

Chapter 260

Short Term Rental Establishments

LEGISLATIVE INTENT: There is existing in the Town of Newfane, a number of short term rental establishments in violation of the Town of Newfane Zoning Ordinance, and it is the intent of the Town of Newfane, to create a Local Law to address and correct this problem, by permitting the owners of all of the existing short term rental establishments, and requiring them to obtain a Special Exception Use Permit from the Town of Newfane Planning Board. The permitting requirements necessary to obtain said Permit are set forth herein. The intent of this Local Law is also to address the addition of short term rental establishments in the Town of Newfane which may be created in the future, as a result of the growth of tourism in the Town, by also requiring these permitting requirements established herein, to apply to all future short term rental establishments created in the Town of Newfane. All the provisions in this chapter, with the exception of § 260-1 and § 260-3A, are applicable to both existing and future Short Term Rental Establishments. The Short Term Rental Establishment use established by this permitting process shall run with the land.

[HISTORY: Bed and breakfast Establishments adopted by the Town Board of the Town of Newfane on 3-23-1988, by L.L. No/ 1-1988, Ch 5 of the 1971 Code. Amendments noted where applicable]

GENERAL REFERENCES

ZONING- See Ch. 270

§ 260-1 Existing Short Term Rental Establishments legalized.

All existing short term rentals as defined herein shall be legal and be considered as a permitted use under the Town of Newfane Zoning Ordinance, and shall be required to comply with all Sections of this Local law, with the exception of Section 260-4. All existing short term rentals as defined herein shall also be required to apply for a Special Exception Use Permit to the Building Inspector within 60 days from the date of the passage of this Local Law. Failure to comply with this requirement will result in a loss of a permitted status under § 260-1 of this Local law.

§260-2 Permit required.

All existing and future short term rental establishments, as defined below, are permitted with a Special Exception Use Permit, provided that all requirements set forth below are observed. No person, firm, corporation, association, partnership or any other entity shall operate a Short Term Rental Establishment in any zone without first having obtained a Special Exception Use Permit from the Town of Newfane Planning Board.

§ 260-3 Definitions.

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

A. Existing. Any Short Term Rental Establishment in existence as of the effective date of this Local law.

B. Short Term: Occupancy for hire for a period of 90 consecutive days or less.

C. Short Term Rental Establishment: Any establishment, both existing and future, which lets one or one and more rooms for short term rental occupancy, and which is not classified as a hotel or motel.

D. Permit: A Special Exception Use Permit granted or to be granted pursuant to the requirements of this chapter.

E. Lot or Property: A parcel of land consisting of one property tax (S.B.L.) number.

§ 260-4 Short Term Use and Dimensional Regulations:

NOTE: No more than one short term rental establishment is permitted on any lot or property.

A. Agricultural/Residential (AR).	Special Exception Use
B. Rural Residential (RR).	Special Exception Use
C. Single Family Residential (R-1).	Prohibited Use
D. Multi-Family Residential (R-2).	Special Exception Use
E. Community Facility (CF).	Prohibited Use
F. Mobile Home Park (MHP).	Prohibited Use
G. Village Business (VB).	Special Exception Use

H. Highway Commercial (HC).	Prohibited Use
I. Marina Business (MB).	Special Exception Use
J. Light Industry/Industrial Park (IP).	Prohibited Use
K. General Industry (GI).	Prohibited Use

§ 260-5 Permit Regulations:

A. Issuance of Special Exception Use Permits: The Town of Newfane Planning Board shall have sole authority to issue special exception use permits for Short Term Rental Establishments.

B. Length of Special Exception Use Permits: Said permits shall be issued on a one year (1) nontransferable, renewable basis. No short term rental establishment shall operate at any time in violation of the provisions of this chapter.

C. The form of the Permit and Application: The form of the permit and application therefor shall be prescribed by the Town of Newfane Planning Board, with input from the Building Inspector, and administered by the Town of Newfane Building Inspector. The applicant shall provide all information required by the application to the Building Inspector, and after all of the information required by the application is received by the Building Inspector, the Building Inspector shall forward the application and supporting documents, to the Planning Board for it's review, consideration and, after holding a Public Hearing thereon, render it's decision on whether to grant the Special Exception Use. The premises shall be inspected by the Building Inspector or his/her deputy, during the application process, and thereafter, as the Building Inspector deems necessary.

D. Requirements. Before a permit may be granted, the following requirements shall be met:

(1) A drawing of the building floor plan with accurate dimensions. The drawing shall designate rooms for use by guests, designate exits and access to exits and identify and specify the off-street parking spaces that are required by this chapter.

(2) The application shall be signed by the owner of the premises and shall contain at least the following: the name, address, telephone number and e-mail address, if available, of the owner and operator, if any.

(3) Each establishment shall have exits clearly marked.

(4) Each establishment shall have adequate exits (number, location and size) for the maximum number of guests which can be housed pursuant to this chapter.

(5) Each guest room shall have a functioning smoke detector that complies with the New York State Uniform Fire Prevention and Building Code requirements.

(6) Each establishment shall have functioning Carbon Monoxide Detectors as required by code.

(7) Each guest room shall have written information, clearly posted, showing the location of all means of exiting the building in the event of an emergency.

(8) Each establishment shall have a minimum of one (1) fire extinguisher (2A-10BC rated) on each floor with sleeping quarters and may, in the discretion of the Building Inspector, be required to have additional such fire extinguishers available. All fire extinguishers must be inspected once a year.

(9) The required fee for the permit shall be paid each year to the office of the Building Inspector, who will forward same to the Town Clerk.

(10) Occupancy shall be limited to 10 people per establishment. There shall be at least one (1) bathroom and shower for every five people who may reside or stay at the establishment.

(11) The minimum square footage of each room shall be one hundred twenty (120) square feet. Up to two (2) guests shall be permitted in a room with said one hundred twenty (120) square feet. An additional sixty (60) square feet is required for every guest over two (2) guests per room.

(12) The quarters to be utilized by the guest or the occupants of the premises shall not be permitted in any accessory structure, sheds or similar structures, basements, attics, sunrooms, porches and garages.

(13) The use by guests shall be no longer than ninety (90) consecutive calendar days.

(14) No parking shall be allowed in Public Rights-Of-Ways.

(15) One off-street parking space shall be provided for each living quarter designated as a rented room, as described in the application and permit, plus such additional parking spaces as the Planning Board shall deem necessary for the residents. All parking spaces shall be graveled or paved as determined by the Planning Board.

Boats, Trailers and Campers must use designated off-street parking.

(16) No inventory of goods shall be maintained for sale on the premises.

(17) All signage shall comply with the Town of Newfane sign ordinance.

(18) The permit issued by the Planning Board and renewals thereof issued by the Town Clerk, along with the Town Noise Ordinance, shall be posted at all times inside all establishments in a conspicuous place.

(19) Planning board to take into consideration yard screening with plantings, and/or fencing.

E. The Building Inspector shall keep a directory setting forth a current listing of all premises for which a permit has been issued. The Building Inspector shall send a copy of said directory to all Fire Departments in the Town of Newfane, and to the Town Clerk. Said directory shall also contain the name, address, telephone number and e-mail, if any, of the owner and operator of the establishment.

§ 260-6 Fees.

The yearly fee for the permit hereby required shall be \$ 250.00, and any revisions of this fee in the future may be determined by the Town Board by Resolution.

§ 260-7 Renewals: Permits shall be renewed annually, and shall expire one year from the date the Permit was granted. The owner of the Short Term Rental Establishment can apply for the renewal ninety (90) days prior to expiration of said Permit, by submission of an application by the owner for renewal of the Permit to the Building Inspector. The form and content of the renewal application shall be prepared by the Planning Board, and supplied by the Building Inspector, to the owner. The completed renewal application shall be approved by the Building Inspector, and then submitted by the Building Inspector to the Town Clerk. for issuance thereof. The Building Inspector is authorized to conduct an investigation, to inspect the premises pursuant to the above §260-5C and

§ 260-5D, and may require that any and all violations of this chapter be resolved to his or her satisfaction, or by resolution in the Town Court, Town of Newfane, prior to any renewal application being submitted to the Town Clerk for issuance thereof. The actions of the Town Clerk in approving the renewal shall be ministerial in nature. In the event that renewal of a permit in accordance with this chapter, has not been obtained by the owner, within the 90 day renewal period as aforesaid, the owner shall cease operation of the Short Term Rental Establishment until renewal of said permit is obtained.

§ 260-8 Penalties for offenses.

Any person, corporation, business, association, firm, partnership owning and/or operating a short term rental establishment found to be operating in violation of any provisions of this Chapter, shall be guilty of a violation, and shall be subject to a fine not exceeding Two Hundred Fifty (\$250.00) Dollars, or imprisonment not exceeding 15 days, or both such fine and imprisonment. Each day a violation exists, it shall be considered a separate violation of this chapter. In addition to any of the above violations found by the Building Inspector, the following are considered a violation of this Chapter, and are also subject to modification or revocation of the Permit.

A. That the approval of the permit was obtained by fraud.

B. That the permit granted is being or recently has been exercised contrary to the terms or conditions of such approval of, and/or in violation of any statute, ordinance, law or regulation.

C. That the actions and conduct, and the conduct of operations of the permit holder, it's agents and /or employees, have been so exercised as to be detrimental to the public health or safety of the community, or, so as to constitute a public nuisance.

§ 260-9 Seasonal Workers: This Ordinance shall not apply to housing for seasonal workers, such as agricultural workers, produce packing workers, seasonal motel and hotel workers, seasonal restaurant workers.

§ 260-10 Repeal: CHAPTER 68 of the Town of Newfane Town Code, Bed and Breakfast Establishments, adopted by the Town Board of the Town of Newfane on 3-23-1988, by L.L. No. 1-1988, Ch 5 of the 1971 Code pertaining to the same matter, is hereby repealed in it's entirety upon filing of this chapter.

§ 260- 11 Inconsistent provisions: This Chapter amends Chapter 270 ZONING. If any of the provisions of this chapter be inconsistent with any provisions of Chapter 270 ZONING, the provisions of this chapter shall control.

§ 260-12 the provisions of this Chapter shall be subject to the provisions of CHAPTER XXI of the Niagara County Code of Niagara County, NY, with the exception of the term of occupancy being set forth herein as 90 days.

§ 260-13 When Effective: This chapter shall become effective immediately after filing with the Secretary of State.