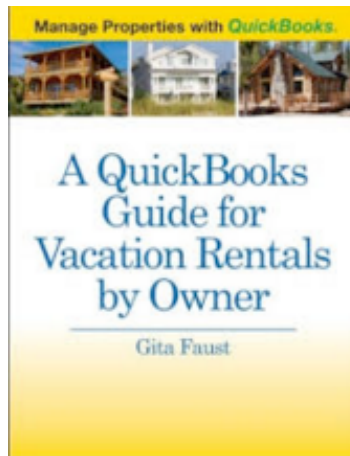


RENTAL PERMIT STUDY GROUP:

QUALITY HOUSING REPORT



AUGUST 2017

1) PREAMBLE

The Village of Lake Placid and the Town of North Elba are beautiful and enjoyable places to live and play. The area is a vacation destination for thousands of visitors each year. It is blessed with a pristine environment and a rich history as a sport and resort destination. These attractions, however, come with a set of unique problems.

Our tourism based economy is dependent upon events that require the housing of participants. This has led to an explosion in single and multi-family residences, once occupied by full time, year-round residents, being utilized more and more as short-term, transient occupied rentals. In some cases, these homes are simply business ventures existing solely for their income producing potential. While short term rentals play a vital role in the economy and well being of the area, they generally remain unregulated.

These unregulated transient rentals contribute to a variety of serious issues:

- Health and safety concerns for transient rental occupants
- Noise, light, trash, and parking nuisances for full-time, year-round neighbors,
- Changes in the character of residential neighborhoods and the sense of community
- Declining supply of affordable full-time, year-round housing
- Deterioration of the quality of the affordable full-time, year-round housing stock
- Additional stresses on municipal infrastructure (police, fire, water, sewer, parking, etc.)
- Inequality with respect to the existing hotel /motel / bed & breakfast industry
- Loss of potential revenues

The following proposed short term rental permit system is an effort to address some of these issues while at the same time recognizing the importance of maintaining an adequate supply of short term housing necessary for continued economic health.

2) BACKGROUND:

In August of 2014 the Lake Placid Town and Village Boards met in joint session to adopt a revised Comprehensive Plan. At that time the Lake Placid / North Elba Development Commission was asked to look into the feasibility of creating of a rental permit system. The Commission, in turn, invited various stakeholders to join a study group.

These stakeholders included representatives from the Code Enforcement Office, hotel owners, real-estate rental agents, ROOST, and homeowners who lived in neighborhoods where rentals were prevalent. The first meeting of the Rental Study Group was held on November 10, 2014. Since then the group has met on approximately 10 occasions. It also participated in a joint workshop with the Town and Village Boards, and one separate meeting with each of those Boards

The Rental Study Group focused on previous work done in the Town of North Elba (2005 memo) and actions by other municipalities. These resources are posted on the Community Development Commission website; futurelakeplacid.com

The Committee developed a proposal and presented it to a joint session of the Town and Village Boards on October 7, 2015 (Quality Housing Initiative- appendix 1). Upon hearing the concerns of the elected officials the Study Group investigated those concerns before scheduling separate meetings with the Town and Village Boards (Responses- appendix 2). These meetings both occurred on March 21, 2016. This final report takes into account those discussions.

3 DEFINITIONS:

While many short-term rentals of single family residences appear to be operating in the same manner as a business, they are differentiated by the pattern of the rental agreement. A hotel, bed and breakfast, or hostel falls into a specific category of structures because they have multiple groups renting at the same time. A hotel, for instance, has a contract with one person for room 101, a contract with a second person for room 102, a third person for 103, etc. per rental period.

What we commonly refer to as a vacation rental, however, generally contracts with one person per rental period. That group essentially becomes the single family (with invited friends) occupying the residence. It does not matter that the group is unrelated, how large it is, or whether the use of the residence resembles a business operation. All regulations are the same as they would be for any, more traditional, single-family residence.

The definition of transient rental recommended by the study group is as follows:

TRANSIENT RENTAL: *Any pattern of rental (including vacation rentals) or leasing under which a residential building or structure, single or two family dwelling, condominium, townhouse, guest house, cottage, cabin, attached or detached apartment, fractional ownership unit, time share unit or accessory dwelling is rented as a living quarters for any period of less than 30 days.*

This definition would include many of the short term rentals currently used less by the owner as a residence and operate more as a business. These units generally rent for a week at a time and up to 15 times per calendar year.

Any type of regulation should also recognize that some residents of Lake Placid follow a different lease pattern. They rent a portion of their homes, or their entire home, for very short periods of time. This usually occurs once or twice a year. These rental periods coincide with events like Ironman or the Horseshow. Most residents follow this course of action to either help support the event or gain a little from the investment in their home.

A single-family residence may also be leased for more extended periods of time. The tenants may include those looking for a place to purchase while transferring to a job in the area or those employed seasonally. Since this involves inhabiting the structure for a longer time period these renters have an incentive to make sure safety features are working and tend to present less risk of producing nuisances such as noise, over parking and trash residue. This makes it unnecessary for that type of rental to be included in a permit system.

The current Lake Placid / North Elba Land Use Code, along with many other communities the study group researched, use a 30-day period when drawing the line between long term and "transient rental".

Since these rentals are of such short term any fee, no matter how small, would have more of an impact on the market. In these situations the cost of a permit cannot be amortized over a longer period of time.

The study group recommends a two-tiered system of permits, including a "no-fee permit". This would provide less interference with someone who rented a room or their house for a very short period of time, create a record to keep track of when a fee is required, and encourage the existence of safety features.

EVERY TRANSIENT RENTAL WOULD BE REQUIRED TO HAVE ONE OF THE FOLLOWING TYPES OF PERMITS

No- Fee Permit – *Any transient rental where the lease period and /or the cumulative rental or lease period is less than 15 days per calendar year.*

Fee Permit– *Any transient rental where the lease period and /or the cumulative rental or lease period is more than 14 days per calendar year*

The definition is also intended to exclude situations where a school or institution is used to house a number of individuals along with hotels, bed and breakfasts, and hostels that are already regulated and inspected for safety.

3) PUBLIC SAFETY:

Since any transient rental unit is approached as a single family residence the health and safety regulations of a hotel or bed and breakfast do not apply. This is true even if the residential unit is rented to any size group of visitors, or how many times it is rented over the course of a year. As a result the safety regulations applicable to visitors becomes dependent upon whether they stay in a hotel, bed and breakfast, or vacation rental. Addressing this "safety gap" is the main thrust of the proposed permit system.

The following permit requirements recommended by the Study Group are very simple, relatively inexpensive standards that move toward that goal.

- Street-side emergency numbers displayed (proper 911 signage)
- Working Smoke Alarms on each level + one in each sleeping area
- Carbon Monoxide alarms (if source exists)
- Chimney cleaned within one year
- Working Fire Extinguisher – 1 in kitchen area + 1 for each fireplace
- All units must comply with NYS Property Maintenance law.

4) NEIGHBORHOOD ISSUES:

National statistics indicate that larger groups going on vacation tend to seek vacation rentals. A 2010 survey sponsored by the National Council of Realtors found that while 14% of all vacationers stay in transient rentals, that number jumps to almost 40% when the vacationing group is 5 or more people. These larger groups tend to generate more noise, more parking, and more trash. As a result there are negative impacts on neighborhoods.

The Study Group opinion is that noise and parking problems are best addressed through local ordinances. These ordinances, however, must be communicated to the renters to be effective.

An additional problem occurs when these groups leave full garbage cans behind. This typically occurs when trash is put out at the end of a stay and may not be picked up for a few days. Dogs, raccoons, bears and wind conspire to create a mess and there may not be a person available who is responsible for cleaning up.

In order to address these issues the Study Group recommends:

- The owner must communicate locations for parking, a summary of the applicable noise ordinance (Village / Town) and trash pick-up plan to renters.

- The owner must provide emergency contact information (address / phone number) of person who will be responsible for the property. That person must live within 25 miles. (This information will also be filed with the Police and Fire Departments and must be supplied to the renters)

4) **OCCUPANCY RATES:**

Overcrowding is not only a risk to safety but creates an impact on the infrastructure. If many people occupy a dwelling there is more of a chance that areas without safe egress, such as downstairs dens, will be utilized. This creates a dangerous situation to the visitor and creates a potential threat to any fire fighter who may have to enter such a closed location in the course of an emergency.

Large numbers of people in a dwelling necessarily increases the use of electricity and water. It is only fair that people who use more community resources, especially if they are operating similar to a business, pay for the resources they use. While everyone serviced by electricity is metered, water meters have not yet been installed on all residences served by the Village Water Department.

The Rental Study Group recommends the following;

- Occupancy rates would be calculated as 2 times the number of bedrooms (as determined by the Essex County Assessment Office) + 2 additional occupants

Examples:

2 Bedroom rental= 4 occupants for 2 bedrooms + 2 = 6 maximum
 4 Bedroom rental= 8 occupants for 4 bedrooms +2 = 10 maximum
 6 Bedroom rental =12 occupants for 6 bedrooms + 2 = 14 maximum

- Studio apartments would be allowed 2 occupants for the first 220 sq. ft. with one additional occupant for each additional 100 sq. ft. of living space (based upon NY State definition of overcrowding)

Example: 550 sq. ft. studio = 2 for first 220 sq. ft.
 + 3 for 330 remaining sq. ft.
 5 is maximum occupancy

- Transient Rental Units connected to the municipal water system be metered.

5) **ADMINISTRATION PROCESS:**

The Code Enforcement Office is the logical department for the administration of any permit system. They not only deal with the use of all properties in the Village and Town, but the Code Enforcement Officer can perform an inspection if there are questions regarding compliance. The Study Group was advised that municipal liability increases dramatically if non-certified personnel perform an inspection of safety features and something goes wrong. The Code Enforcement Office also has access to County records that can be used to determine occupancy rates.

The liability issue makes it difficult to require on-site inspections. A cursory examination of advertisements for rentals shows there are at least 197 Rental Units in the

Town of North Elba and 229 Rental Units in the Village for a total of 426 possible permit applications. The actual number of units is probably higher.

In order to administer a permit system with the existing manpower and keep the permit fee low the system must be as efficient as possible. The Rental Study Group found other municipalities who choose to rely on an affidavit system (appendix 3). Applicants submit a notarized document certifying compliance with all permit requirements. The Study Group was advised that this serves an additional function of shifting liability to the owner.

The application process should be online and utilize electronic data as much as possible (Forms scanned / Data base shared and accessible). The administrator should have the capacity to generate a communication and distribute it to renter. This would inform them of the permit requirements. If the applications expire one year from the approval date an overwhelming numbers of requests should not come in at any one time. This will require some additional time on the part of Code Enforcement Office Staff.

FEE STRUCTURE:

The Rental Study Group suggests a flat fee of \$100 per application. Given the rates for rental units and the fact that no-fee permits exist this should not place an undo burden on the owners of rental property. It should cover administrative costs.

It should be noted the Rental Study Group originally suggested a higher fee structure. A fee of \$200 per bedroom, for instance, is projected to generate \$108,000 at 60% compliance. This revenue stream would help build the infrastructure of the Code Enforcement Office, which is already overburdened by inspection requirements, and promote compliance with the new permit system.

If compliance rates were greater than 60% the additional revenues could be used to add to the quality of the existing housing stock and help residents continue to live here. The Housing section of the 2014 Comprehensive Plan calls for the creation of a local energy efficiency program in addition to a rental permit system.

A municipal power company like Lake Placid Electric is unable to tap into energy reduction programs sponsored by most agencies. Our lower electricity rates also serve as a disincentive to invest in energy efficiency because it creates longer payback times. Many local residents are reluctant or unable to make these large short term investments for long term benefits. A program funded from revenues obtained through a rental permit system could help reduce energy costs for all.

4) COMPLIANCE

Voluntary compliance with the rental permit process is based upon education and efficiency of operation. The administrator of the system must communicate the new requirements to rental agencies and renters. In order to do this he /she can utilize contact information provided by the renter.

Creating a user-friendly application process with timely approvals should also promote higher compliance rates. The Rental Study Group is aware of fairly inexpensive computer programs specifically designed for municipalities to administer rental permit systems. A rolling application with a permit that is good for one year from the date of approval would eliminate a rush of applications at any one time and avoid an administrative backlog.

Non-compliance, of course, must be penalized. The Rental Study Group recommends the same punitive measures that currently exist in the Land Use Code. Those offenses are handled as criminal offenses rather than civil infractions.

The enforcement provisions of the Land Use Code are:

- First offense \$0- \$350 / up to 6 months jail
- Second offense (within 5 yrs.) \$350 - \$ 750 – (6 months jail)
- Third and subsequent offenses (within 5 yrs.) \$750- \$1000 (6 months jail)
- Any continued violation after 24 hours is new offense

In addition to those provisions the Rental Study Group recommends:

- Advertising a property for rent is presumptive evidence of a transient rental
- Each person in violation of the determined occupancy limit is a separate violation.
- If a property has 3 violations in one calendar year the permit may be suspended for a one-year period

Rental Permit Study Group:

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QUALITY HOUSING INITIATIVE

1) GOALS

- Promote public health and safety
- Improve the quality of existing housing and rental stock
- Develop an inventory of rental units
- Opportunity to improve existing housing stock
- Mitigate negative impacts of vacation rentals
- Enable residents to remain in the community

2) CONSIDERATIONS

- Transient rentals are important to the economics of the community

3) DEFINITIONS:

TRANSIENT RENTAL: Any pattern of rental (including vacation rentals) or leasing under which a residential building or structure, single or two family dwelling, condominium, townhouse, guest house, cottage, cabin, attached or detached apartment, fractional ownership unit, time share unit or accessory dwelling is rented as a living quarters for any period of less than 30 days.

EVERY TRANSIENT RENTAL WOULD BE REQUIRED TO HAVE ONE OF THE FOLLOWING TYPES OF PERMITS

No- Fee Permit – Any transient rental where the lease period and /or the cumulative rental or lease period is less than 15 days per calendar year.

Fee Permit– Any transient rental where the lease period and /or the cumulative rental or lease period is more than 14 days per calendar year

4) OCCUPANCY RATES:

Allowable occupancy rates would be calculated as 2 times the number of "sleeping areas" as defined in the NYS Uniform Code + 2 additional occupants

A sleeping area is any living area that is not a kitchen or lavatory of at least 70 sq. ft. with 2 emergency egresses (windows included) and access to a lavatory without passing through another room

Examples:

2 Bedrooms- 4 occupants for 2 bedrooms + 2 = 6 maximum

4 Bedrooms- 8 occupants for 4 bedrooms +2 = 10 maximum

6 Bedrooms- 12 occupants for 6 bedrooms + 2 = 14 maximum

APPENDIX 1-Initial Proposal (October 7, 2015)

Studio apartments – 2 occupants for the first 220 sq ft. One additional occupant for each additional 100 sq. ft. of living space

Example: 550 sq. ft. studio = 2 for 220 sq ft
3 for 330 remaining sq ft
5 maximum occupancy

5) PUBLIC HEALTH / SAFETY REQUIREMENTS:

- Street-side emergency numbers displayed (proper 911 signage)
- Working Smoke Alarms on each level + one in each sleeping area
- Carbon Monoxide alarms if source exists
- Chimney cleaned within one year
- Working Fire Extinguisher – 1 in kitchen area + 1 for each fireplace
- Metered water (connected to municipal system)
- Certificate of Insurance
- Trash container or pick-up plan sufficient for occupancy levels-
- Rough Floor plan sketch (to determine occupancy rate)
- Emergency contact information (address / phone numbers of responsible person within 25 miles)

Additional considerations:

- Owner signs awareness of local ordinances- noise / parking
- All units must comply with NYS Property Maintenance law.

6) NON-COMPLIANCE

Advertising as a rental unit is presumptive evidence of renting

Failure to obtain a permit is considered non-compliance

Permit, visible from the street, must be displayed during rental period

Enforcement provisions mirror Land Use Code:

First offense \$0- \$350 / up to 6 months jail

Second offense (within 5 yrs.) \$350 - \$ 750 – (6 months jail)

Third and subsequent offenses (within 5 yrs.) \$750- \$1000 (6 months jail)

Any continued violation after 24 hours is new offense

Each person over occupancy limit is a separate offense

Offenses deemed a misdemeanor for CPL purposes

If a property has 3 violations in one calendar year the permit may be suspended for a one-year period

APPENDIX 1-Initial Proposal (October 7, 2015)

7) FEES

Fee should cover the cost of administration. This would include a full time person in the Building and Code Enforcement Office in addition to administrative need such as computers, software, printing forms, etc.

Committee recommends fee of \$200 per bedroom for a one year permit

Any revenues in excess of administrative can be used to improve the quality and energy efficiency of existing housing and rental stock

8) ADMINISTRATION PROCESS :

Permits are issued by Building Department

Applicants apply with notarized affidavits (including a sketch plan of the unit)

Process should be online using electronic data as much as possible (Forms scanned / Data base shared and accessible)

No fee permit- includes specific dates (maximum 8 days) – notarized affidavits used in lieu of inspection

9) NEXT STEPS:

- Edit concepts as suggested by Town and Village Boards
- Develop Resolution / Local Law
- Identify administrative needs (computer, software, internet connections)
- Develop application forms and display permit
- Determine timeline for enactment / implementation
- Schedule the Public Hearing process

Revisit impact of legislation after one-year of experience

**Rental Permit Committee
Response to Questions Raised
At The Joint Work Session (Oct 7, 2015)**

Information regarding the Quality Housing Initiative was presented to a joint work session of the Town and Village Boards on October 7, 2015. The following document provides responses to the issues raised during that work session.

1) What are the tax cap implications?

Since fees do not increase the tax levy they do not count in the calculation of the tax cap. A self-funding program should not have a tax cap implication. This is based upon correspondence with Wade Beltrano, counsel for the New York Council of Mayors. (attached)

2) Can we rely on insurance liability as a force for compliance?

Our research indicates that some insurance companies in New York State may refuse to pay claims if the use of the residence is "not authorized." This could include renting a residence without a required rental permit. This does not seem to be a universal policy among carriers.

Some insurance companies have a policy where up to 8 - 12 weeks of rental is considered "incidental" and is therefore authorized by the regular residential policy. If they become aware that homeowners are renting for more than 8 weeks they require a commercial policy.

3) Do municipalities have the authority to regulate short-term rentals?

Yes – Wade Beltrano's response to the inquiry is attached

Aspen requires short-term rental units to obtain a business license. This subjects them to a 1% sales tax. Their Finance Office handles enforcement action against scofflaws through civil penalties included in their Tax Law.

South Hampton just raised the fines for violating their permit ordinance to a maximum of \$30,000. They also have a list of "presumptive evidence" to support a finding that a residence is rented. The one they rely on the most is "advertised as available for rent".

4) What are the projected revenues and expenses?

Projected Revenues are based upon an inventory completed by Brit Isham:

174 Rental Units in Town
223 Rental Units in Village
397 units

463 known bedrooms in Town
438 known Bedrooms in Village
901 bedrooms total

Based upon these figures the Committee recommends a fee of \$200 per bedroom per year

ex. 2 bedroom house = \$400 permit
8 bedroom house = \$1600 permit

At 100% compliance projected revenue is \$180,000 per year
At 60% compliance projected revenue is \$108,000 per year

This revenue would cover all administrative costs. (Rental Permit Administrator)
Any additional revenues could be used for programs to improve the quality of existing housing stock This also helps residents remain in the area.

At 60% compliance projected revenue is \$108,000 per year

5) What specific tasks would fall to a Rental Permit Administrator.

- Inspect residences as required (should be certified Code Enforcement Officer to avoid liability issues)
- Administer Transient Rental Permit Application Process
- Administer Permit Records
- Generate Permit Renewal Notifications
- Monitor advertisements for rentals and generate informational letters
- Help out with Code Enforcement inspections and enforcement.

6) How can parking requirements be included?

The committee recommends 1 required on-site parking spot for each bedroom. This could limit the maximum occupancy allowed for the unit.

Some localities have provided incentives for renters to use those on-site areas by creating alternate side of the street parking. If the Town and Village develop more stringent parking requirements a shared traffic control or parking officer can be considered.

7) Can a Rental Permit Officer be a peace officer and write appearance tickets to enforce noise, parking and rental permit ordinances?

Yes- Wade Beltrano's response to the inquiry is attached. He also sent sample resolutions from Croton-on-the-Hudson and Cortland. The ability to enforce ordinances must be specifically authorized by resolution.

8) What would an affidavit look like? (sample draft is attached)

An application would include the following submissions:

- 1) Affidavit – statements that safety features are working, contact information for designated representative, owner responsibility clause, number of bedrooms (occupancy rates will be set by Permit Administrator)
- 2) Letter from an insurance carrier indicating they are aware the owner is applying for a rental permit
- 3) Confirmation the property owner received copies of applicable noise and parking regulations
- 4) Very rough floor plan sketch (this may be waived by Permit Administrator)



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TRANSIENT RENTAL PERMIT APPLICATION

Permit Number _____

Expiration Date _____

Name of Property Owner: _____

Address of Rental Property _____

Property Owner: Telephone contact: _____

E-mail _____

Submissions required for a complete application include:

1) Notification from an insurance company acknowledging the property is used as a transient rental. (A sample letter can be provided upon request)

2) A rough sketch floor plan (requirement may be waived)

3) The following notarized affidavit regarding the unit to be rented:

A) I certify that street side emergency address numbers are displayed in accordance with 911 regulations.

B) I certify that all smoke alarms and carbon dioxide detectors (where applicable) are in correct working order and that the correct number of devices are installed per the New York State Building Code.

C) I certify that a working fire extinguisher is located in each cooking area and in close proximity to each open flame source.

D) I certify that all chimney flues have been cleaned during the last 12 months.

E) I certify the trash containers are of sufficient size to accommodate the maximum occupancy allowed and that a collection plan is in place.

F) I certify that I will notify tenants of noise and parking regulations in accordance with the applicable Town or Village Laws.

G) I certify that I will supply adequate on-site parking as required by the Lake Placid / North Elba Building Office.

H) If the rental unit is supplied by a municipal water source I certify that a meter supplied by the Lake Placid Village Water Department for monitoring use is hooked into the system.

I) I certify that the following individual is designated the emergency contact person and that he / she lives within 25 miles of the rental unit.

Designated Representative: _____
(may be owner)

Address of Representative _____
(must be within 25 miles
of Rental Unit) _____

Emergency Contact Number(s) _____
(available 24 hours)

**The designated representative must be on call at all times to manage the rental during any period within which the rental is occupied. It is my responsibility to contact the Town/Village within 30 days if there is a change of representative.*

I, _____ (print name), certify that the Transient Rental Permit for which I am applying meets all of the criteria described above. I acknowledge that failure to comply with the transient rental requirements may result in revocation of the Transient Rental Permit.

Signature of Property Owner

Sworn to and signed before me this
_____ day of _____, _____

Notary

FOR OFFICE USE:

Max Occupancy _____

On-site Parking _____
(required spaces)