fees shall not relieve an Owner of the obligation to pay taxes and fees owed pursuant to this Chapter.
5. With respect to the dwelling unit which the tenant occupies, controls or uses, the Owner shall be responsible for the following standards:
 - a. Occupancy limitations and the lawful use of a dwelling unit;
 - b. Maintenance of the dwelling unit in a clean, safe and sanitary condition;
 - c. Maintenance of plumbing, cooking and refrigeration equipment, appliances, fixtures and facilities contained in the dwelling unit in a clean and sanitary condition;
 - d. Keeping exits in the dwelling unit free and clear of obstacles and debris.
 - e. Disposal of garbage, refuse and debris in provided facilities in a sanitary manner and keeping the dwelling unit free and clear from garbage, refuse and debris. All Short-Term Rental units not using a dumpster having a maximum occupancy of more than eight (8) people shall be required to have at least one (1) additional Village-issued trash storage container; the Owner is responsible for all costs associated with the purchase of additional trash storage containers, which will be billed by the Village at the annual rate.
 - f. Keeping domestic animals and pets in an appropriate manner and under control, to the extent that domestic animals and pets are permitted on the premises by the Owner.
 - g. All occupants and visitors to the Short-Term Rental unit shall comply with all relevant parking codes. In addition, occupants and visitors shall park motor vehicles only on-site (if the property is designed to accommodate on-site parking) or off-site where parking adjacent to the property is allowed. Notice of the parking locations allowed and other requirements shall be conspicuously posted on the inside of the Short-Term Rental unit.
 - h. Ensuring that all occupants of the dwelling unit refrain from making any disturbing, offensive or excessive noise between the hours of 10 p.m. and 8 a.m. which would annoy or disturb the peace, quiet or comfort of a reasonable person of normal sensibilities. Each Short-Term Rental unit

shall be required to prominently display a notice in the backyard and/or pool area that indicates that unreasonable noise is prohibited under the Codified Ordinances of the Village of Orchard Park.

6. Compliance with Other Laws. The Owner shall ensure that any Short-Term Rental fully complies with the provisions of this Chapter, the Village Zoning Ordinance, and all other applicable laws.

I. Violations – Penalties and Enforcement

1. Any Special Permit and/or License issued pursuant to this Chapter is subject to continuing compliance with the conditions set forth herein, as well as any applicable laws, codes, regulations or ordinances.

2. The Code Enforcement Officer or his designee shall be given access to the premises for the purpose of making inspection as deemed necessary from time to time to ensure compliance with these regulations and with applicable State and Local codes.

3. Inspection Fee. Every property Owner shall pay a fee of \$100.00, to be assessed against the property, for each inspection in which violations of State or Local laws, codes, regulations and/or ordinances are found. Inspectors shall assess the fee after consultation with the Code Enforcement Officer, when, in the evaluation of the inspector, the status of the violation has not progressed or been satisfactorily completed. The fee shall not be applicable to inspections ordered after the commencement of a Court action, nor any initial inspection required pursuant to Section “F” (2) or (3) above, but shall apply to subsequent re-inspections pursuant to the aforementioned sections.

4. In the event that the Code Enforcement Officer determines that a violation exists, they it shall inform the Owner by written correspondence, hand delivered or sent via first class mail to the address provided on the application, and provide a fixed period of time, not to exceed thirty (30) days, to remedy all existing violations or show cause for delay, which may only be granted once, by the Code Enforcement Officer, for a time period not to exceed ninety (90) days.

5. Failure to remedy violations.

a. Following the expiration of the time period set forth in Section “I” (4) above, the Owner of the Short-Term Rental unit shall be guilty of a violation and such License will be immediately suspended for a period of sixty (60) days. Continued failure to remedy an initial violation following the sixty (60) day suspension, the Short-Term Rental unit Special Permit shall be considered guilty of a second violation.

b. The Owner of the Short-Term Rental guilty of a second violation shall be further suspended for a period of one hundred twenty (120) days. Continued failure to suspended remedy of a second violation following the one hundred twenty (120) day suspension, shall be considered a third violation.

c. A permit issued to the Owner of a Short-Term Rental guilty of a third violation shall be immediately revoked for that Owner and at that location.

6. An Owner that has a License permit revoked may not apply or be granted another License for a period of two (2) years from the date of revocation, and no such License shall be reinstated unless the Owner has demonstrated that all

violations have been corrected and that he/she/it is in full compliance with all applicable provisions of this chapter. Revocation and/or multiple violations may be grounds for the denial of a subsequent application under this Chapter.

7. Non-Permitted/Licensed Operation: No person shall operate a Short-Term Rental unit without a current Special Permit and/or License issued pursuant to this Chapter. In the event that the Code Enforcement Officer determines that a violation of this subsection exists, it shall inform the Operator by written correspondence, hand delivered or sent via first class mail to the address of the property in question. The Operator will be given seventy-two (72) hours to cease operating the subject property as a Short-Term Rental unit. Should such unpermitted/unlicensed operation continue after seventy-two (72) hours, the Operator shall be in violation of this Chapter and be subject to the penalties listed in subsection "I" (8) below.

8. In addition to the penalties set forth above, any person who violates any provision of this Chapter shall be guilty of a violation. Each violation shall be punishable by a fine not less than \$100.00, but not to exceed \$250.00, by imprisonment for a period not to exceed fifteen (15) days, or both for each violation. Each day in which such violation shall continue shall be deemed a separate and additional offense.

J. Appeals

1. Any person affected by any notice or order issued pursuant to this Chapter which has been issued under any provision of this Chapter or of any rule or regulation adopted pursuant thereto may request and shall be granted a hearing on the matter before the Village Board, or their designee. Upon receipt of a written petition from such person, which petition shall contain a brief statement of the grounds therefor, the Village Board shall hold a hearing, at which time such person shall be given an opportunity to show why such notice or order should be modified or withdrawn. The hearing committee set by the Village Board each year; 1 person from the Village Planning, Zoning boards and 1 trustee. No such hearing shall be required unless the petition therefor shall have been filed with Village Board within five (5) days after the date the notice or order was issued. On receipt of such petition, the Village Board shall set a time and place for such hearing and shall give the petitioner written notice thereof. The hearing shall be commenced not later than ten (10) days after the date on which the petition was filed. After such hearing, the Village Board may sustain, modify or withdraw the notice or order complained of by the petitioner, depending upon his finding as to whether the provisions of this Chapter and of rules and regulations adopted pursuant thereto have been complied with. After any such hearing, in the case of any notice or order suspending any permit required by this Chapter, when such notice or order has been sustained by the Village Board, such suspended permit shall be deemed to have been revoked. The proceedings at such hearing, including the findings and decision of the Village Board, shall be reduced to writing and entered as a matter of public record in the Village of Orchard Park. Such record shall also include a copy of every notice or order issued in connection with the matter. Any person aggrieved by the decision of the Village Board may appeal therefrom to any Court of competent jurisdiction under the procedures provided by the laws of New York State.

2. No provision or requirement herein contained for a hearing shall in any way whatsoever affect or impair the right of the Village of Orchard Park to, at any time, bring such legal proceedings, actions or prosecutions as otherwise or elsewhere are permitted by law or ordinance.

3. Whenever the Code Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health, (s)he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as (s)he deems necessary to meet the emergency. Notwithstanding the other provisions of this Chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately but, upon written petition to the Village Board, shall be afforded a hearing as soon as possible. After such hearing, depending upon her/his finding as to whether the provisions of this Chapter and the rules and regulations adopted pursuant thereto have been complied with, the Village Board shall continue such order in effect or modify or revoke it.

K. Severability

If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held to be invalid or unconstitutional by the final decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The Village Board declares that it would have adopted this Chapter, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

Effective date.

This local law shall take effect immediately upon filing with the Secretary of State.