

Local Law Filing

(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~~ of Kinderhook
~~Town~~
~~Village~~

Local Law No. 3 of the year 2023

A local law amending The Code of the Village of Kinderhook to add Chapter 130-22
 in regard to Short Term Rentals

Be it enacted by the Village Board of Trustees of the
(Name of Legislative Body)

~~County~~
~~City~~ -of Kinderhook as follows:
~~Town~~
~~Village~~

Section 1. Legislative Findings, Intent and Purpose

The Village Board of Kinderhook hereby finds the following:

1. It is in the best interest of the residents of the Village of Kinderhook to further regulate the use of dwellings for Short Term Rental. Regulating Short Term Rental will assist in:
 - a. preserving the supply of dwellings available for long-term rentals and home ownership by maintaining and protecting Kinderhook’s residential market.
 - b. supporting property owners to stay in their homes by preventing real estate speculation and safeguarding long-term housing affordability.
 - c. maintaining the safety of current and future residents as well as those traveling to or visiting in the Village by ensuring that Short Term Rental operators participating in the tourism economy are subject to comparable or similar restrictions governing other lodging establishments.

- d. preventing, to the greatest extent practicable, public safety risks, including, but not limited to, increased noise, trash, traffic, and parking impacts associated with the Short Term Rental of residential dwellings.
 - e. preserving the traditional character of the village.
2. Short Term Rentals positively impact the Village by, among other things, increasing tourism activity and providing an additional income source for homeowners, and are, therefore, permitted in certain circumstances.
 3. The Board of Trustees finds that unregulated hosted and non-hosted Short Term Rentals have the potential to be incompatible with surrounding residential uses, thereby having the potential for a deleterious effect on the adjacent full-time residents.
 4. The purpose of this Chapter is to establish a set of regulations applicable to non-hosted and hosted Short Term Rentals of residential property.
 5. Limits imposed herein on short term rentals are based upon a three-year review of such rentals occurring within the village. At passage of this local law there exists a total of nine short term rentals, with three being non-hosted. The Village Board of Trustees desires to maintain the residential character and use of properties in the Village of Kinderhook and elects to impose limitations on the use to avoid impacts to the character of the village and housing stock for long-term rental use.
 6. This law is enacted by the Village Board pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Municipal Home Rule Law Section 10, and New York Village Law Section 4-412.

Section 2. Be in enacted Article III Use Regulations 130-7, Permitted uses; conditional uses, shall be amended to add to the category of use Short Term Rental (STR):

Use:	F-1	A	AR	R-1	R	B-1	B-2
Short Term Rental	X	P*	P*	P*	P*	P*	X

Be it further enacted that Chapter 130-22 of the Code of the Village of Kinderhook shall be added as follows:

**Chapter 130-22
Short Term Rentals**

§ 130-22 Short Term Rentals

A. Definitions. Unless otherwise expressly stated, the following terms shall have for the purpose of this Chapter the following meanings:

- (1) **Lodging Establishment** — A Lodging Establishment is a place where overnight accommodations are regularly provided to the transient, traveling, or vacationing public, including hotels, motels, and inns. Lodging establishments do not include Short Term Rentals.
- (2) **Bed-and-breakfast** — A Bed-and-breakfast is a food service establishment that is a transient lodging facility, which is the owner’s or innkeeper’s personal residence, is occupied by the owner or innkeeper at the time of rental to an in-house guest, and in which breakfast is the only meal served. Bed-and-breakfasts do not include Short Term Rentals.
- (3) **Hosted Short Term Rental** — A Hosted Short Term Rental is a single-family or two-family dwelling, or an accessory dwelling unit, which at least one and not more than three bedrooms are for overnight accommodation, the rates for which including lodging only, and in which no public restaurant is maintained, and no other commercial services offered. The host occupies the Short Term Rental property and remains on-site and resides in a habitable dwelling unit or portion thereof throughout the guest’s stay. A qualifying property must be the owner’s primary residence.
- (4) **Non-Hosted Short Term Rental** — A Non-Hosted Short Term Rental is a single-family or two-family dwelling, or an accessory dwelling unit, which at least one and not more than three bedrooms are for overnight accommodation, the rates for which including lodging only, and in which no public restaurant is maintained, and no other commercial services offered. The host does not remain on-site throughout the guest’s stay. A qualifying property must be the owner’s primary residence.
- (5) **Long Term Rental** — A long-term rental is a single-family dwelling, two-family dwelling, or multi-unit-apartment building in which a landlord leases to a tenant for 30 days or more.

B. Presumption of Dwelling Unit as Short Term Rental Property.

- (1) 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 30 days or less through any form of advertising.
- (2) The foregoing presumptions may be rebutted by evidence presented to the Code Enforcement Officer that the premises are not operated as a Short Term Rental.

C. Permit Required for Short Term Rental.

- (1) Owners shall not use their property as a Short Term Rental without obtaining a Short Term Rental permit from the Code Enforcement Officer after Site Plan Review by the Village Planning Board.

- (2) A Short Term Rental Permit shall be valid for two (2) years and must be renewed thirty (30) days prior to expiration of the current permit if the premises are to continue to operate as a Short Term Rental.
- (3) The Short Term Rental permit is not transferable to a new owner. The new owner of the premises subject to a Short Term Rental permit must file a new permit application.
- (4) Non-Hosted Short Term Rental permits cumulatively issued in the Village of Kinderhook shall not exceed twelve (12) at any one time.
- (5) Permits for Non-Hosted Short Term Rentals will be available on a first-come, first served basis. If more residents apply than there are permits available, a waiting-list will be created by the Code Enforcement Officer. Non-Hosted Short Term Rental permit holders will be given the opportunity to renew their permits thirty days before expiration. If a homeowner allows their permit to expire, then the next resident on the waiting list will be offered the opportunity to process an application.

D. Short Term Rental Application Requirements.

- (1) Applications for a Short Term Rental Permit may be obtained at the Village of Kinderhook. A Short Term Rental permit shall be submitted to the Code Enforcement Officer, accompanied by payment of a nonrefundable permit fee to be determined from time to time by resolution of the Village Board. The application shall include the following:
 - (a) Residency documentation from all property owners proving primary residency. Acceptable forms of residency documentation shall be reviewed and accepted at the discretion of the Code Enforcement Officer, and shall include, but not be limited to, a driver's license or other government-issued ID, a utility bill for the property, a vehicle registration showing name and property address, or other proof of residency at the Short Term Rental location.
 - (b) A statement authorizing the Code Enforcement Officer to inspect the property to ensure compliance with all requirements and standards contained within this chapter. The CEO will make an appointment with the property owner to inspect the property.
 - (c) An acknowledgement of present and ongoing compliance with the Short Term Rental Standards as defined in this chapter, including, but not limited to, the demonstration of adequate off-street parking spaces for the proposed Short Term Rental.
 - (d) An accurate floor plan for each level of the dwelling that can be occupied measuring at least 8.5 Inch by 11 inch, 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:
 - i. The location of buildings and parking.
 - ii. Basement - location of house utilities and all rooms including bedrooms, windows, exits and any heating/cooling units.

- iii. First floor - all rooms Including bedrooms, windows, exits and any heating/cooling units.
 - iv. Second floor - all rooms including bedrooms, windows, exits and any heating/cooling units.
 - v. Attic (if present) - all rooms including bedrooms, windows, exits and any heating/cooling units.
- (e) A statement that none of the owners of the subject property have had a Short Term Rental permit revoked within the previous year for any rental properties owned Individually or together with others.
 - (f) All completed applications are subject to a floor plan review and approval by the Code Enforcement Officer.
 - (g) Owners wishing to apply for a variance relating to sleeping capacity, parking capacity, or other standards stated required herein must apply to the Zoning Board of Appeals. Applications will be reviewed by the Zoning Board of Appeals in accordance with the Village's Zoning Law.

E. Short Term Rental Site Plan Review

- (1) All Short Term Rental applications shall be referred to the Planning Board when deemed complete by the Code Enforcement Officer for a Site Plan Review by the Planning Board.
- (2) When the application is deemed complete by the Planning Board, a Public Hearing shall be conducted by the Planning Board and the applicant shall cause a notice of hearing to be delivered to all adjoining property owners, by first class mail, no less than 10 days prior to the scheduled hearing with a copy of the application materials. The applicant shall submit an affirmation of mailing to demonstrate compliance.
- (3) After public hearing, the Planning Board, in its discretion and applying the provisions of this Chapter, may approve, deny, or approve with conditions the Short Term Rental, and if approved, the Planning Board shall refer the application to the Code Enforcement Officer to issue the Short Term Rental Permit.
- (4) Planning Board review is required upon the initial application for a Short Term Rental Permit, but not upon renewals, if in the discretion of the Code Enforcement Officer, there have been no changes to the operations or violations that would require additional Planning Board Review in order to renew the Permit.

F. Short Term Rental Standards.

- (1) Property must comply and meet all current NYS Uniform Building Codes.

- (2) There shall be one working smoke detector in each sleeping room and one additional smoke detector on each floor.
- (3) Carbon monoxide detectors shall be installed as required by the New York State Uniform Fire Prevention and Building Code.
- (4) Evacuation procedures must be posted in each sleeping room 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.
- (5) 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) to ensure each contains a full charge. A record of the date inspected initialed by the permit holder shall be maintained and made available to the Code Enforcement Officer upon request.
- (6) The house number shall be located on the dwelling unit so that the house number is clearly visible from both the road and the driveway.
- (7) Exterior doors shall be operational and all passageways to exterior doors shall be clear and unobstructed.
- (8) 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.
- (9) All fireplaces shall comply with all applicable laws and regulations.
- (10) The property must have a minimum of one (1) off-road parking space for every bedroom shown on the floor plan included with the application. Exception can be made for the B-1 district only, where suitable off premises overnight parking is demonstrated as available.
- (11) Maximum occupancy for each Short Term rental unit shall not exceed two (2) people per bedroom shown on the floor plan included with the application and two (2) people per minimum full size convertible sleeping accommodation furniture (i.e., futon, hide-a-bed) also identified on the floor plan. The maximum occupancy of any Short Term rental unit shall not exceed eight (8) people, including permanent residents and renters.
- (12) In the event that the property has a septic system, the maximum occupancy shall be defined by the capabilities of the septic system as built, but in no event shall overnight occupancy for any Short Term Rental Unit exceed ten (10) people total.
- (13) The septic system must have been pumped within the past four years and proof of pumping and satisfactory inspection by a qualified septic disposal firm shall be available to the Code Enforcement Officer. Once a Short Term Rental permit is issued, the septic system must be pumped at least once every four years.
- (14) The water supply to the property must meet all State requirements.

- (15) Signage identifying the Short Term Rental, or any vacancy is not allowed for any Short Term rental.
- (16) The property shall be designed, maintained, and operated to preserve and complement the residential appearance of the site and the existing character of the surrounding area. There shall be no change permitted to the residential character of the outside appearance of the building, either using materials, signage, or lighting.
- (17) An owner leaving the Village overnight during the rental period for hosted and non-hosted rentals must engage the services of an agent with the right to enter and maintain possession of the dwelling. The agent shall be responsible and authorized to act on the owners' behalf to promptly remedy any violation of the standards outlined in this Chapter. This agent must be available 24 hours a day to respond to renter and neighbor concerns and be capable of responding within two hours of notification from the Village. This agent must be registered with the Village, with name, address, email, and telephone contact information.
- (18) The guest bedrooms shall be limited to the principal dwelling and/or one habitable, permitted accessory building. Any guest room in an accessory building shall have sanitary facilities within that accessory building approved by the Code Enforcement Officer.
- (19) Non-hosted Short Term rentals are limited to 60 days in any one calendar year. A "rental day" shall be deemed to mean any day that the property is occupied for rental overnight.
- (20) The owner shall collect and preserve registration records of renters for a minimum of three years and make them available for inspection upon request of the Code Enforcement Officer.
- (21) All applicants and permit holders must provide "Evidence of Property Insurance" and a "Certificate of Liability Insurance" indicating the premises is rated and insured as a Short Term Rental and maintain such insurance throughout the term of the Short Term Rental permit. The owner may provide proof of third party coverage by the STR booking service.
- (22) Provisions shall be made for weekly garbage removal during rental periods. 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 pickup time.
- (23) All applicants and permit holders must post on the property for renters a notification which includes the following:
 - (a) Maximum property occupancy.
 - (b) Maximum on-site parking provided.
 - (c) Good Neighbor Statement stating:
 - i. The Short Term Rental is in a residential area in the Village of Kinderhook and renters should be considerate of the residents in neighboring homes.

- ii. Guests are requested to observe quiet hours from 10:00 p.m. - 7:00 a.m.
- iii. All renters will be subject to New York Penal Law §240.20 or any successor statute regarding disorderly conduct.
- iv. Littering is illegal; and
- v. Recreational campfires must be attended.

G. Procedure on Filing Application

- (1) Short Term Rental permit applications shall be filed with the Village of Kinderhook Code Enforcement Officer with all supporting documentation and the nonrefundable permit fee. Only completed applications will be accepted by the Village'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 does not provide sufficient information as to the property being the host's primary residence.
 - (b) The application documentation required by this Chapter was not included or the full permit fee was not paid.
 - (c) A previously issued Short Term Rental permit was suspended or revoked within the past year and defects and/or violations have not been corrected and inspected by the Code Enforcement Officer.
- (2) Upon the Code Enforcement Officer's acceptance of the completed permit application, all documents and information required by this Chapter and the permit fee, the Code Enforcement Officer shall have thirty (30) days to conduct a property inspection to certify and approve that all Short Term Rental requirements have been met.
- (3) Upon approval of the Short Term Rental Application by the Code Enforcement Officer, and Site Plan Review by the Planning Board, 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 that has an ownership interest In the Short Term Rental property.
 - (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 parking limits for the Short Term Rental property.
 - (d) Identification of the number of and location of parking spaces available.

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

H. Conformity and Display of Permit

- (1) Short Term Rental permits are subject to continued compliance with the following:
 - (a) If the Code Enforcement Officer has probable cause to believe that the owner is not in compliance with the provisions of this Chapter, the Code Enforcement Officer may request permission from an owner 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. If the property owner refuses to permit the Code Enforcement Officer to inspect the property, the permit will be suspended. If an inspection authorized herein is conducted, the Code Enforcement Officer shall use the results of such inspection in determining whether to suspend the permit.
 - (b) The Short Term Rental permit, maximum occupancy limit, maximum parking, contact information and standards shall be prominently displayed inside and near the front entrance of the Short Term rental.
 - (c) 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 for 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.
 - (d) The Short Term Rental permit holder must conspicuously display the Short Term Rental permit number in all advertisements for the applicable Short Term Rental.

I. Application for Renewal of Permit

- (1) Renewal permits will be granted for an additional 2-year term if the following conditions are met:
 - (a) Application for renewal of the Short Term Rental permit shall be made thirty (30) days prior to expiration of current permit and requires payment of renewal fee.
 - (b) At the time of application for renewal, the owner or designated agent must present the previous permit for Short Term Rental.
 - (c) The property must have undergone an inspection performed by the Code Enforcement Officer.
 - (d) Any violations must be remedied prior to renewal of a permit for Short Term Rental.

J. Violations and Penalties

- (1) Violations of this Chapter or of any Short Term Rental permit issued pursuant to this Chapter shall be subject to the following enforcement and penalties.
- (2) If the Code Enforcement Officer either witnesses or receives a written complaint of an alleged violation of this Chapter or of any Short Term Rental permit condition, the Code Enforcement Officer shall properly record such violation and immediately investigate the report thereon. If the Code Enforcement Officer determines there is a violation, the owners shall be notified in writing by first class mail and certified mail of said violation and must remedy said violation. In the event the violation is not remedied by the permit holder, the Code Enforcement Officer may take any or all the following actions:
 - (a) Suspend the Short Term Rental permit. The Notice of Suspension shall be provided to the property owner and a copy filed with the Village Clerk.
 - (b) 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 owner risks Revocation of the Short Term Rental permit.
 - (c) Attach conditions to the Permit to cure or prevent violation of terms of the existing Short Term Rental permit.
 - (d) In the event the Permit holder does not remedy the violation the Code Enforcement Officer shall 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 (1) 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 Village Clerk.
 - (e) Issue a court appearance ticket for violation of a Village law.

K. Grounds for Immediate Revocation of Permit

- (1) The Code Enforcement Officer may immediately 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) The Owner is found in violation of any other provision of the Code of the Village of Kinderhook.
 - (c) Any conduct on the premises, which disturbs the health, safety, or welfare of residents or the public.
 - (d) Removal or disrepair of any safety devices such as, but not limited to, smoke and carbon monoxide detectors, fire extinguishers and egresses.

L. Penalties for Offenses

- (1) Any person or entity that shall violate any provision of this Chapter shall be guilty of a violation and shall be punishable by a fine of not more than \$500.00.
- (2) Each and every violation of a provision or provisions of this Chapter shall constitute a separate and distinct violation for each and every day said violation exists.

Section 3. VALIDITY AND SEVERABILITY.

If any section or part of this local law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section of this local law.

Section 4. EFFECTIVE DATE.

This local law shall be effective after filing with the Secretary of State. All properties that have premises subject to the STR requirements as defined herein shall have a period determined by the Village Board from the effective date of this law to make application as required herein. No tenancies or STR uses as the term is defined herein are deemed exempt, pre-existing nonconforming uses or “grandfathered” from the provisions of this local law.

(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. 3 of 2023 of the Village of Kinderhook was duly passed by the Village Board of Trustees on _____, in accordance with the applicable provisions of law.

~~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 (Name of Legislative Body) disapproval) by the _____ and was deemed duly adopted on _____, 20____, (Elective Chief Executive Officer*) in accordance with the applicable provisions of law.~~

~~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 (Name of Legislative Body) disapproval) by the _____ on _____, 20____. Such local law was (Elective Chief Executive Officer*) 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 (approved)(not approved)(repassed after (Name of Legislative Body) disapproval) by the _____ on _____, 20____. Such local law was subject (Elective Chief Executive Officer*) to permissive referendum and no valid petition requesting such referendum was filed as of _____, 20____, in accordance with the applicable provisions of law.~~

* 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 chairman 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 _____, _____, 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.

Nicole Heeder, Village Clerk

(Seal)

Date: _____