

**LEGAL NOTICE
NOTICE OF HEARING**

NOTICE IS HEREBY GIVEN that a hearing will be held at 7:30 p.m. in the Council Chambers of the Kenmore Municipal Building, 2919 Delaware Avenue, Kenmore, New York on Tuesday, May 6, 2025 by the Board of Trustees for the Village of Kenmore to consider, and possibly adopt, a proposed Local Law which would prohibit transient and short-term rentals in all zoning districts. Transient or short-term rentals are defined as owner-occupied or non-owner-occupied dwelling or dwelling unit used for transient occupancy for a period of less than ninety (90) days in exchange for financial compensation or other value. The proposed law is available to review in the Office of the Clerk/Treasurer during business hours.

Kathleen P. Johnson
Clerk/Treasurer, Village of Kenmore

VILLAGE OF KENMORE, NEW YORK
Local Law No. 2 of 2025

A Local Law Prohibiting Transient and Short-Term Rentals

Be it hereby enacted by the Village Board of the Village of Kenmore as follows:

Section 1: Purpose, Intent, and Findings.

In recent years and months, the number and frequency of transient rentals, as defined below, has substantially increased within the Village of Kenmore (the "Village"). The number of noise and other complaints received by the Village associated with such rentals has also increased. Responding to such complaints drains the Village's valuable, limited resources. Additionally, transient rentals can increase the cost of housing for local residents by reducing the number of units available to lease for periods of a year or longer. For these reasons, among others, many communities across New York have adopted local laws limiting or otherwise prohibiting transient rentals. The Village has consulted with members of the community and its advisors on sensible regulation of transient rentals to achieve the following goals:

- A. To promote the health, safety, and general welfare of the residents of the Village of Kenmore, as well as its visitors, in connection with community character, quality of life, business climate, and the prevention of crime;
- B. To protect the character and values of open space, residential, commercial, industrial, and institutional land uses;
- C. To reasonably regulate transient or short-term rental uses within the Village's borders;
- D. To preserve and promote the general attractiveness of the Village and ensure that structures and land use arrangements are aesthetically harmonious with surrounding structures and land uses; and
- E. Encourage long-term residency of residents and the efficient use of community development infrastructure while preventing the overcrowding of land and excessive concentration of population.

New York State has long recognized the difference between transient rentals and longer-term rentals, specifically by classifying transient and non-transient uses differently in the Multiple Dwellings Law. See N.Y. MULT. DWELL. LAW §§ 4(8)(a) (McKinney 2012) ("A 'class A' multiple dwelling is a multiple dwelling that is occupied for permanent residence purposes."), 9 ("A 'class B' multiple dwelling is a multiple dwelling which is occupied, as a rule, transiently, as the more or less temporary abode of individuals or families who are lodged with or without meals.") (emphasis added). The Village Board finds that it is in the public interest that Transient or Short-Term Rentals be eliminated to eradicate certain recurring impacts on the community, such as: noise, damage to personal and real property, poor upkeep of structures, large gatherings and/or parties, debris, late night activities, and use of property in a manner that is not permitted by applicable law. The Village Board has seen evidence of these effects in the Village necessitating this Local Law.

Section 2: Definitions.

For the purposes of this Local Law, and notwithstanding the definitions for similar or identical terms in the Village Code, the following definitions shall apply:

Transient or Short-Term Rental shall be defined as an owner-occupied or non-owner-occupied dwelling or dwelling unit used for transient occupancy for a period of less than ninety (90) days in exchange for financial compensation or anything of value.

Owner-Occupied Dwelling shall be defined as property that is owned and used as the primary residence by the person who holds the title to such property.

Non-Owner-Occupied Dwelling shall be defined as a property that is owned but not lived in by the owner. Examples of Non-Owner-Occupied Dwellings are properties used for rental or investment purposes.

Pre-Existing Transient or Short-Term Rental. A Transient or Short-Term Rental that was in operation before the effective date of this Local Law.

Section 3: Rule. Transient or Short-term Rental uses are and shall be prohibited in all districts in the Village.

Section 4: Application. As to Transient and/or Short-Term Rentals, this Chapter shall supersede any other Village Code provision.

Section 5: Penalties. Any violation of this Chapter by any property owner operating a Transient or Short-Term Rental property will result in:

- A. First Violation: a fine of \$250 per day and no more than a fine of \$500 per week.
- B. Second Violation: for any violation which occurs within three (3) years of the first violation, a fine of no less than \$750 per day and no more than \$2,250 per week.
- C. Third Violation: for any violation which occurs within three (3) years of the second violation, a fine of no less than \$2,250 per day and no more than \$6,750 per week.
- D. This fine schedule shall be independently enforced for each property covered under this Chapter.
- E. Any violations resulting in fines under this Section of this Local Law that remain unpaid for a period of thirty (30) days shall be treated as real property tax liens and placed on the subject property for which the violation is issued. Any such liens shall be superior and shall have priority over all other liens on the property.
- F. The Village reserves the right to levy unpaid fines as liens against the subject property and direct Erie County to do the same.

Section 6: Pre-Existing Transient or Short-Term Rental Amortization Period.

1. If a Pre-Existing Transient or Short-Term Rental was operating prior to the enactment of this Local Law, it shall be allowed to continue operating for a period of one (1) year from the enactment of this Local Law. Upon such time, any such nonconforming use will be automatically terminated and any resumed Transient or Short-Term Rental use shall be prohibited consistent with this Local Law.
2. Upon application and after a public hearing pursuant to Village Law § 7-712-b(2), the Zoning Board of Appeals may permit a nonconforming Transient or Short-Term Rental to continue for up to three (3) years after automatic termination, provided that:
 - a. The applicant demonstrates, with dollar-and-cents proof, that he/she made, prior to the nonconformity, substantial financial expenditures related to the nonconformity;
 - b. the applicant has not recovered substantially all of the financial expenditures related to the nonconformity;
 - c. the applicant will not realize a reasonable rate of return on his/her investment in the property; and
 - d. the period for which the nonconforming use is permitted to continue is the minimum period sufficient for the applicant to recover a reasonable amount of its financial expenditures incurred related to the nonconformity.

Section 7: Severability. If any provision of this Chapter is for any reason held unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this Chapter shall remain in effect. Such decision shall not affect the remainder of this Chapter. The Village hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses, or phrases may be declared unconstitutional or invalid.

Section 8: Effective Date. This Chapter shall be effective immediately upon filing with the Secretary of State.

Dated: May 6, 2025