

LOCAL LAW - 2024

A LOCAL LAW TO AMEND CHAPTER 267 (ZONING) OF THE CODE OF THE CITY OF MOUNT VERNON TO REGULATE SHORT-TERM RENTALS

Be it Enacted by the City Council of the City of Mount Vernon as follows:

SECTION 1.

The Code of the City of Mount Vernon is amended by adding the following (language **in Bold and Underlined** to be added, language in ~~**Strikethrough and Bold and Underlined**~~ to be deleted):

**Article XV. SHORT-TERM RENTALS**

**§ 267-93. Title.**

**This Article shall be known and may be cited as the “City of Mount Vernon Short-Term Rentals Code.”**

**§ 267-94. Findings.**

**The City Council has determined it is in the best interest of the City and its residents to regulate short-term rentals. The City Council recognizes the benefits of short-term rentals to allow homeowners to supplement their income to defray the cost of housing, and to provide lodging for visitors to the City and encourage tourism. However, in order to protect the health, safety, and welfare of the City and its residents, and to preserve the residential character of the City’s residential districts, it is necessary to impose certain restrictions and requirements in furtherance of the City’s goals and objectives.**

**§ 267-95. Definitions.**

**As used in this Chapter, the following terms shall have the meanings indicated:**

**OCCUPIED PRIMARY RESIDENCE**

**A dwelling unit used by the owner or tenant as his or her or their primary residence. When a property is titled or leased in the name of a business entity, all owners or members of the business entity must use the premises as his or her or their primary residence. When a property is titled or leased in the name of a trustee, the property shall be considered an occupied primary residence if the grantor or grantee is the occupant of the property.**

**OWNER**

**Any individual or individuals, partnership or corporation or other organization in possession of and having a fee interest in the real property. The term “owner” shall include a corporation, limited-liability company, partnership, association, trustee, or other business entity or nonbusiness forms of ownership.**

**PRIMARY RESIDENCE**

**The primary location that a person inhabits and resides in most of the year.**

**SHORT-TERM RENTAL**

**An entire dwelling unit, or a room or group of rooms within a dwelling unit, made available to rent, lease or otherwise assigned for an occupancy of less than 30 consecutive days. The term “short-term rental” does not include hotels/motels rooms.**

**TENANT**

**Any person holding a written lease to occupy, use and possess the whole or part of any building or real property, either alone or with others.**

**§ 267-96. Applicability.**

- A. **Any dwelling unit, or room(s) therein, located in a one-family dwelling, two-family dwelling, or multifamily dwelling may be used as short-term rentals subject to the requirements set forth in this article. Short-term rentals shall be permitted in all zoning districts within the City in which residential uses are permitted.**
- B. **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 an occupied primary residence. The property used as a short-term rental shall be the primary residence of the owner or tenant at all times during the term of the permit.**
- C. **No short-term rentals shall be permitted in the following locations: multifamily dwellings with an active PILOT agreement with the Mount Vernon Industrial Development Agency or the County of Westchester Industrial Development Agency; multifamily dwellings where the entire building is rent regulated; any dwelling where the lease or occupancy agreement prohibits short-term rentals; non-residential buildings; and/or any other location where short-term rentals are prohibited by law.**

**§ 267-97. Permit Required; Permit Application; Revocation of Permit; Appeals.**

- A. **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.**
- B. **Permit application.**

- (1) An application for a short-term rental permit shall be filed and a short-term rental permit shall be obtained from the Building Department before the dwelling unit, or a room or group of rooms within a dwelling unit, 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) If a tenant seeks a short-term rental permit, the tenant's application shall be signed by the landlord, and evidence must be provided to the Building Department that the landlord is the owner of the dwelling unit.**
- (4) No permit will be issued for a short-term rental if there are unresolved Code compliance issues, outstanding City fines or fees, or unpaid taxes.**
- (5) 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:**

  - (a) Proof of receipt of New York State STAR Credit or STAR property tax exemption for the short-term rental property;**
  - (b) Copy of utility bill in the applicant's name;**
  - (c) Property address; total number of rooms; location; number of persons, specifically:**

    - [1] The property address;**
    - [2] The total number of dwelling units located within the building;**
    - [3] The total number of bedrooms and bathrooms inside the dwelling unit;**
    - [4] The total number of rooms proposed for short-term rental use;**
    - [5] The location of each such dwelling unit or individual bedroom within the building; and**
    - [6] The number of persons to be accommodated in each room available for short-term rental use;**

- (d) A signed and notarized certification in a form acceptable to the Building Department by the applicant attesting to the fact that:
- [1] The applicant resides at the property and it is the applicant's primary residence;
  - [2] That the property is fit for human habitation and safe;
  - [3] That the applicant will comply with all of the conditions and restrictions of the permit;
  - [4] 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;
  - [5] That the property is in compliance with all the provisions of this chapter, the applicable provisions of the City Code, the International Series of Codes and the New York State Code Supplement; and
  - [6] The required building permits and certificates of occupancy are in place for all existing structures on the property if applicable;
- (e) Such other information as the City may require to prove the property is an occupied primary residence and safe for renters; and
- (f) If an applicant plans to rent the entire dwelling unit, the short-term rental application shall include the name and contact information of a responsible person with the right to enter and maintain possession of the dwelling. Such responsible person must be available 24 hours a day to respond in person to any short-term renter and neighborhood concerns and be capable of responding in person within two hours of notification from the City.
- (6) All permits issued pursuant to this section shall be for a period of one year and shall be renewable for subsequent one-year terms upon application, conformance with this section and payment of the permit fee. Any application to renew said permit shall be accompanied by a record, maintained by the owner or tenant throughout the duration of the permit term, indicating the number of guests and the beginning and ending dates of each short-term rental.
- (7) If the information submitted as part of the permit application changes at any time after submittal of the application, it is the responsibility of the owner or tenant 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. Any changes submitted by a tenant must also be signed by the owner.

- (8) Any permit issued for a short-term rental shall expire automatically upon a change in ownership or tenancy of the dwelling unit in which the short-term rental is located.

C. Revocation of a permit.

- (1) The grounds upon which a permit can be revoked by the Building Inspector shall include but shall not be limited to:

(a) 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;

(b) A short-term rental permit has been issued and the owner or tenant fails to continue to occupy the premises as a primary residence;

(c) Use of the property as a short-term rental creates a hazard or public nuisance, threat to public safety 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;

(d) Failure to comply or violation of the conditions of the permit;

(e) Failure to comply or violation of any federal, state, or local law, regulation, or rule.

(f) Short-term rental permits for dwelling units located in multifamily buildings may be revoked if the Police Department or Building Inspector receives three substantiated written complaints in a twelve-month period concerning the use of the premises as a short-term rental. A written complaint can be substantiated by the Building Inspector or the Police Department if it is a complaint regarding the violation of a City law or ordinance and the complaint is supported by other evidence, including a police report, photograph, or video.

- (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.

D. Appeals.

- (1) Upon the denial, suspension or revocation of a permit, the applicant may, within 30 days from the date of the written notice, appeal said denial, suspension or revocation to the Zoning Board of Appeals in accordance with the appeal procedure of Article IX of this chapter.
- (2) In the event the applicant is not satisfied with the decision of the Zoning Board of Appeals, 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 Zoning Board of Appeals' decision with the City Clerk.

§ 267-98. Standards. All short-term rentals shall comply with the following standards:

- (1) If a property owner or tenant is renting out the entire dwelling unit, the property owner must engage the services of an agent with the right to enter and maintain possession of the dwelling. This agent must be available 24 hours a day to respond to any short-term renter and neighborhood concerns and be capable of responding within two hours of notification from the City.
- (2) No owner shall offer or use any part of the property as a short-term rental not approved for residential use.
- (3) A short-term rental property shall not be rented for any other purpose, commercial or otherwise, not expressly permitted under this section, such as concerts, weddings, or other large gatherings or events.
- (4) Any owner renting out a short-term rental shall use best efforts to ensure that the occupants and/or guests of the short-term rental do not create unreasonable noise or disturbance, engage in disorderly conduct, violate any provision of the City Code, or violate any law pertaining to disorderly conduct, the consumption of alcohol, or the use of illegal drugs.
- (5) A written notice on a form to be provided by the Building Department, which contains information about relevant City parking laws, garbage and rubbish rules and schedules, and snow removal, and identifies the party(ies) responsible for responding to complaints about the short-term rental, shall be completed and left at a conspicuous location inside the short-term rental unit and maintained at such location by the owner and displayed at all times.
- (6) Short-term rental of an entire dwelling unit is limited to 180 days in any one calendar year. Where only a portion of the dwelling unit is subject to the short-term rental, there shall be no limit on the number of days in any

calendar year, provided that an owner or tenant is physically in residence at such dwelling during those periods that the portion of the unit is subject to short-term rental. A rental day shall be deemed to mean any day that the property is occupied for rental overnight. Upon request, the property owner or tenant shall provide:

- (a) A statement from any and all short-term rental website platforms used to advertise the short-term rental; such letter shall be provided on the company's letterhead and shall indicate the number of rentals for the entire dwelling unit that occurred within the year; and
  - (b) A certified letter from the owner or tenant indicating the number of days the entire dwelling unit was rented within the year through any short-term rental website or other means.
- (7) If a property owner advertises their rental, the short-term rental permit number must be included in the listing.
- (8) The maximum number of people per sleeping room is one person if the square footage is between 70 square feet and 100 square feet and two people if the square footage is greater than 100 square feet. The Building Inspector may disqualify a particular space within a dwelling unit as a sleeping room based on concerns over emergency egress, safety, or over-occupancy of a dwelling unit.
- (9) Each sleeping room shall have an exterior exit that opens directly to the outside or an emergency escape or rescue window, which meets all applicable requirements for emergency and escape access. Notwithstanding the foregoing, the Building Inspector may approve other means of emergency egress for each sleeping room in its reasonable discretion.
- (10) There shall be one functioning smoke detector in each sleeping room, and one functioning smoke detector on the ceiling or wall in the immediate vicinity outside each separate sleeping room, as approved by the Building Inspector.
- (11) Carbon monoxide detectors shall be installed in all dwelling units that contain a fuel-burning appliance, system, or other source of carbon monoxide, as approved by the Building Inspector.
- (12) At least one functioning and inspected fire extinguisher shall be present in each dwelling unit, as approved by the Building Inspector.

- (13) **Parking:**
- (a) **Proper off-street parking as regulated in Article VIII of this chapter shall be required.**
- (b) **Parking on any part of the lawn is prohibited.**
- (14) **A house number visible from the street shall be maintained.**
- (15) **Provisions shall be made for weekly garbage removal during all short-term rental occupancies. Proper garbage and rubbish maintenance shall be regulated by City Code Chapter 140.**
- (16) **A safety/egress plan, to be posted in a visible location within the short-term rental, shall be provided.**
- (17) **A valid short-term rental registration permit shall be conspicuously posted in each dwelling unit.**
- (18) **Any owners or tenant issued a short-term rental permit shall comply with any applicable occupancy tax in effect.**
- (19) **“House rules,” if any, shall be posted in a conspicuous location within the dwelling unit.**

**§ 267-99. 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.**

**§ 267-100. Inspection.**

**The property shall be inspected by the Building Department and Fire Department at the time of the initial application and prior to any permit renewal, to determine whether the property remains in compliance with this section and all other applicable provisions of the City Code, the International Series of Codes, and New York State Code Supplement. A dwelling unit with a short-term rental is subject to periodic inspections by the Building Department and/or the Fire Department to ensure continued compliance with the applicable codes. If the Building Inspector or Fire Inspector determines in writing that the short-term rental space is not in compliance,**

**the owner or tenant 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 or Fire Department, as applicable, subject to an additional fee as set forth in the City Fee Schedule.**

**§ 267-101. Enforcement.**

**Any violation of this Article shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in Article X of this Chapter.**

**§ 267-102. Registry List.**

**The Building Department shall maintain a list of all short-term rental units located in the City. Such list shall be updated every six months.**

**SECTION 2.**

Chapter 267 of the Code of the City of Mount Vernon is amended by adding the following (language in **Bold and Underlined** to be added, language in **Strikethrough and Bold and Underlined** to be deleted):

§ 267-17. List of resident district uses.

A. District R1-7 One-Family Residence.

(1) Permitted principal uses.

**(d) Short-term rentals, as regulated by Chapter 267, Article XV**

B. District R1-4.5 One-Family Residence.

(1) Permitted principal uses.

**(d) Short-term rentals, as regulated by Chapter 267, Article XV**

C. District R1-3.6. One-Family Residence.

(1) Permitted principal uses.

**(d) Short-term rentals, as regulated by Chapter 267, Article XV**

D. District R2-4.5. Two-Family Residence.

(1) Permitted principal uses.

**(f) Short-term rentals, as regulated by Chapter 267, Article XV**

E. District RMF-6.75. Multifamily Residence.

(1) Permitted principal uses.

**(h) Short-term rentals, as regulated by Chapter 267, Article XV**

F. District RMF-10 Multifamily Residence.

(1) Permitted principal uses.

**(h) Short-term rentals, as regulated by Chapter 267, Article XV**

G. District RMF-15 Multifamily Residence.

(1) Permitted principal uses.

**(h) Short-term rentals, as regulated by Chapter 267, Article XV**

### **SECTION 3.**

If any section, subsection, clause, phrase or other portion of this local law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, the portion of the law declared to be invalid will be deemed a separate, distinct and independent portion and the declaration will not affect the validity of the remaining portions hereof, which will continue in full force and effect.

### **SECTION 4.**

This local law is adopted pursuant to the authority granted by Municipal Home Rule Law § 10. It supersedes the provisions of the City Law to the extent that they are inconsistent with this local law.

### **SECTION 5.**

This local law will take effect immediately upon its filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.