LOCAL LAW FILING

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Division of Corporations, State Records and Uniform Commercial Code
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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 of **South Bristol**
Village

Local Law No. 2 of the year **2020**

A Local Law Amending Chapter 170 (Zoning) of the Code of the Town of South Bristol to Add Short-Term Rental Regulations

(Insert Title)

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

County
City
Town of **South Bristol** as follows:
Village

Section 1. Given the rise in use of short-term rentals and given the effects short-term rentals can have on adjacent properties, neighborhoods and the Town as a whole, the Town Board finds it in the best interest of the Town to control and regulate the use of short-term rentals within the Town. The amendments being made to the Zoning Law of the Town of South Bristol are intended to preserve and protect the health, character, safety, and general welfare of the residential neighborhoods where such uses may exist, and to mitigate the adverse effects of short-term rentals.

Section 2. Article VI. (Supplementary District Regulations) of the Town of South Bristol Zoning Law is hereby amended with the insertion of a new Section 170-71 to read as follows:

§ 170-71 Short-term rentals.

A. Legislative intent. The purpose of this section is to control and regulate the use of short-term rentals within the Town. The provisions of this section are intended to preserve and protect the health, character, safety, and general welfare of the residential

neighborhoods where such uses may exist, and to mitigate the adverse effects of short-term rentals.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

ADJACENT PROPERTIES

(1) Other than as defined in paragraph (2), this shall mean properties, parcels, lots or units situated near or next to, adjoining, contiguous or abutting the subject property, whether on the same side of the road, across the road or behind the subject property; and

(2) When the subject property is a condominium unit that is a portion of a building containing condominium units on multiple floors with multiple condominium units on each floor, this shall mean all condominium units on the same floor as the subject property and also those condominium units adjoining directly above and below the subject property.

HABITABLE SPACE - The spaces in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, storage or utility spaces, garages, halls and laundry rooms are not considered habitable spaces.

OWNER - Person(s) and/or entity(ies) that hold(s) legal and/or equitable title to the short-term rental.

SHORT-TERM RENTAL

(1) A dwelling unit or part thereof rented for compensation of lodging by individuals for a period of not more than thirty-one (31) consecutive days.

(2) For the purpose of this Chapter, the term "short term rental" shall not include a bed-and-breakfast, boarding/lodging house, hotel or motel.

(3) 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 a dwelling unit is being used as a short-term rental:

a. All or a part of the dwelling unit is offered for lease on a short-term rental website, including but not limited to Airbnb, Home Away, VRBO and the like for a period of less than 31 days; and/or

b. All or a part of the dwelling unit is offered for lease in any medium for a period of 31 days or less.

2. The foregoing presumptions may be rebutted by evidence presented to the Code Enforcement Officer that the dwelling unit is not a short-term rental.

(4) Ongoing month-to-month tenancies are not short-term rentals.

C. Required Permit.

1. An owner shall obtain a revocable short-term rental permit prior to any dwelling unit being used for short-term rental purposes.

2. A short-term rental permit shall be valid for two (2) years and must be renewed upon expiration as long as the unit is used as a short-term rental.

3. The short-term rental permit is not transferable to a new owner. The new owner of property subject to a short-term rental permit must file a new application in accordance with the terms of this Section as if such property is not subject to a short-term rental permit.

4. No dwelling unit that was constructed as a single-family dwelling, two-family dwelling, multiple-family dwelling, dwelling with a business or dwelling above a first floor business after the enactment of this article shall be eligible to apply for a short-term rental permit for two (2) years after the issuance of the certificate of occupancy unless, at the time the application for the initial building permit for such dwelling is filed, an application for a short-term rental is also filed.

5. Notwithstanding the foregoing, those properties with short-term rental commitments existing on the date this section takes effect shall be permitted to honor such existing commitments and continue to make commitments for short-term rentals, but must apply, within thirty (30) days of the effective date, for all future short-term rental commitments. In the event such application is denied, all commitments must be cancelled.

D. Short-term Rental Permit Application Requirements.

Applications for a short-term rental permit may be obtained at the Town of South Bristol Code Enforcement Office. A completed application for or renewal of 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 Town Board, and contain at least the following:

1. The signatures of all tenants and/or residents of the dwelling unit to which the short-term rental permit would apply and the signatures of all owners.

2. A copy of the current vesting deed showing how title to the subject property is currently held.

3. Permission for a property inspection by the Code Enforcement Officer.

4. An acknowledgement of present and ongoing compliance with the Short-term Rental Standards as defined in this Section, including, but not limited to, the demonstration of adequate off-road parking spaces for the dwelling unit with proposed short-term rental.

5. A list of all the existing property owners, tenants and/or residents of the dwelling unit that is or contains the short-term rental, including names, addresses, telephone numbers and email addresses of each.

6. The name, address, telephone number and email address of a contact person, who shall be responsible, and authorized, to act on the owners' behalf to promptly remedy any violation of the standards outlined in this Section. The contact person may be an owner or an agent designated by the owner(s) to serve as a contact person.

7. An accurate suitable floor plan measuring at least 8.5 inch by 11 inch, drawn to scale and certified by the applicant. The floor plan need not be prepared by a professional, but must include the following:

a. The location of buildings and required parking.

b. Basement, to include house utilities, all rooms including bedrooms, windows and exits.

c. First floor - all rooms with exits, windows, bedrooms and any heating/cooling units.

d. Second floor - all rooms including exits, windows, bedrooms and any heating/cooling units.

e. Attic, if any, with all rooms including exits, windows, bedrooms and any heating/cooling units.

8. A statement that none of the owners of the subject property have had a short-term rental permit revoked within the previous year.

All completed applications are subject to a Floor Plan Review and Approval by the Planning Board. Upon approval of the application, the Code Enforcement Officer shall grant a short-term rental permit.

E. Short-term Rental Standards.

All short-term rentals shall meet the following standards:

1. Property Requirements

a. Smoke and Carbon Monoxide Detectors - There shall be one working smoke detector in each sleeping room and one additional smoke detector on each floor. Carbon monoxide detectors shall be installed as required by the New York State Uniform Fire Prevention and Building Code.

b. Emergency Evacuation Procedures - 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.

c. ABC Fire Extinguishers:

i. There shall be an ABC fire extinguisher on each floor and in the kitchen.

ii. Fire extinguishers shall be inspected monthly by the permit holders.

d. The house number shall be located both at the road and on the dwelling unit so that the house number is clearly visible from both the road and the driveway.

e. Exterior doors shall be operational and all passageways to exterior doors shall be clear and unobstructed.

f. Electrical systems shall be inspected by a third party electrical inspector to ensure no visual defects or unsafe conditions prior to initial rental permit application.

g. All fireplaces shall comply with all applicable laws and regulations.

h. The property containing the proposed short-term rental must have a minimum of one (1) off-road parking space for every bedroom shown on the floor plan included with the application.

i. The 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 the maximum occupancy of any dwelling unit that is or contains a short-term rental shall not exceed twelve (12) people total, based on the calculation of two (2) people per bedroom and counting all existing tenants and residents of the dwelling unit plus the possible number of renters of the short-term rental.

j. In the event that the property has a septic system, the maximum occupancy shall be defined by the capabilities of the septic system, but in no event shall overnight occupancy for any dwelling unit that is or contains a short-term rental unit exceed twelve (12) people, based on the calculation of two (2) people per bedroom and counting all existing tenants and residents of the dwelling unit plus the possible number of renters of the short-term rental.

2. Insurance and Registration Standards

a. All applicants and permit holders must provide a "Evidence of Property Insurance" and "Certificate of Liability Insurance" indicating the premises is rated as a short-term rental and maintain such insurance throughout the term of the short-term rental permit.

3. 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 around pick-up time.

4. Rental Contract. All applicants and permit holders must have a rental contract, which includes the following policies/statements:

a. Maximum Property Occupancy

b. Maximum on Site Parking provided

c. Good Neighbor Statement stating:

i. That the short-term rental is in a residential area in the Town of South Bristol and that renters should be conscious of the residents in neighboring homes;

ii. A statement that guests must comply with the Noise Law of the Town of South Bristol as set forth in Chapter113 of the Code of the Town of South Bristol;

iii. All renters will be subject to New York Penal Law §240.20 or any successor statute regarding disorderly conduct;

iv. A statement that littering is illegal; and

v. A statement that all fires must be attended.

F. Procedure upon Filing Application.

1. Short-term rental permit applications shall be filed with the Town of South Bristol Code Enforcement Officer with all supporting documentations and the nonrefundable permit fee. Only completed applications will be accepted by the Town's Code Enforcement Officer. The Code Enforcement Officer may decline to accept an application for consideration for any of the following reasons:

a. Application and documentation required by this Section was not included or the full permit fee paid.

b. If the Town of South Bristol issued a short-term rental permit to any of the owners needing to sign the short-term rental permit application and any of such owners had a short-term rental permit revoked within the previous year.

2. Upon the Code Enforcement Officer's acceptance of the completed permit application, all documents and information required by this Section and the application 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. Within thirty (30) days of inspection and certification of the short-term rental application by the Code Enforcement Officer, the Code Enforcement Officer will schedule with the Town of South Bristol Planning Board a floor plan review.

4. The Town of South Bristol Planning Board will review the Short-term Rental Application/Preliminary Floor Plan and feedback from Code Enforcement Officer to ensure that it meets all requirements as outlined in this Section.

5. Upon review of the accepted completed Short-term Rental Application by the Town of South Bristol Planning Board the Planning Board will schedule a public hearing as outlined in Section 170-94 of this Chapter within thirty (30) days. Public hearings will be advertised at least five (5) days prior

to the hearing date in a newspaper of general circulation as outlined in Section 170-94 of this Chapter.

6. Upon completion of the public hearing the Town of South Bristol Planning Board will approve, with or without conditions, or disapprove the Short-term Rental permit. In issuing a short-term rental permit, the Town Planning Board may impose such reasonable conditions and restrictions as are directly related to and incidental to the use of the property for short-term rentals so long as such conditions and restrictions are consistent with the requirements of this Chapter and are imposed for the purpose of minimizing any adverse impact the short-term rental unit may have on the neighborhood or community.

7. Upon approval of the Floor Plan Review/Short-term Rental Application by the Town of South Bristol Planning Board, the Code Enforcement Officer will issue the applicant a short-term rental permit. Short-term rental permits issued pursuant to this Section shall state the following:

a. The names, addresses and phone numbers of every person or entity that has an ownership interest in the short-term rental property and of a primary contact person who shall be available during the entire time the short-term rental property is being rented;

b. The maximum occupancy and vehicle limits for the short-term rental unit;

c. Identification of the number of and location of parking spaces available;

d. Any conditions imposed by the Planning Board and/or Code Enforcement Officer.

8. The short-term rental permit holder shall provide a copy of the short-term rental permit to the owners on record of all properties adjacent to the short-term rental property by either personally delivering or sending by first class mail such copy to such owners at the address the Town Assessor has on file for each such adjacent property for the sending of property taxes. Regardless of the number of owners of any adjacent property, the short-term rental permit holder shall only need to serve one copy for each adjacent property by a method provided in the preceding sentence. The short-term rental permit holder shall provide to Code Enforcement Officer within 30 days of when the permit is issued a statement of compliance with this provision, stating the owners served and the method of service (e.g. mail, personal delivery).

G. Conformity and Display of Permit.

1. Short-term rental permit is subject to continued compliance with the requirements of these regulations.

2. If the Code Enforcement Officer has probable cause to believe that the home owner is not in compliance with the provisions of the Zoning Law, the Code Enforcement Officer may petition a court of competent jurisdiction for a search warrant to conduct an inspection of the short-term rental property for purposes of ensuring compliance with this section. Alternatively, the Code Enforcement Officer may request permission from an owner of the short-term rental permit to come onto the property and to conduct an inspection of the short- term rental property for purposes of ensuring compliance with this Section, which permission the owners of the short-term rental are under no obligation to give. If an inspection authorized herein is conducted, the Code Enforcement Officer shall use the results of such inspection in determining whether to revoke the permit.

3. Prior to any tenants coming onto the short-term rental property:

a. The current short-term rental permit shall be prominently displayed inside and near the front entrance of the short-term rental; and

b. A copy of the current list of short-term rental properties will be provided by the Code Enforcement Officer to the Fire Department having jurisdiction.

4. The owners must ensure that current and accurate information is provided to the Code Enforcement Officer and that they notify the Code Enforcement Officer immediately upon any change in the information displayed on the permit. If, based on such changes, the Code Enforcement Officer issues an amended short-term rental permit, the owners must immediately replace the permit displayed inside and near the front entrance of the short-term rental with the amended permit and must immediately provide a copy of the amended permit to every adjacent property owner as required in paragraph F.8. herein.

5. The short-term rental permit holder must conspicuously display the short- term rental permit number in all advertisements for the applicable short-term rental.

H. Compliance, Hearings and Penalties.

1. Violations of this Section or of any short-term rental permit issued pursuant to this Section shall be subject to enforcement and penalties prescribed in this Chapter, as amended.

2. If the Code Enforcement Officer either witnesses or receives a written complaint of an alleged violation of this Section or of any short-term rental permit issued pursuant to this Section, the Code Enforcement Officer shall refer such matter to the Planning Board along with a copy of the complaint, if applicable, a written report, if any, pertaining to any investigation and/or inspection conducted relative to the alleged violation and any other facts or documents pertaining thereto. The Planning Board shall schedule a hearing to be held within 30 days and mail, by first class mail to the address(es) provided on the short-term rental application, written notice thereof to the owners and residents of the subject property no less than ten (10) days prior to the date of the hearing. At the conclusion of the hearing, the Planning Board shall determine if the terms of the short-term rental permit or the regulations contained in this Section were violated and, if it finds that there was a violation or violations, the Planning Board may take the following actions:

a. Attach reasonable conditions to the existing short-term rental permit;

b. Suspend the short-term rental permit; and/or

c. Revoke the short-term rental permit. Should a permit be revoked, none of the owners of the short-term rental unit may obtain any short-term rental permit sooner than one (1) year after the date of revocation.

I. Application for Renewal of Permit.

1. Application for renewal of the short-term rental permit is due thirty (30) days prior to expiration and requires payment of renewal fee.

2. At the time of application for renewal, landlord, owner, or designated agent, if applicable, must present the previous permit for short-term rental.

3. The property must have undergone an inspection performed by the Code Officer, and all violations must be remedied prior to renewal of a permit for short-term rental.

4. Upon completion of the above items Code Enforcement Officer will issue a two (2) year permit renewal.

J. Grounds for Suspension or Revocation of Permit. The Planning Board may suspend or revoke a short-term rental permit by application from the Code Enforcement

Officer based upon, among others, any of the following grounds:

1. Applicant has falsified or failed to provide information in the application for a permit, application for renewal of a permit, registration of property, or registration of property owner.

2. Applicant violated any provision of this section during the term of the short- term rental permit.

3. Applicant or any tenant violated any provisions of the Code of the Town of South Bristol.

4. Applicant or any tenant violated any provision of the Penal Code of the State of New York, which violation occurred on, or pursuant to the occupancy of the short-term rental unit.

5. Any conduct on the premises, which is unreasonable under the circumstances and which disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance.

6. Removal or disrepair of any safety devices such as, but not limited to, smoke and carbon monoxide detectors, fire extinguishers and egresses.

Section 3. If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 4. This local law shall take effect immediately upon filing with 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. 2 of 2020 of the **Town of South Bristol** was duly passed by the South Bristol Town Board on March 9, 2020 2020, 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[1].)

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.

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__. 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.

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[1] 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 2005 of the City of _____ 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.

_____
Clerk of the Town

(Seal) Date: _____