

## ARTICLE 22. SHORT-TERM RENTAL

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### **22.1 Purpose and Applicability**

**22.1.1 Purpose** – The purpose of this Article is to regulate the impact of short-term rental of dwelling units by establishing a permitting system to ensure that the operation of the short-term rental is conducted in a manner that promotes the health, safety, and welfare of the community and neighborhood in which the use is conducted, protects property values, and ensures appropriate use of natural and municipal resources. Pursuant to that purpose, this Article further establishes regulations related to the operation, occupancy, owner responsibilities, tenant responsibilities, nuisance oversight, and life safety standards and inspections of short-term rentals.

**22.1.2 Applicability** – This Article shall apply to short-term rentals as that term is defined in Section 22.2.1 below. This article shall not apply to properties that are rented to transient occupancies when the property is used as the owner’s primary residence or seasonal residence. This article shall not apply to occupancies that do not constitute transient occupancies, defined as the rental of a property for more than ninety (90) consecutive days.

### **22.2 Definitions**

**22.2.1 Short Term Rental** – The rental of a dwelling unit for periods of up to thirty (30) consecutive days to transient occupants, lodgers, or guests, rented or offered for rent for thirty (30) or more days in a calendar year, and where the dwelling unit does not otherwise constitute a hotel, motel, bed-and-breakfast, cottage colony, boarding house, campground, or other similar uses.

**22.2.2 Sleeping Area** – Any room that has a bed, bunk beds, daybed, murphy bed, or other furniture for sleeping, including, and without limitation, pull-out couch or futon. To be a valid sleeping area, there must be within the room a primary means of egress, a secondary means of escape, and working carbon monoxide detectors and/or alarms and working smoke detectors and/or alarms as per chapter 24 of NFPA 101, *The Life Safety Code*, the State Fire Code, and RSA 153:10-a. Lofts accessed by ladders are not valid for sleeping areas. A room designated as a sleeping area shall require a minimum of seventy (70) square feet of floor area. A single room may contain no more than one (1) sleeping area.

**22.2.3 Occupant Load** – The maximum number of individuals permitted to sleep on the property, as determined by the Planning Board, and as capable of being safely accommodated by the property’s septic system if the property is so equipped, and in accordance with life safety considerations.

**22.2.4 Primary Residence** – A dwelling that is occupied by its owner for a majority of the year.

**22.2.5 Seasonal Residence** – A dwelling that is occupied for less than a majority of the year, and which is occupied by its owner for a majority of the time that the dwelling is occupied. For example, a seasonal island property accessible only by boat where the owner occupies the dwelling from June through September, but rents it out for three (3) weeks each summer.

### **22.3 Conditional Use Permit Required**

**22.3.1** – Short-Term Rentals are allowed in such districts in which single-family residences and/or two-family residences are permitted, or on parcels where a single-family or two-family residence has already been permitted by a special exception, and upon issuance of a Conditional Use Permit by the Planning Board.

**22.3.2** – No dwelling unit may be rented or offered for rent as a short-term rental without first obtaining a Conditional Use Permit from the Planning Board.

**22.3.3** – Notice of any Conditional Use Permit application shall be provided to abutters by first class mail within ten (10) days of the Planning Board acting on such application.

**22.3.4** – Violation of this section shall be subject to Article 23 of this Zoning Ordinance and shall be subject to injunctive relief and/or civil fines and penalties as set forth in RSA 676:16, :17, and :17-a.

**22.3.5** – This Article allows for the Planning Board to review individual applications and make unique decisions on those applications when unforeseen circumstances or unintended consequences occur.

**22.4 Permit Application Procedure** – A Conditional Use Permit as defined in RSA 674:21(II) is required for all short-term rentals.

**22.4.1 Application Requirements** – The following information and documentation shall accompany the application for a Conditional Use Permit and be provided to the Town:

- (a) Application Form. A completed application form, which may be obtained from the Town of Gilford’s website, or the Department of Planning and Land Use.
- (b) Site Plan. Sketch, to scale, of the property showing structures, parking spaces, septic systems, wells, property lines, and outside amenities.

- (c) Floor Plan. A plan showing the layout of each floor of the building to be used as a short-term rental, including all sleeping areas and the beds for those sleeping areas, bathrooms, and kitchen amenities.
- (d) Emergency Contact. The name, address, and twenty-four (24) hour contact phone number for the owner or owner's agent who can be contacted in case of emergency. This person or business must be able and available to be on site within sixty (60) minutes if requested by the Town or emergency services.
- (e) Septic Systems. Proof that the septic system on the property can handle three hundred (300) gallons per day, plus one hundred fifty (150) gallons per day for each sleeping area identified on the property in excess of two (2). Satisfactory proof shall include either (i) a State of New Hampshire ISDS Permit showing approval for the proposed occupant load, or (ii) proof that the system has been pumped and inspected within the prior twelve (12) months by a qualified professional and is in good operating condition. If there is no ISDS Permit due to the system predating any applicable permitting requirements or for other good cause, this requirement may be satisfied by providing a letter from a New Hampshire Licensed Septic Inspector stating the Septic System is appropriately sized and is in good working order. Applicants whose properties are connected to a municipal sewer system shall not be required to provide the proof set forth in this Section 22.4.1(e).
- (f) Garbage. Short term rentals shall demonstrate an approvable plan for trash storage and removal.
- (g) Life Safety. Approval from the Gilford Fire Chief or the Fire Chief's authorized designee that the Property complies with all applicable provisions of the State Fire Code and all applicable Life Safety Codes.
- (h) Application Fee. An application fee as established by the Board of Selectmen as well as the cost for all needed abutter notifications.

**22.4.2 Duration of Permit** – The Conditional Use Permit shall be initially valid for three (3) years from the date of issuance. Permits may be renewed in accordance with Section 22.4.4. Upon demonstration of a history of compliance with the Permit conditions since the issuance of the Permit, the Department of Planning and Land Use shall be authorized to issue a Permit renewal for additional three (3) year periods. Permits are not transferable and shall not run with the land. Upon expiration of the permit, the short-term rental use shall immediately cease and any further use of the property for short term rentals shall constitute a violation of this section.

**22.4.3 Permit Renewals** – A Conditional Use Permit may be renewed prior to the lapse or termination of the Permit which renewal shall be valid for three (3) years. To obtain a renewal, the owner must submit a Conditional Use Permit renewal application together with the certification set forth in Section 22.4.1(e) and (g) to the Planning Board within sixty (60) days of the expiration of the Conditional Use Permit. Upon receipt of such an application request, the Planning Board may grant such request, provided no material changes have occurred to the property, there have been no alterations of sleeping areas or the capacities of sleeping areas, and all life safety and septic equipment remain in good working condition.

The burden shall be on the owner to demonstrate satisfaction of all criteria necessary for the grant of a conditional use permit renewal.

**22.4.4 Inspections** – In considering an application for a short-term rental and any renewal thereof, the Planning Board or the Planning Board’s authorized designee may conduct an inspection to ensure that all regulations set forth in Section 22.6 are satisfied, including, but not limited to, the State Fire Code and the NFPA Life Safety Code, and to confirm the number of bedrooms and sleeping areas in the Property.

**22.4.5 Conditions of Approval** – In granting a Conditional Use Permit, the Planning Board may impose such conditions as are reasonable and necessary to satisfy the purpose of this section, including, but not limited to, imposing a limitation on the period during which the property may be used as a short-term rental, limiting the number of vehicles that may be parked on the property, and/or limiting the number of vehicles that may be parked on the street.

**22.4.6 False or Misleading Information** – If it is determined that an owner has provided false or misleading information in support of an application for a conditional use permit, the Planning Board may deny said application or, in the case of a permit previously issued, revoke that permit.

**22.5 Approval Criteria** – The short-term rental Conditional Use Permit approval shall be issued by the Planning Board upon satisfaction of the following:

**22.5.1** – The application is complete.

**22.5.2** – There are no outstanding violations of any provision of this Zoning Ordinance associated with the Property with the Town.

**22.5.3** – A minimum of one (1) parking space per sleeping area is provided on site. This requirement shall not apply to properties located in the Island Residential Zone. (See Section 22.6.3 – Parking)

**22.5.4** – The septic system on the property is in good working condition and is of a sufficient capacity for the proposed occupant load, or the dwelling is connected to municipal sewer.

**22.5.5** – The property complies with all application provisions of the State Fire Code and the NFPA Life Safety Code, all sleeping areas have compliant means of egress and escape, and the property has a compliant number of working smoke detectors and carbon monoxide detectors.

**22.5.6** – The property complies with all the regulations for short-term rentals set forth in Section 22.6.

## **22.6 Regulations**

**22.6.1 Sleeping Areas** – Only the rooms designated as sleeping areas in the application, shown on the floor plan, and approved by the Town, shall be used for sleeping. Said rooms shall only be used for sleeping areas by the number of guests identified in the application.

### **22.6.2 Guests** –

- (a) The maximum number of overnight guests permitted in a short-term rental shall not be more than two (2) person per sleeping area, plus two (2) additional guests. Children under three (3) years shall count as one half ( $\frac{1}{2}$ ) of a person for the purposes of calculating occupant load.
- (b) The maximum number of people allowed on the property between the hours of 12:00 midnight and 8:00 a.m. shall not exceed the approved occupant load.
- (c) Compliance with the provisions of this section and the conditions in the Conditional Use permit shall be the responsibility of the owner. The owner shall be responsible for the conduct of their guests and violations of this Ordinance or the Conditional Use Permit by guests and occupants shall be enforceable against the owner.
- (d) The owner shall maintain records identifying the name, address, contact information and dates of stay for all occupants, and shall make such information available to the Town within forty-eight (48) hours of the Town's request.

### **22.6.3 Parking** –

- (a) For properties not located in the Island Residential Zone, a maximum of one (1) vehicle per sleeping area is permitted. All guests' vehicles shall be parked on the property and shall be parked in an approved parking space. Owners shall be required to comply with all Town ordinances and regulations related to parking, including chapter 24.
- (b) For properties located in the Island Residential Zone where parking for guests is located in Gilford, a maximum of one (1) vehicle per sleeping area is permitted. Applicants shall demonstrate an approvable plan for parking and all guests' vehicles shall be parked in an approved parking space. Owners shall be required to comply with all Town ordinances and regulations related to parking, including chapter 24.

**22.6.4 Dumpsters** – Dumpsters shall be placed in observance of primary building setbacks and shall be fully enclosed with an opaque gated fence at least six (6) feet high.

### **22.6.5 Noise** –

- (a) Short Term Rentals shall not interfere with the neighbors' peaceful enjoyment of their property and shall comply with all applicable provisions of the Town's Zoning Ordinance and Town Ordinance chapter 17, related to noise.

- (b) Noise complaints, when reported to the Town, may constitute a violation of this ordinance when the reporting party is willing to make a written complaint or provide evidence of excessive noise.
- (c) The owner shall remain responsible for the conduct of all guests and occupants and shall ensure that the use of the property does not constitute a nuisance, as that term is defined by Section 6.2 of this Zoning Ordinance.

**22.6.6 Posting** – Each Short-Term Rental shall have a clearly posted and legible notice, on or adjacent to the front door, containing the following information:

- (a) The name of the owner or owner’s agent with their twenty-four (24) hour phone number.
- (b) The maximum number of occupants permitted by conditional use permit.
- (c) The maximum number of vehicles permitted on the property and a statement that all vehicles must be parked on the property.
- (d) If there is a Fire Pit, the requirement to get a permit before use and to burn only campfire wood.
- (e) If Pets are permitted, the requirement to keep pets under control and off other peoples’ property.
- (f) Name and phone number of the Gilford Fire Department and a statement to call 911 in case of emergency for police, fire, or emergency medical services (EMS).
- (g) A copy of the conditional use permit.

**22.6.7 Owner Information** – The owner shall provide the Town with the owner’s mailing address, phone number, and email contact information, and shall update the Town upon the change of any such information.

## **22.7 Violations and Penalties**

**22.7.1** – Violation of this section shall be subject to Article 23 of this Zoning Ordinance and shall be subject to injunctive relief and/or civil fines and penalties as set forth in RSA 676:16, :17, and :17-a.

**22.7.2** – Failure to correct a violation upon the issuance of two (2) notices of violation and/or cease and desist orders within a twelve (12) month period from date of first violation shall constitute grounds for revocation of the conditional use permit.

**22.7.3** – Any owner who has had his/her conditional use permit revoked under this section, may not apply for a conditional use permit under this section for one (1) year from the date of revocation.

- (a) Revocation of a conditional use permit shall not affect other conditional use permits that owner may have for other properties located in the Town.
- (b) Should an owner have his/her conditional use permit for a particular short-term rental property revoked a second time, that owner may no longer obtain a short-term rental registration for that property.

**22.8 Effective Date** – This Article shall take effect July 1, 2023.

(Article 22 Created 03/14/23, War. Art. 2.1)