
Town of Skaneateles
Introductory Local Law H of the Year 2023
A Local Law Relating to the Implementation and
Assessment of an Occupancy Tax in the Town of Skaneateles

Be it enacted by the Town Board of the Town of Skaneateles as follows:

Section 1. Legislative Findings, Intent, and Purpose

Pursuant to Section 1202-hhh of the New York State Tax Law, the Town of Skaneateles is authorized to adopt a local law relating to the implementation and assessment of a tax on persons occupying any room for hire in any short-term dwelling unit within the Town of Skaneateles.

The Town Board of the Town of Skaneateles makes the following findings of fact with respect to this Local Law:

- A. The Town of Skaneateles has a vested interest in ensuring that Town services are provided in a fiscally responsible manner and that the costs and expenses associated therewith are equitably distributed among the Town's taxpayers.
- B. Due to the Town's popularity as a tourist destination, the Town incurs additional costs in providing various Town services including, but not limited to, maintaining Town parks and Town infrastructure, with taxpayers of the Town largely bearing the burden of such additional costs.
- C. The assessment of an occupancy tax will offset these additional costs and promote the betterment of the health and well-being of the Skaneateles community.
- D. Pursuant to the State's enabling legislation, the Town is authorized to impose a tax of up to five percent (5%) of the per diem rental rate for each short-term dwelling unit for hire within the Town; provided, however, that if the Village of Skaneateles within the Town of Skaneateles shall have otherwise imposed an occupancy tax, such tax imposed by the Town of Skaneateles shall not apply within the Village of Skaneateles.

Section 2. Code Amendment

Chapter 134 of the Town Code of the Town of Skaneateles is hereby amended to create and impose an occupancy tax within the Town of Skaneateles, by inserting a new Article XI as set forth in the annexed page hereto.

Section 3. State Environmental Quality Review Act (SEQRA)

The Town Board has considered the provisions of Article 8 of the Environmental Conservation Law ("SEQRA") and the regulations adopted thereunder at 6 NYCRR Part 617 and finds that the proposed amendments to the Zoning Code will not result in any significant adverse environmental impacts. Therefore, no further review is required under SEQRA.

Section 4. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or

unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective date

This Local Law shall take effect upon the later of January 1, 2024 or the date of filing with the Secretary of State, and pursuant to the requirements of the enabling legislation, this local law shall be in effect for two years from the effective date of its enactment. Upon expiration of this local law, another local law may be enacted to take its place.

ARTICLE XI Occupancy Tax

§ 134-32. Definitions.

When used in this article, the following terms shall have the meanings indicated:

EFFECTIVE DATE — The date on which the Secretary of State files this article.

EXEMPT OCCUPANT — Any occupant of any room or rooms in a short-term dwelling unit whose rent is paid from public assistance from the County of Onondaga shall be deemed an "exempt occupant" with respect to the period of such occupancy, regardless of the length thereof.

OCCUPANCY — The use or possession or the right to the use or possession of any room in a short-term dwelling unit.

OCCUPANT — A person who, for a consideration, uses, possesses or has the right to use or possess any room in a short-term dwelling unit under any lease, concession, permit, right of access, license to use or other agreement or otherwise.

OPERATOR — Any person operating a short-term dwelling unit in the Town of Skaneateles, including, but not limited to, an owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such short-term dwelling unit.

PERMANENT RESIDENT — Any occupant of any room or rooms in a short-term dwelling unit for at least thirty (30) consecutive days shall be considered a "permanent resident" with regard to the period of such occupancy.

PERSON — An individual, partnership, society, association, joint- stock company, corporation, estate, receiver, trustee, assignee, referee and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

RENT — The consideration received for occupancy valued in money, whether received in money or otherwise, for the occupancy of a room in a short-term dwelling unit for any period of time. For purposes of this article, the term "rent" shall mean and include any fees, room charges, or additional rent imposed on an occupant, including, but not limited to, fees for smoking, pets, cleaning, parking, dry cleaning, vending, early check in, or late check out.

RETURN — Any return filed or required to be filed as herein provided.

ROOM — Any room or rooms or suite of rooms with sleeping accommodations, whether or not such accommodations are used, of any kind in any part or portion of a short-term dwelling unit which is available for or let out for any purpose. For purposes of this article, the term "room" shall also mean and include any campground or similar facility used for the lodging of guests on an overnight basis.

SHERIFF — The Sheriff of Onondaga County or his/her successor in office.

SHORT-TERM DWELLING UNIT — A facility or portion thereof, which is regularly used and kept open as such for the lodging of guests. For the purposes of this article, the term "short-term dwelling unit" shall mean and include any facility providing lodging on an overnight basis and shall include but not be limited to hotels, motels, apartment hotels, boarding houses, tourist homes, motel courts, bed-and-breakfast establishments, short-term rentals, vacation rentals, clubs, campgrounds or similar facilities, by whatever name designated, whether or not meals are served to guests or residents thereof.

TOWN — The Town of Skaneateles, New York.

TOWN CLERK — The Town Clerk of the Town of Skaneateles or such other person as may be designated by the Town Supervisor to administer and collect the tax provided for herein.

§ 134-33. Imposition of tax.

On and after January 1, 2024, there is hereby imposed and there shall be paid a tax of five percent (5%) upon the per diem retail rental rate for every occupancy of a room or rooms in a short-term dwelling unit in this Town, except that the tax shall not be imposed upon a permanent resident or an exempt occupant.

§ 134-34. Transitional provisions.

The tax imposed by this article shall be paid upon any occupancy on and after January 1, 2024, regardless of whether such occupancy is pursuant to a prior contract, lease or other arrangement. However, for any occupancy taking place on or after January 1, 2024, where rent for such occupancy has been pre-paid through a third party room remarketer or pre-paid in full to a third party or to the short-term dwelling unit operator directly and where such rent is paid prior to the effective date, and for which the short-term dwelling unit has no other direct financial transaction with the occupant, that occupancy shall not be subject to the tax. Where rent is paid on a weekly, monthly or other term basis, the rent shall be subject to the tax imposed by this article to the extent that it covers any period on and after January 1, 2024. This section shall be deemed expired and repealed on December 31, 2024 and no exemption shall be available pursuant to this section after such date.

§ 134-35. Exempt organizations.

Except as otherwise provided in this section, any use or occupancy by any of the following shall not be subject to the tax imposed by this article:

- A. The State of New York, or any of its agencies or instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada), improvement districts or political subdivisions of the state;

- B. The United States of America, or any of its agencies and instrumentalities, insofar as it is immune from taxation;
- C. Any corporation, association, trust or community chest, fund or foundation, organized and operated exclusively for religious, charitable or education purposes or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation; provided, however, that nothing in this subsection shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this subsection. Where any organization described in this subsection carries on its activities in furtherance of the purposes for which it was organized in premises in which, as part of said activities, it operates a short-term dwelling unit, occupancy of rooms in the premises and rents therefrom received by such corporation or association shall not be subject to tax hereunder.

§ 134-36. Territorial limits.

The tax imposed by this article shall apply only within the territorial limits of the Town; provided, however, that if the Village of Skaneateles within the Town shall have otherwise imposed an occupancy tax, such tax imposed by the Town shall not apply within the territorial limits of the Village of Skaneateles.

§ 134-37. Registration; certificates of authority.

- A. On or before December 1, 2023 or, in the case of operators commencing business after the effective date of this article, within ten (10) days after such commencement or opening, every operator shall file with the Town Clerk a certificate of registration in a form prescribed by the Town Clerk.
- B. The Town Clerk shall, within ten (10) days after such registration, issue without charge to each operator a certificate of authority empowering such operator to collect the tax from the occupant and a duplicate thereof for each additional short-term dwelling unit of such operator. Each certificate or duplicate shall state the short-term dwelling unit to which it is applicable. Such certificate of authority shall be prominently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such certificate shall be nonassignable and nontransferable and shall be surrendered immediately to the Town Clerk upon the cessation of business at the short-term dwelling unit named or upon its sale or transfer.

§ 134-38. Administration and collection.

- A. The tax imposed by this article shall be administered and collected by the Town Clerk or such other Town employee as he/she may designate by such means and in such manner as are other taxes which are now collected and administered or as otherwise are provided by this article.
- B. The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted

for and charged for, and upon every evidence of occupancy or any bill or statement of charges made for said occupancy issued or delivered by the operator, and the tax shall be paid by the occupant to the operator as trustee for and on account of the Town, and the operator shall be liable for the collection thereof and for the tax. The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this article, and the operator shall have the same right in respect to collecting the tax from the occupant, or in respect to nonpayment of the tax by the occupant, as if the tax were part of the rent for the occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that he/she may have in the event of nonpayment of rent by the occupant; provided, however, that the Town Clerk or employees or agents duly designated by him/her shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.

- C. The Town Clerk may, wherever he/she deems it necessary for the proper enforcement of this article, provide by regulation that the occupant shall file returns and pay directly to the Town Clerk the tax imposed at such times as returns are required to be filed and as payments are required to be made by the operator.
- D. Except as to and where the occupant has paid rent in full prior to the effective date, the tax imposed by this article shall be paid upon any occupancy on and after January 1, 2024, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date. Where rent is paid or charged or billed or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period on and after January 1, 2024. Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the Town Clerk may, by regulation, provide for credit and/or refund of the amount of such tax upon application therefore as provided in this article.
- E. For the purpose of the proper administration of this article and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established, and the burden of proving that a rent for occupancy is not taxable hereunder shall be upon the operator or occupant. Where an occupant claims exemption from the tax under the provisions of Subsection C of § 134-35 of this article, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption a copy of a New York State sales tax exemption certificate.

§ 134-39. Records to be kept.

Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon, in such form as the Town Clerk may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the Town Clerk or his/her duly authorized agent or employee and shall be preserved for a period of three (3) years, except that the Town Clerk may consent to their destruction within that period or may require that they be kept longer.

§ 134-40. Returns.

- A. Every operator shall file with the Town Clerk a return of occupancy and of rents and of the taxes payable thereon for the three-month periods ending the last day of February (for December, January and February), May (for March, April, and May), August (for June, July and August), and November (for September, October and November) on and after January 1, 2024. Such returns shall be filed within twenty (20) days from the expiration of the period covered thereby. The Town Clerk may permit or require returns to be made by other periods and upon such dates as he/she may specify. If the Town Clerk deems it necessary in order to ensure the payment of the tax imposed by this article, he/she may require returns to be made for shorter periods than those prescribed pursuant to the foregoing provisions of this section and upon such dates as he/she may specify.
- B. The forms of return shall be prescribed by the Town Clerk and shall contain such information as he/she may deem necessary for the proper administration of this article. The Town Clerk may require amended returns to be filed within twenty (20) days after notice and to contain the information specified in the notice.
- C. If a return required by this article is not filed or if a return is incorrectly filed or is insufficient on its face, the Town Clerk shall take such steps as he/she deems necessary to enforce the filing of such return or of a corrected return.

§ 134-41. Payment of tax.

At the time of filing a return of occupancy and of rents, each operator shall pay to the Town Clerk the taxes imposed by this article upon the rents required to be included in such return, as well as all other moneys collected by the operator acting or purporting to act under the provisions of this article; even though it may be later judicially determined that the tax collected is invalidly required to be filed, it shall be due from the operator and payable to the Town Clerk on the date prescribed herein for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and taxes due thereon. Where the Town Clerk in his/her discretion deems it necessary to protect revenues to be obtained under this article, he/she may require any operator required to collect the tax imposed by this article to file with him/her a bond, issued by a surety company authorized to transact business in this state and approved by the Superintendent of Insurance of this state as to solvency and responsibility, in such amount as the Town Clerk may find to secure the payment of any tax and/or penalties and interest due or which may become due from such operator. In the event that the Town Clerk determines that an operator is to file such bonds, he/she shall give notice to such operator to that effect, specifying the amount of the bond required. The operator shall file such bond within five (5) days after the giving of such notice unless, within such five (5) days, the operator shall request, in writing, a hearing before the Town Clerk at which the necessity, propriety and amount of the bond shall be determined by the Town Clerk. Such determination shall be final and shall be complied with within fifteen (15) days after the giving of notices thereof. In lieu of such bond, securities approved by the Town Clerk or cash in such amount as he/she may prescribe may be deposited with him/ her, which shall be kept in the custody of the Town Clerk, who may at any time, without notice of the depositor, apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold by him/her at public or private sale without notice to the depositor thereof.

§ 134-42. Determination of tax.

If a return required by local law is not filed or if a return, when filed is incorrect or insufficient, the amount of tax due shall be determined by the Town Clerk from such information as may be obtainable, and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, locations, scale of rents, comparable rents, type of accommodations and service, number of employees and/or other factors. Notice of such determination shall be given to the person liable for the collection and/or payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within thirty (30) days after giving notice of such determination, shall apply to the Town Clerk for a hearing or unless the Town Clerk on his/ her own motion shall redetermine the same. The Town Attorney or such Town employee as may be designated by the Town Clerk and approved by the Town Supervisor shall be authorized to appear on behalf of the Town Clerk at such hearing. After such hearing, the Town Clerk shall give notice of his/her determination to the person against whom the tax is assessed. The determination of the Town Clerk shall be reviewable for error, illegality, unconstitutionality or any other recognizable basis whatsoever by proceeding under Article 78 of the Civil Practice Law and Rules if application therefor is made to the Supreme Court within thirty (30) days after the giving of the notice of such determination. A proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless the amount of any tax sought to be reviewed, with penalties and interest thereon, if any, shall be first deposited with the Town Clerk and there shall be filed with the Town Clerk an undertaking, issued by a surety company authorized to transact business in this state and approved by the Superintendent of Insurance of this state as to solvency and responsibility, in such amount as a Justice of the Supreme Court shall approve to the effect that, if such proceedings be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue, including reasonable counsel fees, in the prosecution of the proceeding, or, at the option of the applicant, such undertaking filed with the Town Clerk may be in a sum sufficient to cover the taxes, penalties and interest thereon stated in such determination plus the costs and charges, including reasonable counsel fees, which may accrue against it in the prosecution of the proceedings, in which event the applicant shall not be required to deposit such taxes, penalties and interest as a condition precedent to the application.

§ 134-43. Disposition of revenues.

All revenue resulting from the imposition of the tax under this article shall be paid into the treasury of the Town and shall be credited to and deposited in the general fund of the Town and may be used for any lawful purpose.

§ 134-44. Refunds.

- A. In the manner provided in this section, the Town Clerk shall refund or credit, without interest, any tax penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the Town Clerk for such refund shall be made within one (1) year from the payment thereof. Whenever a refund is made by the Town Clerk, he/she shall state his/ her reason therefor in writing. Such application may be made by the operator or such other person that the operator may designate by signed written authorization. Such

application may also be made by an operator who has collected and paid over such tax to the Town Clerk, provided that the application is made within one (1) year of the payment by the occupant to the operator, but no actual refund of moneys shall be made to such operator until he/she shall establish to the satisfaction of the Town Clerk, under such regulations as the Town Clerk may prescribe, that he/she has repaid to the occupant the amount for which the application for refund is made. The Town Clerk may, in lieu of any refund required to be made, allow credit therefor on payments due or to become due from the applicant.

- B. An application for a refund or credit made as herein provided shall be deemed an application for a revision of any tax, penalty or interest complained of, and the Town Clerk may receive evidence with respect thereto. After making his/her determination, the Town Clerk shall give notice thereof to the applicant, who shall be entitled to review such determination by a proceeding pursuant to Article 78 of the Civil Practice Law and Rules, provided that such proceeding is instituted within thirty (30) days after the giving of the notice of such determination, and provided that a final determination of tax due was not previously made. Such a proceeding shall not be instituted unless an undertaking is filed with the Town Clerk in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that, if such proceedings be dismissed or the tax confirmed, the petitioner will pay costs and charges which may accrue in the prosecution of such proceeding.
- C. A person shall not be entitled to a revision, refund or credit under this section of a tax, interest or penalty which had been determined to be due pursuant to the provisions of § 134-42 of this article where he/she has had a hearing or an opportunity for a hearing, as provided in said section, or has failed to avail himself of the remedies therein provided. No refund or credit shall be made of a tax, interest or penalty paid after a determination by the Town Clerk made pursuant to § 134-42 of this article unless it be found that such determination was erroneous, illegal or unconstitutional or otherwise improper by the Town Clerk after a hearing or on his/her own motion or in a proceeding under Article 78 of the Civil Practice Law and Rules, pursuant to the provisions of said section, in which event refund or credit without interest shall be made of the tax, interest or penalty found to have been overpaid.

§ 134-45. Reserves.

In cases where the occupant or operator has applied for a refund and has instituted a proceeding under Article 78 of the Civil Practice Law and Rules to review a determination adverse to him/her on his/her application for refund, the Town Clerk shall have the option of crediting future tax payments to meet the cost of any settlements or judgments or, at his/her option, may, in the first instance, set up appropriate reserves to meet any decision adverse to the Town.

§ 134-46. Remedies exclusive.

The remedies provided by §§ 134-42 and 134-44 of this article shall be the exclusive remedies available to any person for the review of tax liability imposed by this article, and no determination or proposed determination of tax or determination on any application for refund shall be enjoined or reviewed by an action for declaratory judgment, an action for money had and received or by

any action or proceeding other than a proceeding in a nature of a certiorari proceeding under Article 78 of the Civil Practice Law and Rules; provided, however, that a taxpayer may proceed by declaratory judgment if he/she institutes suit within thirty (30) days after a deficiency assessment is made and pays the amount of the deficiency assessment to the Town Clerk prior to the institution of such suit and posts a bond for costs as provided in § 134-42 of this article.

§ 134-47. Proceedings to recover tax.

- A. Whenever any operator or any officer of a corporate operator or any occupant or other person shall fail to collect and pay over any tax and/or to pay any tax, penalty or interest imposed by this article as herein provided, the Town Attorney shall, upon the request of the Town Clerk, bring or cause to be brought an action to enforce the payment of the same on behalf of the Town in any court of the State of New York or of any other state or of the United States. If, however, the Town Clerk in his/her discretion believes that any such operator, officer, occupant or other person is about to cease business, leave the state or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, he/she may declare such tax or penalty to be immediately due and payable and may issue a warrant immediately.
- B. As an additional or alternate remedy, the Town Clerk may request that the Town Assessor, in the preparation of the next assessment roll, assess the amount of such tax or penalty upon the property occupied by business giving rise to such tax or penalty, and this amount shall be levied, collected and enforced in the same manner as taxes upon said property for Town purposes are levied collected, and enforced.
- C. Whenever an operator shall make a sale, transfer or assignment in bulk of any part of the whole of his/her short-term dwelling unit or its assets or his/ her lease, license or other agreement or right to possess or operate such facility or of the equipment, furnishings, fixtures, supplies or stock of merchandise or the said premises or lease, license or other agreement or right to possess or operate such short-term dwelling unit and the equipment, furnishings, fixtures, supplies and stock or merchandise pertaining to the conduct or operation of said short-term dwelling unit otherwise than in the ordinary and regular prosecution of business, the purchaser, transferee or assignee shall, at least ten (10) days before taking possession of the subject of said sale, transfer or assignment or paying therefor, notify the Town Clerk by registered or certified mail of the proposed sale and of the price, terms and conditions thereof, whether or not the seller, transferor or assignor has represented to or informed the purchaser, transferee or assignee that it owes any tax pursuant to this article and whether or not the purchaser, transferee or assignee has knowledge that such taxes are owing and whether any such taxes are in fact owing.
- D. Whenever the purchaser, transferee or assignee shall fail to give notice to the Town Clerk as required by the preceding subsection or whenever the Town Clerk shall inform the purchaser, transferee or assignee that a possible claim for such tax or taxes exists, any sums of money, property or chose in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over, the seller, transferor or assignor shall be subject to a first priority right and lien for any such taxes theretofore or thereafter determined to be due from the seller, transferor or assignor to the Town, and the purchaser, transferee or assignee is forbidden to transfer to the seller, transferor or assignor any such sums of money, property or chose in action to the extent of the amount of the Town's claim.

For failure to comply with the provisions of this subsection, the purchaser, transferee or assignee, in addition to being subject to the liabilities and remedies imposed under the provisions of the Uniform Commercial Code, shall be personally liable for the payment to the Town of any such taxes theretofore or thereafter determined to be due to the Town from the seller, transferor or assignor, and such liability may be assessed and enforced in the same manner as the liability for tax under this article.

§ 134-48. General powers of Town Clerk.

In addition to the powers granted to the Town Clerk by the Town Law and this article, he/she is hereby authorized and empowered:

- A. To make, adopt and amend rules and regulations appropriate to the carrying out of this article and the purposes thereof;
- B. To extend, for cause shown, the time of filing any return for a period not exceeding thirty (30) days; and, for cause shown, to remit penalties but not interest computed at the rate of one percent (1%) per annum per month or fraction thereof during which a tax is unpaid although due; and to compromise disputed claims in connection with the taxes hereby imposed;
- C. To request information from the Tax Commission of the State of New York or the Treasury Department of the United States relative to any person; and to afford information to such Tax Commission or such Treasury Department relative to any person, any other provision of this article to the contrary notwithstanding;
- D. To delegate his/her functions hereunder to any employee or employees of the Town as the Town Supervisor may approve;
- E. To prescribe methods for determining the rents for occupancy and to determine the taxable and nontaxable rents;
- F. To require any operator within the Town to keep detailed records of the nature and type of short-term dwelling unit maintained, nature and type of service rendered, the rooms available and rooms occupied daily, leases or occupancy contracts or arrangements, rents received, charged and accrued, the names and addresses of the occupants, whether or not any occupancy is claimed to be subject to the tax imposed by this article, and to furnish such information upon request to the Town Clerk;
- G. To assess, determine, revise and readjust the taxes imposed under this article;
- H. To require any operator to submit with the return required hereunder a copy of any tax return for sales, occupancy or use taxes submitted to the Tax Commission or other instrumentality of the State of New York.

§ 134-49. Administration of oaths; authority to compel testimony and produce records; penalties; fees.

- A. The Town Clerk or his/her employees or agents duly designated and authorized by him/her shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this article. The Town Clerk shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents, to secure information pertinent to the performance of

his/her duties hereunder and of the enforcement of this article and to examine them in relation thereto and to issue commissions for the examination of witnesses who are out of the state or unable to attend before him/ her or excused from attendance.

- B. A Justice of the Supreme Court, either in court or at chambers, shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called for by the subpoena of the Town Clerk under this article.
- C. Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any material matter pending before the Town Clerk under this article shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than one (1) year, or both such fine and imprisonment.
- D. The officers who serve the summons or subpoena of the Town Clerk and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein otherwise provided. Such officers shall be the Sheriff and his/her duly appointed deputies or any officers, employees or other persons of the Town Clerk designated by him/her to serve such process.

§ 134-50. Reference to tax.

Wherever reference is made in placards or advertisements or in any other publications to this tax, such reference shall be substantially in the following form: "Tax on occupancy of short-term dwelling units", except that in any bill, receipt, statement or other evidence or memorandum of occupancy or rent charge issued or employed by the operator, the term "Town tax" will suffice.

§ 134-51. Penalties for offenses; interest.

- A. Any person failing to file a return or to pay or pay over any tax to the Town Clerk within the time required by this article shall be subject to a penalty of five percent (5%) of the amount of tax due per month or any fraction of a month to a maximum of twenty-five percent (25%) for each year; plus interest at the rate of one percent (1%) of such tax for each month of delay or fraction of a month after such return was required to be filed or such tax became due; but the Town Clerk, if satisfied that the delay was excusable, may remit all or any part of such penalty; but not interest. Such net penalties and interest shall be paid and disposed of in the same manner as other revenues from this chapter. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this article.
- B. Any operator or occupant and any officer of an operator or occupant failing to file a return required by this article, or file or causing to be filed or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this article which is willfully false, and any operator and any officer of a corporate operator willfully failing to file a bond required to be filed pursuant to § 134-42 of this article or failing to file a registration certificate and such data in connection therewith as the Town Clerk may by regulation or otherwise require to display or surrender the certificate of authority as required by this article or assigning or transferring such certificate of authority; and any operator or any officer of a

corporate operator willfully failing to charge separately from the rent the tax herein imposed or willfully failing to state such tax separately on any evidence of occupancy and on any bill or statement or receipt of rent issue or employed by the operator or willfully failing or refusing to collect such tax from the occupant, any operator or any officer of a corporate operator who shall refer or cause reference to be made to this tax in a form or manner other than that required by this article, and any such person or operator failing to keep records required by this article, shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishable by a fine of up to one thousand dollars (\$1,000), imprisonment for not more than one (1) year, or both such fine and imprisonment. Officers of a corporate operator shall be personally liable for the tax collected or required to be collected by such corporation under this article and penalties and interest thereon and subject to the fine and imprisonment herein authorized.

- C. The certificate of the Town Clerk to the effect that a tax has not been paid, that a return, bond or registration certificate has not been filed or that information has not been supplied pursuant to the provisions of this article shall be presumptive evidence thereof.

§ 134-52. Returns to be confidential; preservation of returns; penalties.

- A. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Town Clerk or employee or designee of the Town Clerk to divulge or make known in any manner the rents or other information relating to the business of a taxpayer contained in any return required under this article. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Town Clerk in an action or proceeding under the provisions of this article or on behalf of any party to any action or proceeding under the provisions of this article when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his/her duly authorized representative of a certified copy of any return filed in connection with his/her tax nor to prohibit the publication of statistics so classified to prevent the identification of particular returns and items thereof or the inspection by the Town Attorney or other legal representatives of the Town or by the District Attorney of any county of the return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty. Returns shall be preserved for three (3) years and thereafter until the Town Clerk permits them to be destroyed.
- B. Any violation of Subsection A of this section shall be punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment not exceeding one (1) year, or both, in the discretion of the court, and if the offender be an officer or employee of the Town, he/she may be, at the discretion of the Town Supervisor or Town Board in accordance with the provisions of the Town Code, dismissed from office and be incapable of holding any further Town office as may be determined according to law.

§ 134-53. Notices and limitations of time.

- A. Any notice authorized or required under the provisions of this article may be given to the person to whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by him/her pursuant to the provisions of this article or in any application made by him/her or, if no return has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this article by the giving of notice shall commence five (5) days after the date of mailing of such notice.
- B. The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the Town to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this article. However, except in the case of a willfully false, fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three (3) years from the date of filing of a return; provided, however, that, in the case of a return which should have been filed and has not been filed as provided by law, the tax may be assessed at any time.
- C. Where, before expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented, in writing, that such period be extended, the amount of such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents, in writing, made before the expiration of the extended period.

§ 134-54. Severability.

If any provision of this article, or the application thereof to any person or circumstance, is held invalid, the remainder of this article, and the application of such provision to other persons or circumstances, shall not be affected thereby.

§ 134-55. Expiration.

Pursuant to the requirements of enabling legislation, this local law shall be in effect for two (2) years from the effective date of its enactment. Upon expiration of this local law, another local law may be enacted to take its place.