

DRAFT LOCAL LAW NO. ____ OF 2018

**CITY COUNCIL
CITY OF BEACON**

**PROPOSED LOCAL LAW TO CREATE
SECTION 223-26.4 AND AMEND SECTION 223-63 OF THE CODE OF
THE CITY OF BEACON**

A LOCAL LAW to create
Section 223-26.4 and amend
Section 223-63 of the Code
of the City of Beacon
concerning Short-Term
Rentals.

BE IT ENACTED by the City Council of the City of Beacon as follows:

SECTION 1. Chapter 223, Article III, Section 26.4 entitled “Short-Term Rentals,” of the Code of the City of Beacon is hereby created as follows.

§ 223-26.4 Short-Term Rentals

- A. Findings. The City Council of the City of Beacon has determined it is in the best interest of the City and its residents to regulate short-term rentals. While the City Council recognizes the benefits of short-term rentals allowing home-owners to supplement their income to defray the cost of housing and to provide lodging for visitors to the City, the City Council finds the use of a part of or the entire dwelling unit for short-term rentals is potentially inconsistent with the use of the dwelling unit for single family purposes. In order to protect the health, safety and welfare of the City and its residents, it is necessary to restrict the rental of homes for terms shorter than 30 consecutive days, a practice which is growing in popularity with the advent of internet and social media-based programs that connect property owners and persons seeking short-term rentals. In addition, studies have shown that short-term rentals are linked to increases in rent and housing costs because rental units are taken off the market and used as short-term rentals. Units are going to short-term renters rather than to permanent residents which results in a decrease in available housing stock within the City of Beacon. The City Council further finds that non-owner occupied short-term rentals are inconsistent with the use of a residence for residential dwelling purposes and inconsistent with single-family neighborhoods. The City Council believes that the restrictions and requirements imposed herein further those objectives and the protection of the health, safety and welfare of the City and its residents.

- B. Definitions. As used in this section, the following words shall have the meanings indicated:

OWNER

An individual or group of individuals who are in possession of and have a fee interest in real property. The term “owner” shall not include entity corporation, limited-liability company, partnership, association, trustee, receiver or guardian of an estate, mortgagee, lien holder, or other business entity.

OWNER-OCCUPIED

A one-family or two-family house or multiple dwelling building used by the owner as his or her or their domicile or principal residence.

SHORT-TERM RENTAL

An entire dwelling unit, or a room or group of rooms or other living or sleeping space, made available to rent, lease or otherwise assigned for a tenancy of less than 30 consecutive days. The term “short-term rental” does not include dormitories, hotel or motel rooms, bed and breakfast inns or lodging houses, as permitted and regulated by the City of Beacon Zoning Ordinance.

- C. Permit required. It shall be unlawful to use, establish, maintain, operate, occupy, rent or lease any property as a short-term rental without first having obtained a short-term rental permit.
- D. Short-term rentals shall be permitted in all zoning districts subject to the requirements set forth in this section.
- E. Permit application.
- (1) An application for a short-term rental permit shall be filed before the dwelling unit, or a room or group of rooms or other living or sleeping space within a dwelling unit, or any other space is advertised for short-term rental, and if the spaces are not advertised, then such permit shall be obtained before said space is leased or rented.
 - (2) Issuance of a short-term rental permit requires submission of an application to the Building Department and payment of the processing fee set forth in the City fee schedule.
 - (3) The form and content of the permit applications shall be as determined from time to time by the Building Department and shall contain such information and

materials as the Building Department deems necessary to determine the sufficiency of the application. Such application shall contain, at a minimum:

- (i) ~~The name and address, e-mail address, and contact numbers of all property owners~~ Proof of receipt of New York State STAR Credit or STAR property tax exemption for the short-term rental property; and
 - (ii) ~~Government issued proof of residency of each owner with picture ID (driver's license, passport, etc.); and~~
 - (iii) ~~A copy of the deed for the property to be used as a short-term rental and a copy of the most recent tax bill.~~
 - (iv) ~~Copy of utility bill in owner's name.~~
- (v)(ii) (a) The property address; (b) the total number of dwelling units located within the building; (c) the total number of bedrooms and bathrooms inside the building; (d) the total number of dwelling units and individual bedrooms proposed for short-term rental use; (e) the location of each such dwelling unit or individual bedroom within the building; and (f) the number of persons to be accommodated in each short-term rental area; and
- (vi)(iii) A signed and notarized certification in a form acceptable to the City Clerk by each property owner attesting to the fact that (a) the owner resides at the property and it is the owner's domicile (primary residence); (b) ~~that to the best of their knowledge the~~ property is fit for human habitation and safe; (c) ~~that~~ the property owner will comply with all of the conditions and restrictions of the permit; (d) ~~that~~ no portion of the area used for short-term rentals will utilize a cellar or attic, or any portion thereof, as habitable space unless it meets the requirements of the International Fire, Residential and Building Codes or successor law; (e) ~~that to the best of their knowledge~~ the property is in compliance with all the provisions of this Article, the applicable provisions of the City Code, the International ~~Fire, Building and Maintenance Codes~~ Series of Codes and the New York State Code Supplement; and (f) the required building permits and certificates of occupancy are in place for all existing structures on the property if applicable; and
- (vii)(iv) Such other information as the City may require to prove the property is owner-occupied and safe for renters.

- (4) All permits issued pursuant to this section shall be for a period of two years and shall be renewable for subsequent two-year terms upon application, conformance with this section and payment of the permit fee.
 - (5) If the status of the information changes during the course of any calendar year, it is the responsibility of the owner to submit such changes to the Building Department in writing within 30 days of the occurrence of such change. Failure to do so shall be deemed a violation of this section.
- F. Inspection. Each short-term rental shall be inspected by the Building Department at the time of the initial application and prior to any permit renewal, to determine whether the short-term rental remains in compliance with the section and all other applicable provisions of the City Code, the International Series of Codes and New York State Code Supplement. If the Building Inspector determines that the short-term rental space is not in compliance, the owner shall cease use of the dwelling unit as a short-term rental until all noncomplying elements have been corrected and the owner shall apply for reinspection with the Building Department, subject to an additional fee.
- G. Owner-occupancy. It shall be unlawful to use, establish, maintain operate, occupy, rent or lease any property as a short-term rental if the property is not owner-occupied. The property used as a short-term rental shall be the principal residence of the owner at all times during the term of the permit.
- H. No owner shall offer or use any part of the property as a short-term rental not approved for residential use, including but not limited to, vehicles parked on the property, a storage shed, recreation room, trailer, garage, or any temporary structure such as a tent.
- I. A short-term rental property shall not be rented for any commercial purpose, or any other purpose not expressly permitted under this section, such as concerts or weddings.
- J. Presumptive Evidence. The presence or existence of the following shall create a rebuttable presumption that a property is being utilized as a short-term rental:
 - (1) The property is offered for lease or rent on a short-term rental website, including but not limited to Airbnb, HomeAway, VRBO and similar websites; or
 - (2) The property is offered for lease or rent by the use of any other advertising mechanism for a period of less than 30 days.
- K. Revocation of a permit.
 - (1) The grounds upon which a permit can be revoked shall include but shall not be limited to:

- (i) The permit was issued in error, or issued in whole or in part as a result of a false, untrue, or misleading statement on the permit application or other document submitted for filing, including but not limited to the schematic or certification; or
 - (ii) A short-term rental permit has been issued and the owner fails to continue to occupy the premises on a continuous basis as his or her primary residence; or
 - (iii) Use of the property as a short-term rental creates a hazard or public nuisance or other condition which negatively impacts the use and/or enjoyment of surrounding properties, or threatens the peace and good order, or quality of life in the surrounding community.
 - (iv) Failure to comply or violating the conditions of the permit.
- (2) Any permit issued pursuant to this section may be revoked or suspended by the Building Inspector, after written notice to the owner. Written notice shall be served by registered or certified mail, return receipt requested, and by regular mail, to the applicant at the address shown on the application. The notice shall describe the reasons why the City is revoking the permit.

L. Appeals

- (1) The City Administrator shall appoint a Hearing Officer to hear and decide appeals from any suspension or revocation of a permit made by the Building Inspector.
- (2) Upon the suspension or revocation of a permit, the applicant may, within 10 business days after receiving written notice, file a request, in writing, upon the City Administrator for review of said decision by the Building Inspector. Notice of the date, place and time of the hearing shall be given in writing by mail to the applicant at the address shown on the application. In the event that demand for a hearing is not made within the prescribed time or in the event that the applicant does not timely appear for the hearing, the Building Inspector's decision shall then be final and conclusive.
- (3) The hearing shall commence no later than 30 days after the date on which the request was filed.
- (4) The applicant shall be given an opportunity to present evidence why such denial of application, or such suspension or revocation of the license, shall be modified or withdrawn. The Building Inspector or his or her designated agent may also present evidence. Upon consideration of the evidence presented, the Hearing Officer shall sustain, modify or reverse the decision of the Building Inspector or his or her designated agent.

- (5) In the event the applicant is not satisfied with the decision of the Hearing Officer, such aggrieved party may file an Article 78 proceeding under the New York Civil Practice Law and Rules. The Article 78 proceeding must be filed within 30 days of the filing of the Hearing Officer's decision with the City Clerk of the City of Beacon and service of the same upon the applicant.

M. Violations. Any owner who fails to obtain the permit required herein, or otherwise violates any provision of this section, shall be guilty of an offense which shall be punishable by a fine of not more than \$500 per offense. When a person has received written notice from the Building Inspector or has been served with a summons and complaint in an action to enjoin continuance of any violation, each day in excess of 10 days thereafter that he or she continues to be guilty of such violation shall constitute an additional, separate and distinct offense.

SECTION 2. The following definitions listed in Chapter 223, Article VI, Section 63 entitled "Definitions," of the Code of the City of Beacon are hereby amended as follows.

DWELLING

A detached building designed or used exclusively as living quarters for one or more families. The term shall not be deemed to include "automobile court," motel," "boarding- or rooming house," "house trailer;" ~~"tourist home"~~ or "tent."

HOME OCCUPATION

An accessory use of a character customarily conducted entirely within a dwelling by the residents thereof using only customary home and home-scale equipment, including but not limited to typewriters, computers, fax machines, small-scale photocopiers, scanners, small-scale printers, file cabinets, drafting equipment and postage meters, which use is clearly incidental and secondary to the use of the residence for dwelling purposes, does not change the character thereof, does not have any exterior evidence of such secondary use other than a small nameplate not over one square foot in area, and does not involve the keeping of stock-in-trade. Home offices and artist studios meeting the criteria above shall be considered home occupations. However, the conducting of a tattoo and/or body piercing parlor, clinic, hospital, barbershop, beauty parlor, photographer's salon, tearoom, ~~tourist home~~ short-term rental, real estate office, animal hospital, dancing instruction, band instrument instruction in groups, convalescent home, funeral home, stores of any kind or any similar use shall not be deemed to be a home occupation. Any instruction of a musical instrument shall be limited to one pupil at a time. Home occupations are regulated in accordance with § **223-17.1** of this chapter.

HOTEL

A building, or portion thereof, containing rooms occupied primarily by transient guests, who are lodged with or without meals, and in which there may be provided such services as are accessory and incidental to the use thereof as a temporary

residence, such as dining, recreational facilities, public rooms and meeting rooms, and gift shops. The term "hotel" shall not include bed-and-breakfast establishment, boardinghouse, rooming house, ~~tourist home~~ short-term rental or single-room-occupancy building for the purposes of this chapter.

OWNER-OCCUPIED

A one-family or two-family house or multiple dwelling building used by the owner as his or her or their domicile or principal residence.

TOURIST HOME

~~A dwelling, except a hotel, boardinghouse or rooming house, as defined elsewhere in this chapter, in which overnight accommodations are provided or offered for transient guests.~~

SECTION 3. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 223 of the City of Beacon Code is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

SECTION 4. Severability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

SECTION 5. Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State. Any short-term rental, as defined herein, in existence prior to adoption of this local law shall have 45 days to file an application to obtain a short-term rental permit and shall have until December 31, 2018 ~~90 days~~ to receive such short-term rental permit ~~before any violations are issued~~, unless a delay is caused by the Building Department in not issuing said permit. Any short-term rental existing prior to the effective date that (a) does not meet the definition of short-term rental or (b) is a short-term rental, as defined, and does not file an

application within 45 days of the effective date is deemed to be in violation of this local law and subject to enforcement.