



February 12, 2024

Village of Tivoli Board of Trustees  
1 Tivoli Commons  
Tivoli, NY 12583

**Re: Comments on Draft Legislation for Short-Term Rentals, Accessory Dwelling Units, and Bed and Breakfasts**

Dear Mayor Griffith and the Village of Tivoli Board of Trustees,

Thank you for inviting comments on the Draft Legislation for Short-Term Rentals, Accessory Dwelling Units, and Bed and Breakfasts. Below, please find comments from Tivoli Tomorrow, a group of 40+ Tivoli residents advocating for smart, sustainable, and equitable growth.

**1. Comments on Proposed Short Term Rentals (STRs) Legislation**

Pros and Cons of STRs

The danger of STRs is that they will be exploited by speculators who gobble up property in the Village for the sole purpose of renting them as STRs. Given how few houses there are here in Tivoli, we need to do what we can to prioritize owner occupancy and long-term rentals. Too many "unhosted" STRs can really hollow out a place by replacing full-time residents with vacationers who have little to no investment in our community. Moreover, dedicated STRs further deplete our already small housing inventory - especially that of apartments, and therefore further drive up already escalating housing costs.

On the other hand, STRs can be a boon. STRs bring visitors who otherwise might not have the opportunity to stay in Tivoli, and who patronize our businesses (which, given our small population and "dead-end" geography, *have* to rely on a combination of local and tourist dollars). We should 100% embrace our visitors, and be grateful that we live in a place that so many people want to visit. STRs can also give homeowners some extra income that could (among other things) subsidize their mortgage.

Overall, we think some modest, easily enforceable STR regulations are in order, but think that many of the regulations included in the draft legislation now being considered by the Board are too burdensome.



### Our Recommendations

We think there are ways to prevent what's bad about STRs while also preserving what is good about them. **In sum, we think that it makes sense to:**

- 1) require an “annual operating permit”
- 2) collect an annual permit fee
- 3) institute a lodging tax that will go towards increasing affordable housing in the Village
- 4) place a cap on how many nights in a calendar year a home can be rented short-term
- 5) limit permits to one per property-owner.

The Board might also consider simply restricting STRs to primary residences. (That is, making a rule that a given homeowner can rent their home as a STR if and only if said home is their primary residence as defined on their tax forms.)

### Response to Proposed Legislation

Our thoughts about the proposed rules are as follows:

- *“only when hosted by an owner or designated agent who stays on the property with the guests”*  
This seems excessive and unnecessary. “Unhosted” rentals should be allowed (provided there is a cap on rented nights/year). Requiring unhosted rentals to have a registered, local agent is sensible, but neither the agent nor the owner should be required to stay in the house when it is being used as an STR.
- *“only in single-family homes”*  
This seems excessive and unnecessary, and at odds with many best practices we have looked at.
- *“only one bedroom per property may be rented out”*  
This seems excessive, unnecessary, and at odds with many best practices we have looked at. We don’t understand what such an onerous regulation accomplishes. Why shouldn’t a homeowner who goes away for two weeks be able to STR their entire home?
- *“only up to 40 nights a year”*  
It is essential to place a cap on how many nights in a calendar year a home can be rented short-term. However, 40 nights is too low—lower than many of the precedents and best practices we have looked at. 60 might be a more reasonable number.
- *“they will require the owner to seek an “annual operating permit” from the Village Building Department and pay an annual permit fee (\$TBD)”*  
This seems reasonable. We hope that the fees from this (or from a lodging tax) will go towards the production of affordable housing in the Village.



- *“the annual operating permit is specific to the owner and property and not transferable”*  
This seems reasonable.
- *“any parcel owner with one STR permit cannot obtain a second permit”*  
This seems reasonable.
- *“the number of STRs will be capped (#TBD) and subject to an annual lottery”*  
If all of the other regulations are followed, this one seems unnecessary. The kind of unpredictability that this would bring about would cause hardship for a homeowner. For example, what if you were a long-term resident who were following the STR rules, and who counted on that extra income to allow you to keep your home, but every year you couldn't plan or budget because you were unsure if you would “win” the lottery?
- *STRs are for transient residential occupancy: events such as gatherings, parties, weddings, meetings, banquets, etc. are prohibited*  
If all of the other regulations are followed, this one seems excessive. We understand the problems that large gatherings can result in; however, we do have a noise ordinance that we believe has the potential to mitigate the worst of these problems **if it is possible for it to be better enforced.**
- *no recreational vehicle, trailer, tent, treehouse or other temporary housing shall be used as an STR*  
This seems excessive and unnecessary. What is the harm in someone renting out a trailer or tent? This seems discriminatory.

## **2. Comments on Proposed Accessory Dwelling Units (ADUs) Legislation**

### Intro

We have a housing shortage here, a fact that is resulting in an affordability crisis. ADUs alone won't solve our shortage, but they will help, and we think they will be a great thing for Tivoli. We therefore applaud the Board for working to legalize them.

That said, we think the proposed regulations are much too strict, and would deprive far too many Villagers the opportunity to construct an ADU.

Some of the proposed regulations (for example, limiting the size of ADUs and requiring the property owner to live in one of the two structures) are sensible and reflect best practices. Others would unnecessarily restrict the production of ADUs. This is especially true for the minimum lot size requirements. A quick analysis reveals the following:



### Minimum Lot Size Requirements

In the R15 *inside* the Historic Overlay (roughly Montgomery Street), only about 20% of properties would have a large enough lot size for an ADU (1 acre would be needed). So **80% of lots in the heart of the village are ineligible for ADUs**. This is especially concerning because this is where it is especially good to build ADUs, as many properties here are closest to Village shops and services.

Other districts are victims of the regulations too:

In the R15 *outside* the Historic Overlay (i.e. “the development”), only about 31% of properties would have a large enough lot size for an ADU (0.5 acre would be needed).

In the R1A (i.e. North Road), only about 50% of properties would have a large enough lot size for an ADU (1.5 acres would be needed).

In the R2A (i.e. East Tivoli and Clay Hill Road) only about 33% of properties would have a large enough lot size for an ADU (3 acres would be needed).

In the R3A (i.e. west of Woods Road) only about 25% of properties would have a large enough lot size for an ADU (4.5 acres would be needed).

### Minimum Setbacks

As written, the setback rules / bulk regulations will further limit which properties are eligible for an ADU. Our main objection is to the onerous side and rear setbacks that are required of ADUs created through new construction. It seems the straightforward thing would be to apply to ADUs the setback requirements that currently regulate accessory buildings. Instead, the rule requires that the ADU meet the minimum side and rear yard setbacks established for principal structures. Again, this will further limit which properties are eligible for an ADU. In the R-15, the difference between accessory building regulations and principal building regulations is the difference between a 25’ rear setback and a more manageable 10’ one. We understand that accessory buildings that are used as residences are different from accessory buildings that are used for garages and other nonresidential uses, but the existing setback regulations that are applied to accessory buildings are big enough to maintain sufficient privacy.

### Off-Street Parking

Regarding the “adequate off-street parking” rule: This rule basically means that each person who builds an ADU would need to provide an additional parking spot (with significant redesign of the site to meet the current zoning regulations for parking layout). This runs counter to prevailing planning wisdom: indeed, cities, towns, and villages across the country are abolishing parking minimums. They increase costs, create siting hardships, and add an unnecessary



hurdle to the approvals process. If someone is building an ADU, they will know whether they need to include a parking lot. They should certainly be allowed to include one, but we just can't see the benefit of requiring someone to include one.

#### Special Permit

A good goal for any City, Town, or Village is to limit discretionary review by offering clear rules that would allow "as of right" development. Special Permits add time, cost, and unpredictability to development, a fact that would further undermine the production of ADUs in the Village. That said, a basic site plan review meant to ensure basic compliance seems reasonable.

#### Pattern Book

As most ADUs will not be visible from the street, we recommend that ADUs not be required to abide by the same design standards that a primary dwelling would.

### **3. Comments on Proposed Bed and Breakfasts (B&Bs) Legislation**

First, it's not clear to us why the Village would be SO restrictive outside the GB and RB, and SO lenient inside the GB and RB. **Second, these regulations seem like a loophole that would result in STR operators applying for B&B permits and then having them be run by agents, effectively running a STR as a B&B.** Wouldn't it be more straightforward (and fair) if we kept the existing B&B rule that requires it to be owner-occupied and just treated the GB and RB like all the other zones when it comes to STRs? Under our proposed STR policy modifications, there is no longer a need for a carve-out to allow existing small STRs above businesses in the GB as 'unhosted BnBs' (a concept at odds with state BnB regulations): they can simply operate as unhosted STRs, up to the proposed cap — or, if that is not profitable, consider converting them (back) into long-term housing.

### **4. Further Things to Consider to Address Our Housing Shortage**

Tivoli is a dense, walkable, scenic village with more infrastructure and amenities than any dead-end town of 1,000 we know.

Tivoli is a wonderful place to live, and more people should have the opportunity to live here. As such, we need to build more housing—housing that comes in all shapes and sizes (multifamily and single-family) and is aimed at a range of ages and incomes. If this region is to grow, it should grow in places that, like Tivoli, have sewer and water systems, public services (including transportation), gathering spaces, retail, and density. This is the sustainable way forward.

We fear that if Tivoli does not plan for growth, it will become a trophy town that people only occasionally vacation in. Tivoli WILL change; the question is just whether it changes in a way that we like or a way that we don't like. Good planning can help.



ADUs alone won't solve our housing shortage, but they will help, and we think they will be a great thing for Tivoli.

However, if the Board is serious about addressing the housing crisis, much more needs to be done.

For example, we would like to see Tivoli update its zoning code. One needs 15,000 square feet for a residential lot in the densest residential district, and on this 15,000 square feet one can only build a single-family home. This is absurd, and is in complete violation of the historic overlay, which aims to ensure that development is in keeping with historic development (which the zoning code renders illegal.) Apartments, rowhomes, and ADUs should all be allowed (and encouraged).

Tivoli also owns properties which it could develop using a public-private development model. The St. Sylvia's parking lot and the baseball field are centrally located, and are presently underutilized. There is an enormous opportunity there to build mixed-income housing (multifamily and single-family).

Thank you for taking on this important topic, and for considering our opinions.