

Local Law Filing

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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 of Cazenovia
Town
Village

Local Law No. 6 of the year 2018.

A local law to amend Chapter 180 of the Code of the Village of Cazenovia
(Insert Title)

Be it enacted by the Board of Trustees of the

County
City of Cazenovia as follows:
Town
Village

I. Intent and Legislative Findings. Changes in technology give rise to new issues in land use planning and regulation. While it has been, and remains the position of the Village of Cazenovia that short term, so called “vacation rentals”, are not currently permitted within the Village except as duly permitted bed and breakfast and motel/hotel establishments, the Board of Trustees hereby finds that more specific zoning provisions are appropriate to address this increasingly popular land use activity. The Board of Trustees finds that short term vacation rentals operated by non-resident owners can and do create conflicts with their residential neighbors, and have the potential to degrade residential neighborhoods by introducing noise, parking and other detrimental impacts while also adversely affecting the traditional neighborhood character that results from a community of owner occupied properties. As such, the Board of Trustees finds that unregulated short term vacation rentals, or transient occupancies as defined in this local law, are incompatible with residential neighborhoods and zoning districts, and that such uses must be carefully regulated and monitored to minimize deleterious effects in residential zoning districts. This is particularly so in those situations where the property owner is not present during times of transient occupancy. The Board of Trustees finds that the potential for such conflicts is less in nonresidential districts, and therefore such uses may be allowed in specified nonresidential districts subject to a lesser degree of regulation.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

II. Section 180-9 of the Code of the Village of Cazenovia is hereby amended to add and / or amend, as applicable, the following definitions to read as follows:

TRANSIENT OCCUPANCY — Living and / or sleeping accommodation provided for compensation and / or barter for any period of less than thirty (30) consecutive calendar days, counting any portion of a particular day as a full calendar day. Bed and Breakfasts, Motels / Hotels and Transient Occupancy Lodging shall individually and collectively be considered types of transient occupancies.

OWNER OCCUPIED TRANSIENT OCCUPANCY LODGING — A home occupation in an existing dwelling or dwelling unit owned by one or more natural persons, including associated appurtenant facilities, used for transient occupancy by one or more guests, boarders or tenants, with at least one record owner of the property permanently residing on the premises, and whether or not meals or cooking facilities are provided for the guests, boarders or tenants, but excluding motel/hotel and bed and breakfast uses.

NON OWNER OCCUPIED TRANSIENT OCCUPANCY LODGING — A dwelling or dwelling unit, including associated appurtenant facilities, used for transient occupancy by one or more guests, boarders or tenants, where no record owner of the property is residing on the premises on a permanent basis, and no record owner of the premises is physically present upon the premises during the transient occupancy, and whether or not meals or cooking facilities are provided for the guests, boarders or tenants, but excluding motel/hotel and bed and breakfast uses.

BED AND BREAKFAST – A home occupation in an existing one-family dwelling operated by the permanent resident(s) of the dwelling who are also on site and sleeping overnight within the residence while providing short-term overnight lodging to transient guests, and which offers an on-site breakfast meal served to such guests, but no other meals.

III. Section 180-19 of the Code of the Village of Cazenovia (Uses permitted in the R-30 zoning district upon issuance of a special permit) is hereby amended to add new Subsections (J) and (K) to read as follows:

J. Owner Occupied Transient Occupancy Lodging.

K. Non Owner Occupied Transient Occupancy Lodging established and hosting transient occupants in an existing residence prior to July 2, 2018 and for which a complete initial application for approval is received by the Village Clerk by October 1, 2018, subject to the provisions of subsection A of section 180-104 of this chapter.

IV. Section 180-23 of the Code of the Village of Cazenovia (Uses permitted in the R-20 zoning district upon issuance of a special permit) is hereby amended to add new Subsections (J) and (K) to read as follows:

J. Owner Occupied Transient Occupancy Lodging.

K. Non Owner Occupied Transient Occupancy Lodging established and hosting transient occupants in an existing residence prior to July 2, 2018 and for which a complete initial application for approval is received by the Village Clerk by October 1, 2018, subject to the provisions of subsection A of section 180-104 of this chapter.

V. Section 180-27 of the Code of the Village of Cazenovia (Uses permitted in the R-10 zoning district upon issuance of a special permit) is hereby amended to add new Subsections (J) and (K) to read as follows:

J. Owner Occupied Transient Occupancy Lodging.

K. Non Owner Occupied Transient Occupancy Lodging established and hosting transient occupants in an existing residence prior to July 2, 2018 and for which a complete initial application for approval is received by the Village Clerk by October 1, 2018, subject to the provisions of subsection A of section 180-104 of this chapter.

VI. Section 180-31 of the Code of the Village of Cazenovia (Uses permitted in the R-6 zoning district upon issuance of a special permit) is hereby amended to add a new Subsections (J) and (K) to read as follows:

J. Owner Occupied Transient Occupancy Lodging.

K. Non Owner Occupied Transient Occupancy Lodging established and hosting transient occupants in an existing residence prior to July 2, 2018 and for which a complete initial application for approval is received by the Village Clerk by October 1, 2018, subject to the provisions of subsection A of section 180-104 of this chapter.

VII. Section 180-35 of the Code of the Village of Cazenovia (Uses permitted in the RM zoning district upon issuance of a special permit) is hereby amended to add new Subsections (P) and (Q) to read as follows:

P. Owner Occupied Transient Occupancy Lodging.

Q. Non Owner Occupied Transient Occupancy Lodging established and hosting transient occupants in an existing residence prior to July 2, 2018 and for which a complete initial application for approval is received by the Village Clerk by October 1, 2018, subject to the provisions of subsection A of section 180-104 of this chapter.

VIII. Subsection (D) of Section 180-47 of the Code of the Village of Cazenovia (Uses permitted in the B-1 zoning district upon issuance of a special permit) is hereby amended to read as follows:

D. Dwellings, Owner Occupied Transient Occupancy Lodging, Non Owner Occupied Transient Occupancy Lodging, and Dormitories in upper stories of a building only in combination with permitted nonresidential use(s) on the first floor in the same building.

IX. Section 180-51 of the Code of the Village of Cazenovia (Uses permitted in the B-2 zoning district upon issuance of a special permit) is hereby amended to add new Subsections (L) and (M) to read as follows:

L. Owner Occupied Transient Occupancy Lodging.

M. Non Owner Occupied Transient Occupancy Lodging.

X. Section 180-57 of the Code of the Village of Cazenovia (Uses permitted in the VEN zoning district upon issuance of a special permit) is hereby amended to add new Subsections (H) and (I) to read as follows:

H. Owner Occupied Transient Occupancy Lodging.

I. Non Owner Occupied Transient Occupancy Lodging.

XI. Subsection (B) of section 180-61 of the Code of the Village of Cazenovia (Uses permitted in the VES-R zoning district upon issuance of a special permit) is hereby amended to add a paragraph (5) to read as follows:

(5) Owner Occupied Transient Occupancy Lodging.

XII. Subsection (C) of Section 180-64 of the Code of the Village of Cazenovia (Uses permitted in the VES-MU zoning district upon issuance of a special permit) is hereby amended to add new Paragraphs (7) and (8) to read as follows:

(7) Owner Occupied Transient Occupancy Lodging.

(8) Non Owner Occupied Transient Occupancy Lodging.

XIII. Subsection (B) of section 180-68.3 of the Code of the Village of Cazenovia (Uses permitted in the WG zoning district upon issuance of a special permit) is hereby amended to add new paragraphs (11) and (12) to read as follows:

(11) Owner Occupied Transient Occupancy Lodging.

(12) Non Owner Occupied Transient Occupancy Lodging established and hosting transient occupants in an existing residence prior to July 2, 2018 and for which a complete initial application for approval is received by the Village Clerk by October 1, 2018, subject to the provisions of subsection A of section 180-104 of this chapter.

XIV. Section 180-68.5 of the Code of the Village of Cazenovia (Uses permitted in the CD zoning district upon issuance of a special permit) is hereby amended to add new Subsections (J) and (K) to read as follows:

J. Owner Occupied Transient Occupancy Lodging.

K. Non Owner Occupied Transient Occupancy Lodging established and hosting transient occupants in an existing residence prior to July 2, 2018 and for which a complete initial application for approval is received by the Village Clerk by October 1, 2018, subject to the provisions of subsection A of section 180-104 of this chapter.

XV. Subsection (B), Paragraph (2) of Section 180-113 of the Code of the Village of Cazenovia (Off-street parking and loading) is hereby amended to add new Subparagraphs (l) and (m) to read as follows:

(l) Owner Occupied Transient Occupancy Lodging: One space for each vehicle used by the owner occupants of the premises plus a minimum of one space for transient occupants. Additional spaces may be required by the Planning Board based on the site characteristics and maximum number of persons permitted to occupy the dwelling unit per the terms of the special permit issued by the Planning Board.

(m) Non Owner Occupied Transient Occupancy Lodging: A minimum of one space for transient occupants. Additional spaces may be required by the Planning Board based on the site characteristics and maximum number of persons permitted to occupy the dwelling unit per the terms of the special permit issued by the Planning Board.

XVI. Section 180-104 of the Code of the Village of Cazenovia, currently denoted as “Reserved”, is hereby amended to read as follows:

§ 180-104. Transient Occupancy Lodging – Special Conditions and License Requirements.

- A. Transient Occupancy Lodging is classified as a special use because of the potentially unpredictable intensity of use and resulting conflicts with other adjoining and nearby uses. The Planning Board shall review such uses under the criteria set forth in section 180-143, and shall particularly address each application in terms of site plan features such as proximity to other uses and the nature of nearby uses, as well as available parking, lighting and other site features in order to minimize land use conflicts and associated adverse impacts to other residential uses. Any initial application for a special permit to operate a non owner occupied transient occupancy lodging use facility located within an R-30, R-20, R-10, R-6, RM, WG or CD zoning district must be received by the Village Clerk no later than October 1, 2018. All special permits for non owner occupied transient occupancy lodging use facilities located within an R-30, R-20, R-10, R-6, RM, WG or CD zoning district granted to the owner of the premises as of July 2, 2018 shall terminate and expire upon the transfer of title (ownership) of the subject premises by said owner, at which time the use of said premises as a non owner occupied transient occupancy lodging use facility shall terminate and shall thereafter cease to be permitted under the provisions of this chapter.
- B. The maximum number of persons permitted to occupy any Transient Occupancy Lodging facility shall be two (2) persons per sleeping room, with an overall maximum of eight (8) persons, subject to available parking for the use. The Planning Board may establish a lower maximum occupancy limit under its special permit review authority if it determines that the number of parking spaces appropriately devoted to the use is insufficient to support the number of intended occupants without adversely affecting adjoining property owners and/or the surrounding neighborhood.
- C. No recreational vehicles, campers, trailers, or motor vehicles larger than a one-ton pickup truck may be parked upon the premises during any transient occupancy. The number of automobiles and/or light duty (pickup) trucks that may be parked on site in association with any transient occupancy lodging shall be limited to the number of off-street parking spaces

designated on the site plan approved by the Planning Board. No vehicles may be parked on lawns or in other areas not specifically approved as parking spaces under the provisions of this Chapter. The Planning Board shall review all applications in relation to the physical limitations of the subject premises as well as the proximity to adjoining uses and surrounding neighborhoods in order to determine the appropriate parking requirements and occupancy limits.

- D. No Transient Occupancy Lodging facility shall be located above the second floor of any building unless such floor has a fire sprinkler system or has been otherwise constructed in accordance with requirements of applicable New York State code requirements for residential occupancy of such floors.
- E. Each sleeping room within a Transient Occupancy Lodging facility shall have affixed to the occupied side of the entrance door to the sleeping room a written notice stating the means of egress from the room in case of fire or other emergency, the location of means for transmitting fire alarms, if any, and the evacuation procedures 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.
- F. Dwellings and/or dwelling units used for Transient Occupancy Lodging shall have no exterior signs or other exterior indications of the transient occupancy use, which shall from all exterior indications be indistinguishable from an otherwise permitted conventional residential use.
- G. All transient occupancy lodging uses shall be limited to the temporary lodging of registered guests, and no commercial activities and no public or private parties, receptions, meetings or similar social gatherings or events shall be permitted. Occupancy shall be limited to the number of persons permitted under the special use permit issued by the Planning Board, and the operator of the facility shall maintain a register of all guests staying at the facility, their permanent addresses, and the dates of their stay. This register shall be immediately made available to the Village Code Enforcement Officer and / or Police Department as part of any Village investigation of any complaints regarding guest behavior and/or to determine compliance with requirements of any special permit issued for the facility.
- H. No person, whether directly or as a sole or partial owner of another legal entity, may be the owner or operator of more than one transient occupancy lodging facility within any area of the Village zoned R-30, R-20, R-10, R-6, RM, WG or CD at any one time.
- I. Owners of permitted non owner occupied transient occupancy lodging facilities shall be required to have a designated property manager who resides in such proximity to the subject premise so as to permit him or her at all days and times to physically be at the subject premise within fifteen (15) minutes of receiving notification of a complaint relating to the premises. Current contact information for this person or persons shall be kept on file with the Village Code Enforcement Officer and Village Clerk at all times.
- J. Owners of Transient Occupancy Lodging facilities must at all times be current in the payment of all real property taxes and special assessments, and shall be responsible for complying with other applicable legal and regulatory requirements, including, but not necessarily limited to compliance with New York State building, property maintenance and safety codes and registration and collection of state and local sales taxes and County occupancy taxes. When available, applicants shall register to have applicable taxes and fees

collected and remitted by the internet host platform.

- K. All owners of Transient Occupancy Lodging facilities shall provide to the Village proof of general liability insurance against claims for personal injury, death or property damage occurring on, in or about the subject premises in an amount not less than One Million Dollars (\$1,000,000.00) in respect of personal injury or death, and in an amount of not less than One Hundred Thousand Dollars (\$100,000) in respect of property damage.
- L. All applications for approval of a non owner occupied transient occupancy lodging facility in existence prior to July 2, 2018 in an R-30, R-20, R-10, R-6, RM, WG or CD zoning district shall be accompanied by documentary proof of operation as a non owner occupied transient occupancy lodging facility, which shall include a copy of the Madison County Occupancy Tax Certificate for the premises dated before July 2, 2018 and proof of website hosting of the property before July 2, 2018 (such as a screen shot/proof), the adequacy of which shall be subject to Village approval, and at least one of the following two items:
1. A copy of the most recent County Occupancy Tax Quarterly Return showing payment of Madison County Occupancy tax on at least one rental before July 2, 2018;
 2. A copy of at least one rental agreement/booking (online proof is acceptable) showing occupancy of the premises by a transient tenant before July 2, 2018.
- M. **License Required.** No person, firm or entity shall own, operate or manage a Transient Occupancy Lodging facility in the Village of Cazenovia, nor shall any owner permit the operation of a Transient Occupancy Lodging Facility on premises owned by him, her or it, without a duly issued license from the Village of Cazenovia to operate a Transient Occupancy Lodging facility. All new and existing Transient Occupancy Lodging facilities shall be required to obtain a license annually from the Village Code Enforcement Officer, the original or copy of which shall be prominently displayed in a front window of the subject residence in such manner so that it is clearly visible from the public sidewalk, or from the street if there is no sidewalk.
- N. Licenses issued for Transient Occupancy Lodging facilities shall be valid for one year, from October 1 to September 30. A complete application for a license or license renewal shall be submitted to the Code Enforcement Officer not less than two (2) months prior to the date the license, or renewal license, as applicable, is to be effective. Applications not submitted in time to be effective as of the 1st day of October shall be effective as of the date of issuance and shall expire on the next succeeding 30th day of September. The applicant shall schedule with the Enforcement Officer the necessary inspection of the dwelling or dwelling unit not less than thirty (30) days prior to the desired license effective date. All applications for a special permit and license shall include the following information:
- 1) Current and accurate site plan of the premises (as approved by the Planning Board for the special permit application), showing all property lines, building lines, driveways, sidewalks, parking spaces, garbage and recycling storage areas, and any outbuildings and outdoor gathering areas such as patios and decks;
 - 2) Floor plans, as determined adequate by the Planning Board and which need not be prepared by a licensed design professional, for each building floor level

containing rentable space, which specifically depict all room sizes and locations, common areas, exits and other facilities;

- 3) A copy of the recorded deed showing all current owners of the premises, and a list of the names, home and business addresses, all phone numbers (including home, business and cell) and email addresses of all property owners and all property managers in the case of non owner occupied facilities;
 - 4) The number of permanent residents and the number of transient residents proposed to reside on the premises (as authorized per the conditions of the special use permit granted by the Planning Board in the case of license applications), including the number assigned to each bedroom shown on the building floor plans;
 - 5) The number of all automobiles, trucks and other vehicles belonging to the owners / permanent residents that will be parked on the premises during periods of transient rentals, including for each such vehicle, the make, model and year of the vehicle, license plate number; the name and permanent address of each vehicle's local operator and its titled owner;
 - 6) Such other information as the Code Enforcement Officer may reasonably require for the premises in question.
- O. All applications for a special permit and/or license to operate a Transient Occupancy Lodging Facility shall be signed by all owners of the premises. All applications shall include an accurate list of all property owners within 150 feet of the subject premises, as indicated on the most recent real property tax assessment roll, accompanied by a statement that all such owners have been provided a copy of the application. Each signator to the application shall swear or affirm to the truth and accuracy of the information contained in the application. Upon each license application and renewal application, the applicant shall be required to pay a license administration fee to the Village of Cazenovia, which, except as may be otherwise determined by resolution of the Board of Trustees, shall be in the amount of \$200.00.
- P. All proposed transient occupancy lodging facilities shall be physically inspected for proper maintenance of the premises in accordance with paragraph (1) of subsection S below, and for general code compliance prior to issuance of a license to operate the facility, and also on an annual basis thereafter prior to the issuance of any renewal license.
- Q. Upon such timely application and inspection, the Enforcement Officer will issue or renew, as applicable, the license upon a finding of full and proper compliance with all provisions of this chapter and all other applicable laws and standards. Upon determining that sufficient grounds exist under the provisions of Subsection S below, the Planning Board shall have the authority to revoke any such license upon application of the Code Enforcement Officer and after holding a public hearing upon any such application to revoke a license.
- R. The total number of nights of transient occupancy of any Transient Occupancy Lodging facilities located within an R-30, R-20, R-10, R-6, RM, WG or CD zoning district may not exceed 60 nights within any given license year.

S. **Grounds for denial or revocation of license.** Any proposed or existing Transient Occupancy Lodging Facility that is not in compliance with the requirements of this chapter, or any other applicable laws or standards, shall not be granted a license to operate, and, in the event a license has been issued, such license shall be subject to revocation, as herein provided, and the owner(s) and operator(s) of the Transient Occupancy Lodging Facility shall be subject to such other penalties and/or remedies as may be applicable. The existence of any of the following conditions and circumstances shall be deemed violations that constitute grounds for denial or revocation of a Transient Occupancy Lodging Facility license:

- 1) Indications of improper maintenance or operation of the property in keeping with the character of the neighborhood, and/or failure to maintain and keep the premises in a healthy, safe and sanitary condition, which shall include, but is not necessarily limited to:
 - (a) exposed garbage or litter on the premises;
 - (b) failure to maintain the buildings and grounds in a neat and orderly fashion, including painting and maintenance of exterior surfaces and windows and maintaining and trimming of grass and other vegetation;
 - (c) parking of vehicles on or about the premises in undesignated and/or unapproved parking areas;
 - (d) the occurrence of parties or other gatherings of individuals upon the premises wherein the number of persons gathered upon the premises exceeds the number of persons authorized upon the premises under the terms of the special permit and license.

- 2) Two or more instances within any twelve month period where a police officer or agency, or the Village Code Enforcement Officer, issued one or more appearance tickets or arrest warrants with respect to acts or omissions related to the transient occupancy of the premises. Such conduct shall include, but is not necessarily limited to, the occurrence of any acts, incidents or events upon the premises that constitute violations of any provision of this chapter, or any other provision of the Village Code, and/or the New York State Penal Law.

- 3) The conviction upon any formal charges as described in the immediately preceding paragraph (2) shall be prima facie evidence of improper operation of a transient occupancy lodging facility, and shall constitute grounds for immediate revocation of a license, as well as for automatic denial of a license renewal application for a period of one year following the date of license revocation or expiration, as applicable.

T. Upon determining the existence of one or more offending conditions relative to the premises, the Code Enforcement Officer shall deny the application for a Transient Occupancy Lodging Facility license and, with respect to previously licensed Transient Occupancy Lodging Facilities, at that time may take any action authorized by law, including, but not necessarily limited to the following:

- (1) impose additional conditions upon the license;

(2) refer the matter to the Planning Board to schedule a public hearing to consider revocation of the license;

(3) issue one or more appearance ticket or tickets for any violation(s) of the Village Code. The Code Enforcement Officer shall be authorized to issue an appearance ticket to any owner or operator of a Transient Occupancy Lodging Facility operating without a valid license.

U. Any violation of the provisions of this section 180-104 shall constitute a misdemeanor punishable by a maximum fine of \$1,000.00, or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. Each day of continued violation shall constitute a separate and additional offense.

XVII. Section 180-99 of the Code of the Village of Cazenovia (Bed-and-breakfast) is hereby amended to add a new Subsection (G) to read as follows:

G. All Bed-and-breakfast uses shall annually obtain a license to operate a Bed-and-breakfast establishment under the same terms and conditions as set forth in subsections, M, N, O, P, Q, S, T and U of section 180-104 of this chapter, and all Bed-and-breakfast uses shall be subject to compliance with all the special use and licensing conditions and requirements applicable to transient occupancy lodging uses as set forth in said section 180-104, except to the extent such conditions or requirements may conflict with the provisions of this section, in which case the provisions of this section shall apply.

XVIII. Notwithstanding the provisions of this local law, including the legislative findings stated herein, any reservations made prior to the effective date of this local law for transient occupancies to occur not more four (4) months after the effective date of this local law which would otherwise be unlawful under the terms of this local law, may nonetheless be honored by the operator of the premises, and such transient occupancies shall not be subject to citation or prosecution for any such violation provided that the owner/operator of the premises provides appropriate documentation of all such reservations to the Village Clerk within fourteen (14) days of the effective date of this local law.

XIV. If any clause, sentence, paragraph, subdivision or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair or invalidate the remainder thereof but shall be limited in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the proceeding in which such judgment is rendered.

XX. This local law shall take effect immediately upon its filing with the Secretary of State.