

# Local Law Filing

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(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village  
(Select one:)

of \_\_\_\_\_ Delaware

Local Law No. 1 of the year 2019

A local law adding Chapter 175, entitled Short Term Rentals, to the Code of the Town of Delaware,  
(Insert Title)  
Sullivan County, New York.

Be it enacted by the \_\_\_\_\_ Town Board of the  
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village  
(Select one:)

of \_\_\_\_\_ Delaware as follows: \_\_\_\_\_

(If additional space is needed, attach pages the same size as this sheet, and number each.)



**SECTION I**  
**Addition of Chapter 175 to the Code of the Town of Delaware**

A new Chapter 175, entitled "Short Term Rentals," is hereby added to the Code of the Town of Delaware, to read as follows:

**"Chapter 175**  
**SHORT TERM RENTALS**

**ARTICLE I**  
**General Provisions**

**§175-1. Intent.**

This chapter shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of residential structures and premises.

**§175-2. Scope.**

The provisions of this chapter shall apply to all existing residential, conversions of nonresidential structures to residential dwellings, all existing premises and shall constitute the minimum requirements and standards for said premises for the occupancy, life safety, safety from fire and other hazards.

**§175-3. Responsibility.**

The owner of the rental property shall be responsible for compliance with the provisions of this chapter and the failure of an owner, agent, managing agency, local contact person or short-term renting occupants to comply with this chapter shall be deemed noncompliance by the owner.

**§175-4. Definitions.**

Terms or words used herein, unless otherwise expressly stated, shall have the following meanings:

**APPROVED** - Approved by the Code Official, Zoning Officer or Code Enforcement Officer.

**BEDROOM** - Any room or space used or intended to be used for sleeping purposes.

**CODE OFFICIAL** - The official who is charged with the administration and enforcement of this Code, or any duly authorized representative.



**DWELLING UNIT** - A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**HABITABLE SPACE** - Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

**LET FOR OCCUPANCY OR LET** - To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, building, premises or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

**LOCAL CONTACT PERSON** - A local property manager, owner, or agent of the owner, who is available to respond to tenant and neighborhood questions or concerns, or any agent of the owner authorized by owner to take remedial action and respond to any violation of this chapter.

**OCCUPANCY** - The purpose for which a building or portion thereof is utilized or occupied.

**OCCUPANT** - Any individual living or sleeping in a building, or having possession of a space within a building.

**OPERATOR** - Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

**OWNER** - Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in official government records as holding title to the property; or otherwise having control of the property, including the guardian or trustee of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

**PERSON** - An individual, corporation, limited liability company, trust, partnership or any other group or entity acting as a unit.

**PREMISES** - A lot, plot or parcel of land including any structures thereon.

**SHORT-TERM RENTAL** - Any dwelling unit owned or managed by a person which is rented or leased for a period of less than 30 days.

**STRUCTURE** - That which is built or constructed or a portion thereof.

**TENANT** - A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

**TOILET ROOM** - A room containing a water closet or urinal but not a bathtub or shower.



#### **§175-5. Local Contact Person.**

Each owner of a short-term rental shall designate a local person, property manager or agent as a local contact person who has access and authority to assume management of the unit and take remedial measures. An owner who resides within 40 miles of premises may designate himself as the local contact person. The local contact person shall respond to the Code Official within one (1) hour after being notified by the Code Official or other Town official of the existence of a violation of this chapter or any disturbance requiring immediate remedy or abatement. If the local contact person is not the owner, the local contact person shall immediately advise the owner of any notification of a violation.

#### **§175-6. Fees.**

Fees for the administration of this chapter shall be charged in accord with the fee schedule adopted by resolution of the Town Board.

#### **§175-7. Forms and Procedures.**

Registration and application forms and procedures shall be as required by this chapter or as otherwise amended or adopted by resolution of the Town Board.

### **ARTICLE II Short-Term Rental**

#### **§175-8. License Required.**

- A. A license under this chapter shall be required when any dwelling unit is used as a short-term rental. A license application for any property presently used as short-term rental shall be filed within ninety (90) days of the effective date of this chapter.

#### **§175-9. License Renewal.**

Each permit shall be renewed annually and at the time any of the conditions of the rental which are governed by this chapter are changed.

#### **§175-10. License Required.**

A separate license shall be required for each individual short-term rental unit.

#### **§175-11. Issuance to Owner.**

The license shall be issued only in the name of the owner of the short-term rental.



### **§175-12. Application**

An application for a short-term rental license shall be filed with the Code Official. The application shall contain the following information:

- A. The name, address, telephone number and email address of the owner. If the owner does not have a managing agency, agent or local contact person, then the owner shall provide a 24-hour telephone number.
- B. The name, address, and 24-hour telephone number of the managing agency, agent or local contact person.
- C. A diagram or photograph of the premises showing and indicating the number and location of designated on-site parking spaces and documentation detailing the number and location of available off-site parking spaces.
- D. If not on a central sewer system, the location, approximate age and capacity (if known) of the sewage disposal system.
- E. Acknowledgment that the owner, agent, and/or local contact person have read all regulations pertaining to the operation of the short-term rental.
- F. Acknowledgment the owner, agent, or local contact person will post and maintain the short-term rental with the notice required herein.
- G. A copy of room/sales licenses required.
- H. Any other reasonable information deemed necessary by the Code Official.

### **§175-13. Standards and Conditions.**

- A. All licenses issued pursuant to this chapter are subject to the following standards:
  - 1. The owner shall limit overnight occupancy of the short-term rental to two (2) people per bedroom plus an additional two (2) people. Should potential occupancy exceed 10 people altogether, evidence of approval from the Department of Health shall be required.
  - 2. Every bedroom shall contain not less than seventy (70) square feet and every bedroom occupied by more than one (1) person shall contain not less than one hundred (100) square feet. Bedrooms shall not be less than seven (7) feet in any plan dimension.
  - 3. The owner shall limit the number of all vehicles to the number of parking spaces designated in the license. All parking for overnight guests and day guests shall be designated in the license and shall be located on the short-term rental property. This



may include spaces in the property's garage which can accommodate vehicles, but shall not include spaces in any private, community or public right-of-way.

4. A minimum of one (1) parking space per bedroom shall be provided, except that the Planning Board may modify this requirement in the case of existing non-conforming lots and buildings or multi-family units. All parking spaces shall be improved to a mud-free condition with paving, stone or similar material.
5. The owner shall use best efforts to assure that the occupants or guests of the short-term rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this chapter, any state law or any Town of Delaware Code provisions adopted under Section 130(11) of the New York State Town Law pertaining to peace, good order, safety. Restrictions on noise or disorderly conduct and other such standards shall be noticed to occupants by posting such rules regarding short-term rentals in each unit and responding when notified that occupants are violating provisions of this chapter and/or other applicable laws and regulations regarding their occupancy.
6. The owner shall, upon notification that occupants or guests of the short-term rental have created unreasonable noise or disturbances, engaged in disorderly conduct or violated provisions of this chapter or state law pertaining to noise, or disorderly conduct, promptly use their best effort to prevent a recurrence of such conduct by those occupants or guests.
7. Occupancy of recreational vehicles, camper trailers, sheds, tents, yurts or any other form of shelter not requiring a certificate of occupancy under the New York State Building Code shall not be permitted for short-term rental purposes, except as otherwise provided pursuant to the Town of Delaware Zoning Law (Chapter 220) and the Town of Delaware Campgrounds and Recreational Vehicle Parks Law (Chapter 110).
8. The owner shall post a copy of the license and a copy of the conditions set forth herein in a conspicuous place within the short-term rental.
9. Each short-term rental shall have a clearly visible and legible notice conspicuously posted within the unit containing the following information:
  - (a) The name of the managing agent, property manager, local contact, or owner of the unit and a telephone number at which such party may be reached on a 24-hour basis.
  - (b) The 911 address of the property.
  - (c) The maximum number of occupants permitted to stay in the unit.



- (d) The maximum number of all vehicles allowed to be parked on the property and the requirement that parking is not permitted in any public road right-of-way unless such designated right-of-way is not parking restricted.
- (e) Notification that trash and refuse shall not be left or stored on the exterior of the property except in secure, water-tight metal or plastic cans or similar containers designed for such storage with a limit of three (3) secured containers. It shall be the burden of the short-term owner/operator to remove any trash or refuse within seven days of occupancy and between all occupancies.
- (f) Notification that an occupant may be cited and fined for creating a disturbance or for violating other provisions of this chapter; and
- (g) Notification that failure to conform to the parking and occupancy requirements of the structure is a violation of this chapter subject to a citation and fines.

It shall be unlawful for any occupant or person to maliciously and willfully disturb the peace of any neighborhood, person, or family by loud or unusual noises or by tumultuous and offensive conduct, public indecency, threatening, traducing, quarreling, challenging to fight, or fighting.

- B. The Code Officer shall have the authority to impose additional reasonable conditions on any license or renewal in the event of any prior violation of the conditions of the license or the provisions of this chapter in order to address any such past violations.
- C. The marketing of a short-term rental in which the advertised occupancy exceeds the maximum occupancy requirements permitted by this chapter or which promotes any other activity which is prohibited by this chapter shall be a violation of this chapter subject to the penalties and costs in Article V. The owner or local contact person shall provide to the Code Official a copy of all advertisements relating to the short term rental.

### **ARTICLE III Code Official**

#### **§175-14. Appointment.**

The Town Board may appoint one (1) or more Code Officials, who may be the Town Zoning Officer or Code Enforcement Officer, local police or a contracted individual, firm or agency, to conduct inspections, make reports and administer this chapter.

#### **§175-15. Duties.**

The administrative, inspection and enforcement responsibilities established by this chapter may be delegated to different Code Officials appointed in accord with §175-16.



#### **§175-16. Consultation.**

The Code Official, with the authorization of the Town Board, may engage the services of competent engineers or other consultants to determine the nature and extent of any violation.

### **ARTICLE IV Inspections; Occupancy Requirements**

#### **§175-17. Inspections.**

All short-term rental units shall be subject to inspection and approval by the Code Official to verify registration, application, license, operating and/or occupancy requirements or if there is reason to believe that any provision of this chapter is being violated. Prior to the initial letting of a short-term rental and prior to the license renewal, the owner shall arrange for an inspection annually by the Code Official to confirm that occupancy requirements herein are satisfied.

#### **§175-18. Occupancy Requirements.**

Each short-term rental, to be approved for letting, shall comply with the following:

- Smoke detector in each bedroom,
- Smoke detector outside each bedroom in the common hallway,
- Smoke detector on each floor,
- GFI outlet required if outlet located within six feet of water source (all sinks, sump pumps, etc.),
- Aluminum or metal exhaust from dryer,
- Carbon monoxide detector if open flame (oil or gas) furnace or gas fireplace,
- Carbon monoxide detector if garage is attached,
- Fire extinguisher in kitchen,
- Stairs (indoor and outdoor) in good condition,
- Covers on all outlets, and
- Any other occupancy requirements which may be added by resolution of Town Board.

### **ARTICLE V Violations, Penalties and Costs**

#### **§175-19. Compliance.**

Failure to comply with any provision of this chapter, and/or failure to comply with an order to abate an activity, use and/or condition, shall be a violation of this chapter and subject to criminal prosecution and the revocation of a license.



#### **§175-20. Fine.**

Any person who has violated or permitted the violation of any provisions of this chapter shall upon judgment thereof by any Town Justice be sentenced to pay a fine of no less than two-hundred and fifty dollars (\$250) and not more than one thousand dollars (\$1,000.00) per day of violation, together with the costs of suit including reasonable attorney fees. Each day of violation shall constitute a separate offense, for which a summary conviction may be sought. All judgments, administrative, enforcement, security firm or police response, and other costs, interest and reasonable attorney fees collected for the violation of this chapter, shall be paid over to the Town.

#### **§175-21. Other Remedies.**

The Supreme Court, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment. The Town shall also have the right to seek injunctive relief for violations of this chapter.

#### **§175-22. Short-Term License Revocation.**

If an owner of a short-term rental commits two (2) or more offenses resulting in convictions within one year, the short-term rental license may be revoked.

### **ARTICLE VI Miscellaneous Provisions**

#### **§175-23. Repealer.**

All local laws, ordinances or other regulations which are inconsistent herewith are hereby repealed.

#### **§175-24. Severability.**

If any sentence, clause, section, or part of this chapter is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this chapter. It is hereby declared as the intent of the Town Board that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

#### **§175-25. Interpretation.**

The object of interpretation and construction of this chapter and/or the provisions thereof shall be, if possible, to give effect to all of its provisions. Whenever a provision in this chapter shall be in conflict with another provision in the same section or another part of this chapter or another or part thereof, the two (2) shall be construed, if possible, so that the effect may be given to both.



**§175-26. Effective Date.**

This chapter shall become effective immediately following filing with the Department of State of the local law enacting it.”

**SECTION II  
Effect of Invalidity**

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudged finally by a Court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or any part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby stated to be the legislative intent that the remainder of this local law would have been adopted had any such provisions not been included.

**SECTION III  
Effective Date**

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



(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2019 of the ~~(County)(City)~~(Town)(Village) of Delaware was duly passed by the Town Board on        2019, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

**~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)~~**

~~I hereby certify that the local law annexed hereto, designated as local law No.        of 20       of the (County)(City)(Town)(Village) of        was duly passed by the        on        20      , and was (approved)(not approved) (repassed after disapproval) by the        and was deemed duly adopted on        20      , in accordance with the applicable provisions of law.~~  
(Name of Legislative Body) (Elective Chief Executive Officer\*)

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No.        of 20       of the (County)(City)(Town)(Village) of        was duly passed by the        on        20      , and was (approved)(not approved) (repassed after disapproval) by the        on        20      .  
(Name of Legislative Body) (Elective Chief Executive Officer\*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on        20      , in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No.        of 20       of the (County)(City)(Town)(Village) of        was duly passed by the        on        20      , and was (approved)(not approved) (repassed after disapproval) by the        on        20      . Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of        20      , in accordance with the applicable provisions of law.  
(Name of Legislative Body) (Elective Chief Executive Officer\*)

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.



~~5. (City local law concerning Charter revision proposed by petition.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.~~

~~6. (County local law concerning adoption of Charter.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

~~(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)~~

~~I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_ 1 above.~~

(Seal)

\_\_\_\_\_  
Clerk of the county legislative body, City, Town or Village Clerk or  
officer designated by local legislative body

Date: \_\_\_\_\_