

§ 98.127 SHORT-TERM RENTALS**A. Purpose and intent.**

The purpose of this section is to:

1. Protect the residents and neighborhoods in which rental units are located from excess noise and lighting, disruption of normal traffic patterns, overcrowding, and trash accumulation, and to preserve the residential character of the neighborhoods;
2. Ensure that the short-term rental and the short-term rental property meet minimum safety and regulatory requirements thereby protecting property owners, occupants, the neighborhood, and the water quality of Seneca Lake;
3. Establish provisions for the administration and enforcement thereof;
4. Establish a limit on the total number of rental permits issued.

B. Definitions.

As used in this chapter, the following terms shall have the meaning indicated:

Bedroom/Sleeping Room-That portion of the interior of a short-term rental with accommodations for people to sleep. For purposes of this chapter, a bedroom/sleeping room is defined as a fully-enclosed habitable space of at least 70 square feet for one person, and at least 100 square feet for two persons.

Clerk- The Clerk of the Town of Torrey or his/her designee.

Code Enforcement Officer- The Code Enforcement Officer of the Town of Torrey.

Owner- Person(s) and/or entity(ies) that hold(s) legal title to the short-term rental property.

Permit- The short-term rental permit issued pursuant to this chapter.

Short-Term Rental A dwelling unit that is offered for rent for compensation for less than thirty-one (31) consecutive nights without any meals served or provided by the owner or agent of the owner. For the purpose of this chapter, the term "short-term rental" shall not include a bed-and-breakfast, boarding/lodging house, hotel, motel, or ongoing month-to-month tenancies.

C. Presumption of dwelling unit as a short-term rental property:

The presence of the following shall create a presumption that all or a part of the property is being used as a short-term rental:

- a. All or a part of the property is offered for lease on a short-term rental website, including but not limited to Airbnb, Home Away and VRBO, for a rental period of less than 31 days; and/or;
- b. All or a part of the property is offered for lease for a period of 31 days or less through any form of advertising.

The foregoing presumptions may be rebutted by evidence presented to the Code Enforcement Officer (CEO) that the premises is not operated as a short-term rental.

D. Required permit.

Owners shall not use their property as a short-term rental without obtaining a revocable short-term rental permit.

1. Maximum Number of Permits

a. The maximum number of short-term rental permits that shall be issued at any time shall not exceed the quantity specified on the Town of Torrey Fees and Fines Schedule. This number shall be based on 10% of the total number of single-family residences (property classes 210, 240, 241,260 and 270) in the town of Torrey (excluding the Village of Dresden) based on the Town of Torrey Assessors data on the date that this chapter takes effect. The data shall be updated annually and adjustments to the total number of permits based on changes to the total number of such single-family residences may be adjusted by resolution of the town board.

b. In the event the maximum limit is reached, applicants may be placed on a waiting list by contacting the Code Enforcement Officer. As permits become available, new applicants will be contacted in order on the waiting list.

2. Term A short-term rental permit shall be valid for two years and shall expire bi-annually on December 31. It must be renewed by January 31 of the following year if the premises is to continue to operate as a short-term rental.

3. Fees An initial application or a renewal application for a permit to operate a short-term rental unit must be accompanied by the appropriate fee as indicated in the current Town of Torrey Fees and Fines Schedule.

4. Transferability The short-term rental permit is not transferable when the ownership of the subject property on which the short-term rental is located changes in any way. The short-term rental permit shall automatically terminate when the ownership changes and the new owner(s) of the subject property shall submit a new permit application pursuant to Section E of this chapter.

5. Previous Commitments Notwithstanding the foregoing, those properties with a short-term rental permit that was issued by the Town pursuant to prior Town regulations may continue to operate the short-term rental pursuant to such short-term rental permit, but must apply for a new permit pursuant to this section when such current short-term rental permit expires for all future short-term rental commitments beyond such current short-term rental permit's expiration date. In the event such application is denied, all commitments shall be cancelled.

E. Short-term rental permit application requirements.

1. Applications for a short-term rental permit may be obtained from the Town of Torrey Code Enforcement Officer (CEO). The short-term rental permit application shall be submitted to the CEO, accompanied by payment of a nonrefundable permit fee as indicated in the Town of Torrey Fees and Fines Schedule in effect at the time of application.

The application shall include the following:

- (1) The notarized signatures of all owners and their designated agents. If any owner is an entity, proof that the person signing for the entity has authority to sign must also be submitted with the application.
- (2) A statement authorizing the Code Enforcement Officer to inspect the property to ensure compliance with all requirements and standards contained within this chapter.
- (3) An acknowledgement of present compliance with and a statement assuring continued compliance with the short-term rental standards as defined in this chapter, including, but not limited to, the demonstration of adequate off-road parking spaces for the proposed short-term rental.
- (4) A list of each property owner and the name of any manager or management agency managing the property, including names, addresses, telephone numbers and email addresses of each. If any owner is an entity, all such information shall be provided for each owner of such entity (i.e. shareholder of a corporation, member of an LLC, partner of a partnership) or for each fiduciary of such entity (i.e. trustee, executor, administrator, etc.).
- (5) Local Manager. The name, address, telephone number and email address of a contact person, who shall be responsible for the day-to-day operation of the short-term rental and be authorized to act on the owners' behalf to promptly remedy any violation of the standards outlined in this section. The contact person may be an owner, or an agent designated by the owner(s). If the local manager is not the property owner, the local manager must be designated as the agent of the property owner for service of process. They shall reside within 30 miles of the Torrey Town Hall and shall be available to be contacted day or night and must respond to any correspondence or concern from the Town Code Enforcement Officer or from any law enforcement officer.
- (6) An accurate suitable floor plan for each level of the dwelling measuring at least 8.5 inches by 11 inches, drawn to scale and certified by the applicant. The floor plan does not need to be prepared by a professional, but must include the following:
 - (a) The location of buildings and required parking.
 - (b) Basement: location of house utilities and all rooms including bedrooms, windows, exits and any heating/cooling units.
 - (c) First floor: all rooms including bedrooms, windows, exits and any heating/cooling units.
 - (d) Second floor: all rooms including bedrooms, windows, exits and any heating/cooling units.
 - (e) Attic (if present): all rooms including bedrooms, windows, exits and any heating/cooling units.

- (7). All completed applications are subject to a floor plan review and approval by the Code Enforcement Officer.
- (8) A statement that none of the owners of the subject property have had a short-term rental permit revoked in New York State within the previous year for any rental properties owned individually or together with others.

F. Short-term rental standards

1 Property requirements

- (a) Property must comply and meet all New York State (NYS) Uniform Building Codes in effect at the time of construction. It shall also meet current NYS Property Maintenance Code and, if applicable, any Town of Torrey Maintenance Law or regulations.
- (b) There shall be one working smoke detector in each sleeping room and one additional smoke detector on each floor. Carbon monoxide detectors shall be installed as required by the New York State Uniform Fire Prevention and Building Code.
- (c) Evacuation procedures must be posted in each sleeping room on each floor 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.
- (d) There shall be an ABC fire extinguisher on each floor and in the kitchen. Fire extinguishers shall be inspected prior to a renter occupying the property and no less than monthly by the permit holder(s) or property manager to ensure each contains a full charge. A record of the date inspected initialed by the permit holder or property manager shall be maintained and made available to the Code Enforcement Officer upon request. A tag attached to each fire extinguisher shall be acceptable for this purpose.
- (e) The house number shall be located both at the road and on the dwelling unit so that the house number is clearly visible from both the road and the driveway.
- (f) Exterior doors shall be operational and all passageways to exterior doors shall be clear and unobstructed.
- (g) 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.
- (h) Adequate parking must be provided to accommodate the maximum occupancy. Parking must be shown on the site plan included with the application. Parking areas must be all-season surface. Parking on the lawn or leach field is prohibited. A parking space is an area at least ten (10) feet by twenty (20) feet with direct access or legal right-of-way to a public street. Parking rules must be stipulated in the rental agreement.

On- street parking at short term rentals is prohibited at all times.

2. Occupancy

- a. The maximum overnight occupancy shall be -:
 - 1. The number of people allowed based on the septic system design; or
 - 2. The number of people calculated on the basis of two (2) persons per bedroom 100 square feet or larger. Bedrooms between 70 and 99 square feet shall only allow one (1) person. Bedrooms less than 70 square feet are prohibited in compliance with NYS Property Maintenance Code. At no time shall the maximum occupancy exceed the septic system capacity.
 - 3. The Code Enforcement Officer may limit occupancy to fewer based on the number, size, configuration, and furnishings of the bedrooms and/or sleeping rooms, the number of available parking spaces on the short-term rental property and according to provisions of New York State statutes.

b. Separately Housed Persons.

No accessory structures, tents, campers, trailers, recreational vehicles (RV's), or other housing shall be permitted on the short-term rental property as a means of providing additional accommodations for paying guests or other invitees.

3. Septic System

a. A septic system at the property must meet all state and local requirements and be approved for the number of bedrooms. The maximum occupancy will be determined by the capabilities of the septic system.

b: The septic system must be pumped by a NYS DEC licensed waste haul contractor and inspected by the Town of Torrey Watershed Inspector as required per the Town of Torrey Wastewater Law and Policies & Procedures, as amended, prior to the issuance of a short-term rental permit. The “comprehensive” inspection protocol shall be followed.

Once a short-term rental permit is issued, the septic system must be pumped and inspected at least once every five (5) years.

4. Water

The rental unit must have a potable water supply and must meet all state requirements. If not connected to a public water supply, the Code Enforcement Officer shall require documentation from a certified laboratory to prove the potability of the water at time of application. Thereafter, potability tests must be conducted bi-annually and lab results shall be submitted to the Code Enforcement Officer with the permit renewal application.

Alternately, in the event the water supply is not potable, a notice to this effect must be provided in the rental documents and on signs prominently posted in the rental property. An alternative water supply (e.g. water-cooler), or instructions where the renters may obtain potable water must be provided.

5. Signs

One sign identifying the short-term rental shall be allowed measuring no more than six square feet on a side. The sign may be double-sided but not internally lighted. The location, design and dimensions of the sign shall be reviewed and approved by the Code Enforcement Officer prior to issuance of the permit. If signage is desired after a permit has been issued, the short-term rental permit holder must submit a request for review and approval to the Code Enforcement Officer prior to installation. If the property has vehicular access on more than one road, there may be one sign fronting on each road. No off-premises signs are allowed.

6. Insurance Standards

All applicants and permit holders must provide "evidence of property insurance" and a "certificate of liability insurance" indicating the premises is rated as a short-term rental and maintain such insurance throughout the term of the short-term rental permit.

7. Garbage/Trash

Provisions shall be made for weekly garbage and trash removal. 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.

G. Rental Contract

All applicants and permit holders must have a rental contract which includes the following:

1. Maximum property occupancy;
2. Maximum on-site parking provided; and
3. Good neighbor statement stating:
 - a. The short-term rental is in a residential area in the Town of Torrey and that renters should be considerate of the residents in neighboring homes.
 - b. Guests are required to observe quiet hours from 10:00 p.m. through 7:00 a.m.
 - d. All renters will be subject to New York Penal Law § 240.20 or any successor statute regarding disorderly conduct.
 - e. Littering is illegal
 - f. Dogs are required to be on leashes at all times. A dog's excrement shall be cleaned up and properly disposed of
 - g. Recreational campfires must be in suitable fire pit and located such that it will not cause a smoke nuisance to neighboring properties. Fires must be attended at all times, or extinguished.

H. Procedure upon filing application

1. Short-term rental permit applications shall be filed with the Town of Torrey Code Enforcement Officer with all supporting documentations and the nonrefundable permit fee. Only completed applications will be accepted by the Town's Code Enforcement Officer. The Code Enforcement Officer may decline to accept an application for consideration for any of the following reasons:

a. The application and/or documentation required by this section was not included or the full permit fee was not paid.

b. A short-term rental permit previously issued to any owner of the short-term rental or to any owner of an entity that is an owner of the short-term rental was revoked within the past year and/or defects and/or violations have not been corrected and inspected by the Code Enforcement Officer.

2. Upon receipt of a completed short-term rental permit application, adjacent property owners of the short-term rental will be notified of the application by the Town of Torrey via post card and/or e-mail. The postcard or email shall contain the owner's and property manager's contact information.

3. 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 shall have 30 days to conduct a property inspection to certify and approve that all short-term rental requirements have been met.

4. Upon approval of the short-term rental application by the Code Enforcement Officer, a short-term rental permit will be issued. Short-term rental permits issued pursuant to this chapter shall state the following:

a. The names, addresses and phone numbers of each person or entity that has an ownership interest in the short-term rental property. If any owner is an entity, all such information shall be provided for each owner of such entity (i.e. shareholder of a corporation, member of an LLC, partner of a partnership) or for each fiduciary of such entity (i.e. trustee, executor, administrator, etc.).

b. The name, address and phone number of a primary contact person who shall be available during the entire time the short-term rental property is being rented.

c. The maximum occupancy and vehicle limits for the short-term rental property.

d. Identification of the number of and location of parking spaces available.

e. Any reasonable conditions imposed by the Zoning Board of Appeals and/or Code Enforcement Officer.

Once issued, a copy of the short-term rental permit will be mailed to adjacent property owners.

I. Conformity and display of permit.

1. Short-term rental permits are subject to continued compliance with the requirements of these regulations.
 - a. If the Code Enforcement Officer has probable cause to believe that the owner of the short-term rental is not in compliance with the provisions of this law, the Code Enforcement Officer may request permission from an owner or designated agent of the short-term rental permit to enter the premises and to conduct an inspection of the short-term rental property for purposes of ensuring compliance with this section. If the property owner refuses to permit the Code Enforcement Officer to inspect the property or refuses to permit the Code Enforcement Officer to conduct such inspection within a reasonable time from when the request is made, the permit may be revoked. If an inspection authorized herein is conducted, the Code Enforcement Officer shall use the results of such inspection in determining whether to suspend or revoke the permit.
2. 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
3. The short-term rental permit holder shall ensure that current and accurate information is provided to the Code Enforcement Officer and that they notify the Code Enforcement Officer immediately of any change in the information displayed on the permit. If, based on such changes, the Code Enforcement Officer issues an amended short-term rental permit; the owners must immediately post the amended permit inside and near the front entrance of the short-term rental.
4. The short-term rental permit and property-specific information must include:
 - a. Name, address and phone number of the local manager;
 - b. The manner and method of trash and garbage removal;
 - c. The prohibition of noise audible outside of the short-term rental between 10pm and 7am;
 - d. The maximum occupancy of the short-term rental property;
 - e. A tax map or similar map clearly showing the short-term rental property boundaries;
 - f. Emergency phone numbers for police, fire and ambulance.

J. Compliance and penalties.

1. Owners of short-term rental units shall obey all applicable laws, ordinances, and regulations of the Town of Torrey, Yates County, New York State and the United States of America, and shall be subject to the enforcement and penalty proceedings contained in this chapter. The following process shall be followed in the event of a complaint alleging a violation of these regulations or a short-term rental permit issued under these regulations:

- a. The complaining party shall first attempt to contact the local property manager designated on the permit, describe the problem and indicate the desired remedy.
- b. The local property manager shall, within two (2) hours of receiving the complaint, respond to the complaint and remedy as soon as reasonably possible any situation that is out of compliance with these regulations or with the permit for the property.

c. If the response is not satisfactory to the complaining party (including the inability to reach the local property manager), the complaining party may file a complaint with the Code Enforcement Officer by submitting a written complaint, including the date, time and nature of the alleged violation as well as a statement that the complainant either unsuccessfully attempted to contact the local property manager, or did contact the local property manager but the complaint was not adequately resolved. A failure to attempt to contact the local property manager will not excuse a violation.

d. If the Code Enforcement Officer either witnesses or determines there is a violation of this code, the owners shall be notified in writing by first class mail and certified return receipt mail of said violations and the Code Enforcement Officer may take any or all of the following actions:

- (1.) Attach conditions to the existing short-term rental permit;
- (2.) Suspend the short-term rental permit. The notice of suspension shall be provided to the property owner and a copy filed with the Town Clerk. The suspension shall remain in effect until all infractions/violations are corrected to the satisfaction of the Town Code Enforcement Officer.
- (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 Code Enforcement Officer may revoke the short-term rental permit.
- (4.) Issue a court appearance ticket for violation of this law.
- (5.) Revoke the short-term rental permit. Should a permit be revoked, all owners of the short-term rental are 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 property owners and shall file a copy with the Town Clerk.
- (6.). In addition to any other actions this section permits the Code Enforcement Officer to take upon finding a violation of the permit or of this section, if the Code Enforcement finds three (3) or more violations of the permit or this section within one (1) year, the Code Enforcement shall revoke the short-term rental permit.

K . Application for renewal of permit

Renewal permits shall be granted for an additional two-year term if the following conditions are met:

1. Application for renewal of the short-term rental permit shall be submitted no later than January 30 of the following year. The application must be accompanied by payment of the renewal fee per the current Town of Torrey Fee schedule.
2. At the time of application for renewal, the owner or designated agent must present the previous permit for short-term rental.
3. The property must have undergone an inspection performed by the Code Enforcement Officer.
4. Any violations must be remedied prior to renewal of a permit for short-term rental.

L. Grounds for suspension or revocation of permit.

1. The Code Enforcement Officer may immediately suspend or revoke a short-term rental permit based on any of the following grounds:

- (a) Applicant has falsified or failed to provide information in the application for a permit or the application for permit renewal.
 - (b) Applicant failed to meet or comply with any of the requirements of this chapter.
 - (c) Owner is in violation of any provision of the Code of the Town of Torrey
 - (d) Owner has violated any provision of the Penal Code of the State of New York, which violation occurred at, or related to the occupancy of the short-term rental.
 - (e) Any conduct on the premises which disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance.
 - (f) Removal or disrepair of any safety devices such as, but not limited to, smoke and carbon monoxide detectors, fire extinguishers, and egresses.
2. The Zoning/Code Enforcement Officer determines that the health or safety of the occupants or others is at risk.
 3. The property owner has violated regulations as set forth in this section on three (3) separate occasions in a period of one (1) year.
 4. Violations related to health and safety issues for renters or neighbors shall result in immediate revocation of the Short-term Rental permit and no further rentals shall be allowed.

M. Appeals and hearings.

The property owner is entitled to appeal the Code Enforcement Officer's determination to the Zoning Board of Appeals (ZBA) when a property owner's application for a short-term rental permit or a short-term rental permit renewal is denied or a short-term rental permit is suspended or revoked. A notice of appeal shall be filed with the Town Clerk and the ZBA within 60 days of the Code Enforcement Officer's filing of the denial or revocation with the Town Clerk. A hearing shall be held by the Zoning Board of Appeals not more than 45 days after the filing of the notice of appeal. After the hearing is closed, the Zoning Board of Appeals may reverse or affirm, wholly or partly, with or without conditions, or may modify the determination appealed from and shall make such determination as in its opinion ought to have been made in the matter by the Code Enforcement Officer and to that end shall have all the powers of the Code Enforcement Officer from whose determination the appeal is taken.