

Chapter 25 – Zoning Code

NOTE: The Village’s existing Short-Term Rental Law (Chapter 24) has been incorporated into this draft as a new section under the Village’s Zoning Code (Chapter 25), Article VI (Supplemental Regulations). Therefore, the adoption of these amendments to Chapter 25 shall result in the repeal of Chapter 24.

Article II. Definitions

Amend this Article of the Zoning Code (Chapter 25) to include the following:

SHORT-TERM RENTAL (STR) — A dwelling unit, including the surrounding land area, structures, and amenities of the lot on which it is located, that is rented, in whole or part, by the owner or occupant of the dwelling to any person or entity for a period of less than 30 consecutive nights. Motels, hotels, inns, and bed and breakfasts are excluded from this definition. For land and building use classification, assessment, occupancy tax, and utility billing purposes, an STR shall be considered a transient commercial use or business.

BED AND BREAKFAST (B&B) — An owner-occupied, single-family dwelling where overnight accommodations are provided to guests in the bedrooms thereof, often also serving meals to guests. For land and building use classification, assessment, occupancy tax, and utility billing purposes, a B&B shall be considered a transient commercial use or business.

FULL-TIME RESIDENT(S) — A person or person(s) spending at least 184 days in the subject dwelling unit during a 12-month period. Such dwelling unit shall be considered their primary residence.

Article IV. District Regulations

Amend zoning district use lists in this Article to reflect permissions as noted in the table below.

	<i>R-1 (SF)</i>	<i>R-2 (MF)</i>	<i>R-3 (Mobile)</i>	<i>B-1 (Retail)</i>	<i>B-2 (Highway)</i>	<i>B-2.1 Overlay (Auto/Adult)</i>	<i>I-1 (LI)</i>
<i>Short-Term Rental, subject to §25-35.1</i>	-	-	-	SP	SP	SP	-
<i>Bed & Breakfast</i>	-	SP	SP	SP	SP	SP	-

NOTE: “-” indicates the use is prohibited; “SP” indicates the use requires the issuance of a special use permit per §25-88.

Article VI. Supplemental Regulations

Add a new section to this Article, numbered as noted below that adapts and incorporates the regulations of the existing Chapter 24 (Short-Term Rental Law) into the Zoning Code (Chapter 25).

§25-35.1. Short-Term Rentals (STRs)

- A. Purpose. The Village of Lakewood is proud to be a community that welcomes visitors while maintaining availability of permanent housing stock for residents and a high quality of life. The backbone of our Village is our residential neighborhoods and STRs may cause disruption to the peace, quiet and enjoyment of people that call Lakewood home. 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 STRs and those who choose not to do so. The following STR requirements for the Village are intended to safeguard the public health, safety, and welfare by regulating and controlling the location, use, occupancy, oversight, and maintenance of STR properties.
- B. Permit Required.
- (1) Prior to establishing an STR, the owner and/or operator shall obtain special use permit approval by the Village Board in accordance with §25-88 of the Chapter.
 - (2) A special use permit for an STR operation shall be valid for one (1) year from the date of issuance and must be renewed prior to expiration for the property to continue to be used for such purposes.
 - (3) A special use permit issued for an STR operation is not transferable to a new owner or operator. The new owner or operator of an STR property must file a new application in accordance with the terms of this section if such property is to continue to be used for STR purposes.
 - (4) No STR shall be permitted on any property that is in violation of this Zoning Code or the NYS Uniform Fire Prevention and Building Code.
- C. Site Plan Review. Per §25-89, the Village Board may require site plan review and approval for an STR application if in their opinion the use could have a major impact with respect to traffic safety, health, neighborhood character, municipal cost, environment, nuisances, or aesthetics. The review process shall take place concurrently with the special use permit process.
- D. Applications.
- (1) Applications for an STR, including renewals, shall be submitted to the Village Clerk.
 - (2) An application is considered accepted and ready for processing only if it is submitted in the appropriate number and form, includes all required materials and supporting documentation, and is accompanied by the required fee.
 - (3) The acceptance of an application by the Village Clerk shall in no way be interpreted as a determination of the completeness, adequacy, or accuracy of application

materials, but rather serve as an acknowledgement to the receipt of required fee and application materials in the correct number and form.

- (4) If an application is determined to be not ready for processing due to missing or incomplete information, a paper or electronic written notice shall be provided to the applicant, along with an explanation of all known deficiencies that prevent review.
 - (5) No further processing of deficient applications will occur. When the deficiencies are corrected, the application will be placed in the next available processing cycle. If the deficiencies are not corrected within 62 days, the application will be considered withdrawn.
 - (6) In addition to the submittal requirements of §25-88 of this Chapter, applications for an STR shall also include the following:
 - (a) The required STR special use permit application fee, as established by the Village Board in the Short-Term Rental Schedule of Fees and Penalties.
 - (b) A list of all the property owners and/or operators of the STR, including names, addresses, telephone numbers, and email addresses. This shall include signatures of all persons and entities with ownership interest in the property.
 - (c) A list of all full-time residents of the property and proof of notification of intent to apply for an STR permit.
 - (d) Proof that there is not a restrictive covenant on the property to operate a business or otherwise use the property for commercial purposes.
 - (e) Written consent to a property inspection by the CEO.
 - (f) A statement of compliance with all STR standards outlined in this Section.
 - (g) Contact information for the designated local person or agent in accordance with Subsection G and signed agreement by such person consenting to the fulfillment of this role.
 - (h) A rental contract in accordance with Subsection E below.
 - (i) Proof of property insurance.
 - (j) Proof of registration with Chautauqua County, including the issued Certificate of Authority to Collect Occupancy Tax, and proof of payment if seeking renewal.
 - (k) Proof of notification to adjacent property owners of intent to operate or continue to operate an STR.
 - (l) If seeking renewal, a record of all police calls to and complaints filed against the subject property over the preceding 12-month period.
- E. Rental Contract. All owners and operators must provide all renters with a rental agreement including, at a minimum, the following information:
- (1) Maximum property occupancy (Subsection H)

- (2) Operational restrictions (Subsection I)
- (3) Parking restrictions (Subsection J)
- (4) Good Neighbor Guidelines
 - (a) Be friendly, courteous, and treat your neighbors like you want to be treated. Be considerate of neighbor's right to the quiet, private enjoyment of their home and property.
 - (b) Be sure to pick up after yourself and keep the property and neighborhood clean, presentable, and free of trash.
 - (c) Promptly clean-up after pets. Prevent excessive and prolonged barking and keep pets from roaming the neighborhood. Control aggressive pets and keep all pets on a leash when off the STR property. All dogs must be licensed and up to date on their rabies vaccination.
 - (d) Do not trespass on neighboring properties.
- F. Requirements upon Approval of Permit.
 - (1) The permit holder shall provide a copy of the permit to the owners of all properties adjacent to the STR property. A statement of compliance with this provision, identifying the owners served, their addresses, and the method of service (e.g., mail, personal delivery) shall be provided to the Village Clerk.
 - (2) The special use permit and certificate of occupancy shall also be prominently displayed inside and near the front entrance of the STR.
 - (3) The permit holder must conspicuously display the permit number in all advertisements for the STR.
- G. Local Contact.
 - (1) Each STR operation shall have a designated 24-hour contact.
 - (2) Such contact shall be an authorized agent of the property owner and/or STR operator and shall be responsible for responding to and remedying any issues, complaints, or other conflicts associated with the STR property.
 - (3) The designated individual must be able to be present at the location of the STR within 30 minutes of notification of any issues, complaints, or conflicts.
 - (4) A phone number and email for the designated individual shall be provided to the Village Office and conspicuously posted for the use and reference by guests.
- H. Maximum Occupancy. The maximum occupancy of an STR shall be limited to two (2) persons per bedroom or 10 people, whichever is less. For the purposes of this section children under the age of four shall not be included in the occupancy calculation.
- I. Operational Requirements.

- (1) Provisions shall be made for weekly garbage and/or recycling removal. Garbage and recycling containers shall be always secured with tight-fitting covers to prevent spilling, odors, and access by pests, and placed where they are not visible from the street or road except around pick-up time.
- (2) No STR shall be rented out for the purposes of hosting events, weddings, parties, or other gatherings that would cause occupancy of the property to exceed the maximum number of guests permitted under Subsection H above.
- (3) No more than one pop-up tent with a maximum area of 100 square feet shall be permitted with the use of an STR.
- (4) The use of Port-o-Johns, Porta Potties, or other such portable toilet structures shall be prohibited on STR properties.
- (5) The use of outdoor speakers or other audio amplification devices shall not be permitted between the hours of 10:00 PM and 8:00 AM, Eastern Standard Time. The requirements of §25-55 of this Chapter shall also be enforced, as applicable.
- (6) Indoor and/or outdoor fires must be attended at all times. Guests and occupants shall comply with all relevant burn bans.
- (7) Renting out of on-site amenities, such as pools, lawns, docks, or accessory structures separate from the approved STR shall be prohibited.
- (8) No accessory structure associated with a STR property may be converted to or utilized for overnight sleeping accommodations.

J. Parking Requirements.

- (1) An STR must be capable of accommodating the minimum number of off-street parking spaces in accordance with the table below.

<i>Configuration</i>	<i>Minimum Number of Parking Spaces</i>
<i>Dwelling, 3 beds or less</i>	2 per Dwelling Unit, +1 space
<i>Dwelling, 5 beds or less</i>	2 per Dwelling Unit, + 2 spaces
<i>Dwelling, 6 beds or more</i>	See above, + 1 additional space per bedroom over 5

- (2) Parking of vehicles must be on the property at all times.
- (3) Parking is prohibited on public streets or in non-designated spaces, such as lawns.

K. Safety Standards. All STRs must comply with the following safety standards. All such uses shall be subject to inspection in accordance with Section N to ensure compliance.

- (1) Emergency evacuation procedures must be posted in each sleeping room.
- (2) A fire extinguisher shall be provided on each floor and in each kitchen. Fire extinguishers shall be inspected monthly by the permit holders.

- (3) Exterior doors shall be operational and all passageways to exterior doors shall be clear and unobstructed.
 - (4) All STR structures shall follow the NYS Uniform Fire Prevention and Building Code, including but not limited to any enhanced and/or additional safety and structural accommodations triggered by a change from residential to transient class of use.
- L. Taxation. All applicants and permit holders shall register and file as a lodging business with Chautauqua County for occupancy tax purposes.
- M. Compliance with Other Local, State, and Federal Regulations. Owners and/or operators of STRs shall obey all other applicable laws, ordinances and regulations of the Village of Lakewood, Chautauqua County, New York State, and the United States, and shall be subject to the enforcement and penalty provisions contained therein. This shall include, but is not limited to, the NYS Uniform Fire Prevention and Building Code.
- N. Inspections.
- (1) The CEO, or their designee, shall make inspections prior to the issuance of a special use permit, including annual renewal applications, to determine the condition of an STR and ensure compliance with this chapter and other applicable local, state, and federal rules, laws, and regulations.
 - (2) For the purpose of making inspections, the CEO or their designee may enter, examine and survey, at all times, all buildings, dwelling units, guest rooms and premises on presentation of the proper credentials. The owner or operator of an establishment, or the person in charge, shall give the inspector free access to the building.
- O. Complaints.
- (1) Any person aggrieved by the operation of an STR may submit a complaint in writing to the CEO.
 - (2) The CEO shall be responsible for ensuring compliance with this local law when it is brought to their attention that a violation may exist, even if no formal complaint is filed.
 - (3) STR complaints and suspected violations shall be reviewed and investigated by a Complaint Review Board to verify if a violation has occurred in accordance with this Chapter.
 - (4) Membership of the Complaint Review Board shall be comprised of the following:
 - (a) Village CEO;
 - (b) Planning/Zoning Board of Appeals Chairperson;
 - (c) Two (2) Village Trustees; and
 - (d) A representative of the Lakewood-Busti Police Department as designated by the Police Chief.

- (5) The Complaint Review Board shall meet within 10 business days of receipt of a complaint or notification of suspected violation by the CEO. The STR permit holder and complainant, if applicable, shall be notified of the meeting date, time, and location at least three (3) days prior. Public notice of said meeting shall also be made in conformance with NYS Village Law.
- (6) The Complaint Review Board may adopt a standard set of rules and procedures for conducting meetings, hearing testimonies, and votes. All business conducted by the Complaint Review Board shall be in conformance with NYS Open Meetings Law.
- (7) No business may be conducted by the Complaint Review Board in the absence of a quorum.
- (8) Upon majority finding by the Complaint Review Board that the STR was or continues to be in violation of this Chapter, the CEO shall issue to the property owner and/or STR operator a written notice detailing the alleged violation(s). In the case of an continued violation, such notice shall also specify what corrective action is required and the date by which such action must be taken.

P. Violations.

- (1) Operating an STR without a permit, or with a permit but not otherwise in compliance with the requirements herein, shall be considered a violation of this Chapter.
- (2) Notice of violation and issuance of summons, where applicable, shall be made in accordance with §25-69.
- (3) Any violation of the previous Chapter 24 (Short-term Rental Law) or this Section will continue to be a violation under this Chapter and be subject to penalties and enforcement as provided in Subsection Q below.
- (4) The adoption of this zoning law does not affect nor prevent any pending or future prosecution of, or action to abate violations of the previous law that occurred before the effective date of this Chapter.

Q. Penalties. For each verified violation of this Chapter, the fees of the **Short-Term Rental Schedule of Fees and Penalties**, as established by the Village Board, shall apply.

R. Revocation of Permit.

- (1) A special use permit for an STR may be revoked when any of the following occur:
 - (a) The property in question has had three (3) verified violations within 12 consecutive months.
 - (b) The property owner and/or STR operator fails to rectify a violation within the required timeframe.
- (2) An STR shall cease operation immediately upon notification by the CEO of permit revocation.

- (3) STR owners and/or operators that have had a permit revoked may not reapply for a period of 12 consecutive months from the date of revocation.
- S. Nonconforming STRs. All existing, previously approved STR properties shall be considered pre-existing, nonconforming uses as of the effective date of this amendment to Chapter 25. Nonconforming STRs shall cease operation within one (1) year of the effective date.