

Section 644 Short Term Rentals

A. Purpose. The Village of Cassadaga (Village) is proud to be a community that welcomes visitors while preserving the availability of permanent housing stock for residents and supporting a high quality of life. The backbone of our Village is our residential neighborhoods. In order to respect the property rights and interests of all homeowners and long-term renters in the Village, the following requirements seek to achieve a balance between those who wish to offer their homes and properties as Short Term Rentals (STRs) and those who choose not to do so. The STR requirements for the Village are intended to safeguard the public health, safety, and welfare of our community, consistent with the Village's Comprehensive Plan, by regulating and controlling the location, use, occupancy, oversight, and maintenance of STR properties through operational and permitting regulations as well as the number of STRs permitted.

B. Authorization. This local law is adopted in accordance with §7-700, Grant of Power, New York Village Law. For the purpose of promoting the health, safety, morals, and the general welfare of the community, the board of trustees of the Village is empowered, by local law, to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes. This section of the zoning law permits property owners to operate STRs, with approval and issuance of a Special Use Permit by the Village Zoning Board of Appeals, per the provisions set forth herein.

C. Definitions.

Accessory Dwelling Unit – A small, self-contained residential unit located on the same lot as an existing single-family home and has all the basic facilities needed for day-to-day living independent of the main home.

Camping – The use of a property as a site for sleeping outside such as the erection of tents, yurts, or other shelters and the parking of travel trailers or similar equipment, to serve as temporary residences.

House Rules- A set of rules that apply to renters of STRs while occupying the unit.

Local Manager – The person specifically named on the application and permit that is responsible for the day-to-day operation of the STR, and who may be contacted, day or night, if there is a problem at the STR. The local manager may be either the owner or an

agent of the owner. The local manager must reside within twenty (20) miles of the Village.

Multiple Dwelling Units – Three or more dwelling units per building.

Non Owner-Occupied – A STR unit that does not qualify as owner-occupied.

Owner-Occupied-- Occupied by the property owner of record as their primary residence and where the owner resides for no fewer than 183 nights in a calendar year and the owner is present in the dwelling during the rental period.

Rental – An agreement granting use or possession of a residence, in whole or in part, to a person or group in exchange for consideration valued in money, goods, labor, credits, or other valuable consideration.

Short Term Rental (STR) – Any allowed dwelling or portion thereof that is available for use or is used for accommodations or lodging of guests, paying a fee or other consideration for a period of less than thirty (30) consecutive days. Motels, hotels, inns, and bed and breakfasts are excluded from this definition.

Short Term Rental Application – The application to be completed by a property owner, or agent thereof, who has interest in operating a STR.

Short Term Rental Special Use Permit – A Special Use Permit that is issued to a property owner of a STR after meeting the requirements in the application and granted approval after a Zoning Board of Appeals hearing. A STR Special Use Permit may be referenced throughout this document as a “STR permit.”

Sleeping Room- An interior room other than a bedroom, as defined under the NYS Uniform Fire Prevention and Building Code, which may serve to afford sleep to a person, however, sleep is not the primary function of the room. Examples include, but are not limited to, a living room, family room, den or great room which may be furnished with a futon, convertible couch, or other sleeping surface. A kitchen can not be classified as a sleeping room. All sleeping rooms shall meet NYS Uniform Fire Prevention and Building Code mandates for bedrooms. (i.e. size, ceiling height, access, egress, lighting and ventilation, electrical outlets, heat, and smoke and carbon monoxide alarms).

Vacant Property – A parcel which does not contain a residential dwelling unit.

D. Prohibitions. The following parcels/structures shall be prohibited from being issued permits to operate STRs:

1. Parcels/structures utilized for Multiple Dwelling Units

2. Vacant property
3. Accessory Dwelling Units
4. Travel Trailers, Campers, Tents, Recreational Vehicles, Boats

E. Location and Density Restrictions.

1. STRs may be allowed within Village zoning districts in accordance with the Land Use Matrix located in Section 405, provided all other requirements of this Section are met.
2. To prevent the over-concentration of STRs in the Village, promote a full-time resident population increase, and maintain the permanent housing stock availability for all income levels of residents, a cap shall be placed on the number of STR permits available.
3. The cap on the number of STR Permits issued shall be established on the number of STR non owner-occupied permits. There will be no permit cap on owner-occupied STRs or for STRs located in the Business District.
4. The initial cap will be set at twenty (20) properties located in the Residential District. The cap shall be reviewed, and adjusted as needed, annually at the Village Board Organizational Meeting.
5. Pre-existing recognized STRs, as defined in Section H, shall be counted towards the initial cap.
6. Non Owner-Occupied Limits – the maximum allowable number of non owner-occupied STRs shall be two (2) per owner.

F. House Rules.

1. All STR properties shall post for renters of each dwelling unit a listing of House Rules, that the renter must abide by. House Rules shall incorporate, but not be limited to, the following:
 - i. An emergency exit egress plan
 - ii. The location of fire extinguishers
 - iii. Identify the property lines and a statement emphasizing that unit occupants may be liable for illegal trespassing
 - iv. Identify the procedures for disposal of refuse/garbage
 - v. If allowed by the property owner, specify outdoor fires shall be made solely within a fireplace or fire pit in accordance with all New York State burning regulations
 - vi. If allowed by the property owner, instructions for fires in indoor fireplaces or wood stoves. If not allowed by the property owner, a statement stating as such
 - vii. Statement that the STR shall not be permitted to be used for any Large Gatherings as defined in the Village of Cassadaga Zoning Law.
 - viii. No outdoor camping shall be allowed (tents, campers, etc.)

- ix. Parking shall be allowed solely in the designated parking spaces (off street where applicable) and in accordance with Section 623.
 - x. Maximum Occupancy is limited to 10 people total.
 2. A Good Neighbor Statement shall be provided to all renters and posted in a conspicuous location inside the rental until that acknowledges:
 - i. The STR is in a residential area in the Village and renters should be conscious of the residents in neighboring homes.
 - ii. Renters must comply with the Village Noise Ordinance stating no excessive noise between the hours of 11:00 p.m. to 7:00 a.m.

G. Waiting List

1. The Village shall establish a waiting list for STR permits for instances where the number of applications exceeds that of the number of STR permits allowable per Section E.
2. Applications for STRs shall be accepted, processed, and reviewed on a first-come, first-served basis. Once the number of applications reaches the number of allowable permits, the remaining applicants shall be placed on the waiting list in the order in which they are received.
3. Where an application for a STR permit is withdrawn by the applicant, or is otherwise denied, the next applicant on the top of the waiting list shall be provided the opportunity to have their application processed and reviewed.
4. Where a STR Permit is revoked, voluntarily surrendered, or the applicant allows said permit to expire without securing a new permit under the provision of this Zoning Law, the next applicant on the top of the waiting list shall be provided the opportunity to have their application processed and reviewed.
5. The waiting list for STR permits shall be maintained by the Village Clerk. All applications for such permits shall be dated and timestamped upon receipt by the Village Clerk.
6. The CEO and/or Village Clerk shall notify applicants on the waiting list within 30 days of the opening of an application spot for a STR permit. An applicant who fails to follow through on their submittal within 30 days of notification shall be considered to have withdrawn their application and the next in line shall be notified.

H. Pre-existing STRs.

1. Recognized pre-existing STR owners will be afforded the opportunity to apply for a STR permit and not subjected to the cap limitation if they meet all the following requirements within thirty (30) days of this law taking effect.

- i. Provide a Chautauqua County Department of Finance Certificate of Authority dated prior to the September 22, 2022, and provide proof that the applicant has remitted a payment of Occupancy Tax to the Chautauqua County Department of Finance prior to January 20, 2023; and
 - ii. Provide proof of operation of the STR (proof it was rented by guests) prior to the moratorium becoming a law under the current owner; and
 - iii. Submit an application and meet the current requirements as required of all STRs.
 2. Any property owner who fails to satisfy the above requirements shall be considered a newly operating STR and be subjected to the cap limitation defined in Section E.
 3. Property owners who operate a pre-existing STR and submitted an application within thirty (30) days of this law taking effect, shall be allowed to continue operation until such time as a permit is issued or denied by the Zoning Board of Appeals.
- I. Application.** An application for a STR permit must be completed by all property owners seeking authority to operate a Non-owner Occupied STR outside of the Business District.
 1. The initial permit application to operate a STR shall be submitted to the CEO and Village Clerk, along with the applicable non-refundable application fee.
 2. To be added to the Waiting List set forth in Section G, the application must be deemed to have been substantially completed, as determined by the CEO.
 3. The permit application shall include, but not be limited to, the following:
 - i. Contact information. The names, addresses, email address(es) and day/night telephone numbers of the property owners and local manager. If the property is owned by a trust, corporation, company, partnership or any other legal entity, all individuals with an ownership interest in said entity must be so identified.
 - ii. A list of all full-time residents of the property and proof of notification of intent to apply for a STR permit.
 - iii. Site address. Address of the proposed STR and which zoning district it is located in.
 - iv. Designation of the STR as Owner-Occupied or Non-Owner-Occupied, as defined herein.

- v. Hosting Platform information. The applicant shall provide the names and URLs for all hosting platforms or other advertising platforms, such as but not limited to AirBnB, VRBO, HomeAway.
- vi. Parking. State the number of off-street parking spaces to be provided.
- vii. Septic. Affirmation that the septic system is functioning, and identify the type, size, and location of the septic system shall also be stated on the application.
- viii. Occupancy/Bedroom/Sleeping room. State the maximum occupancy requested by the Operator. State the quantity of bedroom(s) and sleeping room(s) and their occupancy.
- ix. Garbage Removal. The applicant shall state how garbage is to be stored and removed from the property.
- x. Plat. The applicant shall submit a plat of the property showing approximate property boundaries and existing features, including buildings, structures, septic system, parking spaces, firepits/outdoor fireplaces, pool, hot tub, driveways, streets, and lake.
- xi. House Rules. The applicant shall submit a copy of the House Rules. (See Section F above)
- xii. Jurisdiction. If a property owner does not reside within twenty (20) miles of the STR, then they must designate a Local Manager, as an agent, who shall reside within twenty (20) miles of the STR.
- xiii. A copy of the Chautauqua County Department of Finance Certificate of Authority to collect Occupancy Tax.

J. Inspections.

1. Each STR unit shall be inspected by the CEO to determine compliance with NYS Uniform Fire Prevention and Building Code. Inspections shall be done for the initial permitting and annually, thereafter.

2. All STRs must comply with NYS Building Code requirements and shall have no open violations. Initial or renewal permits shall not be issued without compliance with the elements of the submitted application.

K. Application Review.

1. Upon receipt of the completed application, application fee, and completion of the inspection, the applicant shall seek a Special Use Permit before the Village Zoning Board of Appeals.
2. If the CEO has determined that the applicant is in compliance with the requirements set forth herein, then a Special Use Permit hearing will be scheduled before the Village Zoning Board of Appeals.

L. Special Use Permit. A Special Use Permit shall be required prior to the issuance of a permit for all Non-Owner Occupied STRs located outside the Business District.

1. If issued, the STR Permit is not transferable to any subsequent owner and does not run with the land. A new owner must file a new application in accordance with this Section.
2. STR Permits for operation of a STR may not be assigned, pledged, sold, or otherwise transferred to any other persons, businesses, entities, or properties.
3. A STR Permit for an STR will expire two (2) years from issuance. A renewal permit must be applied for at least ninety (90) days prior to expiration of the current STR Permit.
4. The following are factors to be considered by the Zoning Board of Appeals prior to the issuance of a Special Use Permit:
 - a. Whether the operation of an STR for the applicant will present any concerns for the public health, safety, and welfare of the community and the neighboring property owners;
 - b. Whether the operation of an STR will provide any concerns as it relates to issues of parking, garbage removal and congestion in the area,
 - c. Whether the physical STR structure is safe and suitable for intended guests, including, but not limited to concerns regarding compliance with New York State Building Code, occupancy restrictions, fire safety, sewer management, among other issues.
 - d. Whether the applicant has appropriate safeguards in place to address concerns including, but not limited to, violation of House Rules, maintenance, emergency response and availability of Local Manager.

- e. Whether any signage on or surrounding the applicant's property will disrupt the culture, charm and aesthetic appeal of the neighborhood in which the STR property is located.
5. Nothing in this Section shall be interpreted to limit the power of the Cassadaga Zoning Board of Appeals to place conditions upon the issuance of a Special Use Permit to ensure that the applicant's operation of an STR consistent with the factors set forth in the preceding paragraph.

M. Renewal Permits.

1. The applicant will provide the Village Clerk with any changes to the original underlying application for a STR Permit, together with such additional documentation as determined by the CEO, all of which will be on forms prescribed by the CEO along with the renewal permit application fee.
2. Renewal permits must be applied for at least ninety (90) days prior to expiration of the current STR Permit. Any applicant who applies for a renewal STR Permit but has a STR Permit that has expired, shall be considered a new applicant and not a renewal applicant.
3. All renewal permit applicants shall be required to secure a Special Use Permit as set forth in Section L.

N. Compliance and Penalties

1. Violations of this section or of any STR Permit issued pursuant to this section shall be subject to enforcement and penalties prescribed in this section.
2. If the CEO either witnesses or receives a complaint of an alleged violation of this section or of any STR Permit conditions issued pursuant to this section, the CEO shall properly record such complaint and immediately investigate the report thereon. If the CEO determines there is a violation of this section the CEO is authorized to order the owners to remedy any condition or activity in violation of this section.
3. The order to remedy shall be in writing; identify the property or premises; specific the condition or activity that violates this section or the Special Use Permit; shall specify the provisions of this section or of the Special Use Permit which are in violation; shall include a statement that the violations must be corrected in thirty (30) days after the date of the order to remedy; may direct the person served with the order to begin to remedy the violation(s) immediately or within some other stated period of time that can be less than thirty (30) days after the date of the order; may direct that compliance be achieved within a specified period of time as the CEO believes reasonable under the circumstances; and shall state that an action or proceeding to compel compliance and/or seek penalties, fines and/or

imprisonment may be instituted if compliance is not achieved within the specified period of time.

4. The order to remedy, or a copy thereof, may be served within five (5) days after the date of the order to remedy by personal service, by mailing by registered or certified mail sent to the address set forth in the application for any permit submitted to the Village or to the property address, or by posting a copy thereof on the premises that are the subject of the order to remedy and mailing a copy, enclosed in a prepaid wrapper, addressed to the last known address of the owner as set forth in the Village records.
5. If the owner fails, neglects or refuses to remove, eliminate or abate the violation within the time specified in the order of remedy, the Village may take legal action and/or the CEO may suspend or revoke the STR permit.
6. All violations of this law or any special condition of any Special Use Permit authorized under this section shall be subject to the following initial fine schedule, which shall be reviewed on an annual basis during the Village's Organizational meeting:
 - i. A fine of up to \$500 per violation.
 - ii. A fine of up to \$1,000 per day per violation for operating (guests present):
 - a. without a STR Permit
 - b. with a suspended STR Permit
 - c. with a revoked STR Permit

O. Suspension or revocation of permit

1. The CEO may suspend or revoke an STR permit if the owner of an STR fails to apply for a STR permit in a timely manner, to obtain an STR permit, to timely renew an STR permit.
2. To initiate the process to suspend or revoke an operating permit, the CEO shall issue a notice of intent to suspend or revoke the STR permit. The notice of intent to suspend or revoke shall describe the violation and require the permit holder to immediately correct the violation or cause the violation to be corrected within a specified period of time.
3. The notice of intent, or a copy thereof, may be served within five (5) days after the date of the order to remedy by personal service, by mailing by registered or certified mail sent to the address set forth in the application for any permit submitted to the Village or to the property address, or by posting a copy thereof on the premises that are the subject of the order to remedy and mailing a copy, enclosed in a prepaid wrapper, addressed to the last known address of the owner as set forth in the Village records.
4. If the STR permit holder fails to immediately correct the violation or cause the violation to be corrected, the CEO shall suspend or revoke the permit.
5. A STR permit holder shall be entitled to request a hearing on suspension or revocation before the Zoning Board of Appeals, upon application made to the

Village Clerk. Any suspension or revocation shall remain in effect unless modified by the Zoning Board of Appeals. Within thirty (30) days of the STR permit holder's request, the Village Zoning Board of Appeals shall hold a hearing to determine whether to reverse the suspension or revocation. The Village Zoning Board of Appeals shall issue a written decision within fifteen (15) days) after the hearing.

6. If a STR permit is revoked, all owners of the STR are prohibited from obtaining a STR Permit on the property for one (1) year after the date of revocation.

P. Fees.

1. A nonrefundable permit application fee, which covers an inspection and a Zoning Board of Appeals hearing, shall be established by resolution of the Village Board of Trustees for each dwelling unit that functions as or contains a STR. Such permit application fee shall be submitted with each new application and each renewal application.
2. An annual inspection fee will be collected in the interim year between the initial and renewal permit applications.

Q. Severability. If any part or provision of this local law is judged invalid by any court of competent jurisdiction, such judgement shall be confined in application to the part or provision directly on which judgement shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Village hereby declares that it would have enacted the remainder of this Law even without such part or provision or application.

R. Effective Date. This law shall become effective upon the filing in the office of the New York Secretary of State.