

## Agenda Summary

January 24, 2024

Agenda No. B-3

### Short Term Registry Rental Ordinance Selectboard Work Session

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Summary: This time has been set aside for the Selectboard to continue working on the enclosed draft Short Term Rental Ordinance. The revised draft incorporates your requested changes from your 1/10/24 meeting. It has been reviewed by Town Counsel and includes two notes. One note recommends the Selectboard delete Section II (a) which states, "Any future regulation of such properties shall only occur after a comparative analysis of information is completed identifying the problem(s) to be regulated" due to it being a policy statement. His note states, "This is a policy statement that is not legally binding on a future selectboard. The proposed language could also create a legal problem for the Town if a future Board chose not to follow it". A second note responds to concerns raised over language in Section VIII stating, "Each day the violation continues shall constitute a separate offense" His note indicates, "This comes language directly from the statute." See 24 VSA 1974 (a):

<https://legislature.vermont.gov/statutes/section/24/059/01974a>" His note goes onto indicate, "While the issuing officer does not have discretion whether to enforce the ordinance in most instances, he/she does have discretion how to enforce. For example, the issuing officer can give a warning, can give additional time to comply, etc., provided he/she is reasonable and applies the ordinance in an even-handed manner in like circumstances." If adopted, the notes would not be part of the STR Ordinance. Joe McClean from the Town Attorney's Office will be here to help respond to questions and help finalize the draft.

The current draft of the STR Ordinance would require all non-commercial STR's to register starting in 2025. It would also require an authorized responsible person to respond on-site within 45 minutes to the property if their automated alarm is activated and/or if they receive a call from an emergency management official. **This is so once the Stowe Fire Department or other emergency management official can turn the site over to a responsible person to take care of any issues that may require follow-up.** Vermont statute 22 VSA 2291 (29) defines what an STR is and authorizes municipalities to regulate STR's. It states, "For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers: To regulate by means of an ordinance or bylaw the operation of short-term rentals within the municipality, provided that the ordinance or bylaw does not adversely impact the availability of long-term rental housing. As used in this subdivision, "short-term rental" means a furnished house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year." Stowe's draft STR Ordinance incorporates this definition.

Town Plan Update: Conforms with Local Planning Process Goal "To ensure the widespread involvement of Stowe citizens and property owners at all levels of the local planning and decision-making process." Conforms with Housing Goal "To ensure the availability of housing for all Stowe residents and non-resident property owners that is of high-quality design, is energy efficient, and is compatible with the character of the community."

Fiscal Impact: The cost of administering and enforcing the ordinance may be offset by fees which will be set annually by the Selectboard. Fees cannot be established above the cost of administering and enforcing the ordinance.

Recommendations: If and when the Selectboard is ready, move to instruct the Town Manager to warn an introduction (first reading) of the Stowe Short-term Registry Ordinance for the next Selectboard meeting.

**TOWN OF STOWE**

**SHORT-TERM RENTAL REGISTRY ORDINANCE**

I. **Authority:** This Ordinance is adopted pursuant to the authority set forth in 24 VSA 2291(15) and (29) and § 204 of the Town of Stowe Charter. This Ordinance shall be designated as a civil ordinance under 24 V.S.A. § 1971(b).

II. **Purpose:** The purposes of this Ordinance are to promote the public health, safety, welfare and convenience of the Town by, among other things, identifying and gathering information **through a registry** on Short-Term Rental properties so that the Town may better evaluate the impacts of Short-Term Rental properties on the community and determine what regulations of such properties, if **warranted, are** appropriate and consistent with the best interests of the Town; to define certain regulatory requirements and prohibited activities related to Short Term Rentals, including that Short Term Rentals be **operated by a** “Resident Owner” or under the active management and control of a “Designated Responsible Person,” as those terms are defined herein; and to provide a mechanism for enforcement thereof.

A. **Any future regulation of such properties should only occur after a comparative analysis of information is completed identifying the problem(s) to be regulated.**

III. **Definitions:** The following definitions shall apply to this Ordinance.

- A. “Compliance Agent” shall mean the **town employee** designated by the Town Manager to administer and enforce this Ordinance and who may serve as a representative of the Town in any associated legal proceedings.
- B. “Dwelling Unit” shall mean one or more rooms, connected together, constituting a separate, independent housekeeping establishment for Owner occupancy, rental or lease, physically separated from any other rooms or dwelling units which may be in the same building, and containing independent cooking, **sanitation** and sleeping facilities.
- C. “Lot” shall mean a plot or parcel of land established and recorded by plat, subdivision, or otherwise, permitted by law to be occupied by at least one (1) principal building and the accessory buildings or uses customarily incidental to it, including any required open spaces.
- D. “Non-Resident Owner” shall mean that the Owner or, if the Owner is not a natural person, a member, director or other duly authorized representative of the Owner, does not use the involved real property as their primary residence. By way of example, Non-Resident Owner property includes a furnished house, condominium, apartment, or other dwelling room or self-

**Commented [JM1]:** This is a policy statement that is likely not legally binding on a future selectboard. The proposed language could also create a legal problem for the Town if a future Board chooses not to follow this.

**Commented [JM2R1]:** Recommendation: Delete this language. At a minimum, change the word “shall” to “should” to indicate that the Board understands this is advisory and encouraged, but not mandated.

contained Dwelling Unit that is not the Owner's primary residence, nor located on the same Lot as the Owner's primary residence.

- E. "Owner" shall mean the Person(s) in whom is vested title to real property.
- F. "Resident Owner" shall mean that the Owner or, if the Owner is not a natural person, a member, director or other duly authorized representative of the Owner, uses the involved real property as their primary residence. By way of further example, Resident Owner property includes a furnished house, condominium, apartment, or other dwelling room or self-contained Dwelling Unit that is the Owner's primary residence or that is located on the same Lot as the Owner's primary residence. **A current, filed Vermont homestead declaration property tax form (HS-122) shall constitute evidence that the real property is the Owner's primary residence.**
- G. "Person" shall include any natural person, corporation, municipality, the State of Vermont or any department, agency, or subdivision of the State, and any partnership, unincorporated association, or other legal entity.
- H. "Designated Responsible Person" shall mean a Person or Persons designated and authorized by the Owner, or that Person's employee or agent, capable of and responsible for providing timely interior and exterior access to the Short-Term Rental and who shall take responsibility for any issue or problem related to the STR, as appropriate, in the Owner's absence.
- I. "Short-Term Rental" or "STR" or "Short-Term Rental property" means any lease or rental of residential real property, including a furnished house, condominium, or other dwelling room or self-contained Dwelling Unit, or a portion thereof, to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year, but specifically excluding commercial lodging establishments such as hotels, motels, inns and bed and breakfasts. **For the sake of clarity, the definition of Short Term Rental shall include residential real property located within a Commercial Lodging Facility that is held in separate and unaffiliated ownership from the Commercial Lodging Establishment itself, as in the case of individually owned rooms within a so-called condominium hotel, where said residential real property is rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year.**
- J. "Short-Term Rental Registration form" shall mean the form that the Owner of a Short-Term Rental must file annually with the Town containing **required** information regarding the Short-Term Rental, including contact information for the Owner, Designated Responsible Person or other person responsible for the STR.
- K. "Short-Term Rental Identification Number" shall mean the identification number issued by the Compliance Agent after a Short-Term Rental is properly registered with the Town.

**IV. Compliance with Law; No Waiver:** The Owner of any Short-Term Rental in the Town shall comply with all other requirements of federal, State and local law pertaining to rental housing, including, without limitation, relevant provisions of the Vermont Rental Housing Health Code and the Town of Stowe Zoning Regulations, as amended from time to time. Nothing herein shall constitute a waiver by the Town of its right and obligation to enforce such other legal requirements pertaining to rental housing, which the Town is charged with enforcing, in the manner provided by law. A building in which people rent accommodations constitutes a “public building” under 20 V.S.A. § 2730(a)(1)(D) and is subject to the authority of the State of Vermont Division of Fire Safety or its designee.

**V. Short-Term Rental Registration**

(1) **Annually, beginning on November 1<sup>st</sup> of each year, and no later than December 31<sup>st</sup>,** the Owner of property proposed for use as a Short-Term Rental shall complete and submit to the Town a Short-Term Rental Registration form for each STR Dwelling Unit they may separately rent.

(2) Said Short-Term Rental Registration form shall be approved by the Town Manager and, subject to the requirements of this Ordinance, may be modified or amended from time to time by the Manager **or the Selectboard.**

(3) Without limitation, the Short-Term Rental Registration form shall require that the Owner of Short-Term Rental property provide at least **(but not be limited to)** the following information (note: proof of ownership may be required if the person submitting the Short-Term Rental Registration form does not hold legal title, as evidenced by deeds or other instruments recorded or on file in the Stowe Land Records):

(a) physical (E-911) address(es) of all **Short-Term Rental** property advertised, offered for lease/rental, or used as a Short-Term Rental;

(b) contact information for the property Owner, including: the Owner’s full and proper name, mailing and/or physical address, telephone number and email address;

(c) contact information for any natural person residing on the property who is designated/authorized to act on the Owner’s behalf as a Designated Responsible Person, including: the on-site Designated Responsible Person’s full and proper name, mailing and/or physical address, telephone number and email address;

(d) contact information for any off-site Designated Responsible Person, including: the off-site Designated Responsible Person's full and proper name, mailing address, telephone number and email address;

(e) whether the Short-Term Rental is offered for lease by a Resident Owner or Non-Resident Owner.

(f) the number of bedrooms in the Dwelling Unit being leased/rented as STRs.

(4) After completing and submitting a Short-Term Rental Registration form, the Owner shall report **to the Town** any material change(s) in the required information submitted to the Town, **as referenced above, within seven (7) days of such change.**

(5) Upon the conveyance of title to any property on the Town's Short-Term Rental Registry (or that is required to be on such Registry, but is not otherwise registered) **and no later than thirty (30) days from the date of the conveyance as evidenced by the date on an instrument conveying the property filed in the Town's Land Records**, the new Owner shall complete a new Short-Term Rental Registration form with updated information to continue to use the property as a Short-Term Rental.

(6) The "Short Term Rental Safety, Health and Financial Obligations" form found on the Vermont Division of Fire Safety website must be completed by the Owner and posted in a plainly visible location within the STR. See: <https://firesafety.vermont.gov/sites/firesafety/files/documents/Short%20Term%20Rental%20healthand%20safety.pdf>

(7) Upon complete and proper submission of all required information, as determined by the Short-Term Rental Compliance Agent, the Compliance Agent shall issue a Short-Term Rental Registration Number **without unreasonable delay**, subject only to the requirements of this Ordinance. **After issuance of a Short-Term Rental Registration Number, the Owner of STR Property shall include the Registration Number in all advertisements for the STR Property. Advertised rental periods may extend beyond the current registration period and are subject to subsequent renewals. It shall not be a violation of this Ordinance for a currently registered STR to advertise a rental period that will occur after the current registration period expires.**

(8) All Short-Term Rental Registration Numbers **issued for the preceding year shall expire at midnight on December 31<sup>st</sup>.**

## **VI. Regulatory Requirements and Prohibited Activities.**

On and after May 1, 2025, it shall be a violation of this Ordinance for the Owner of real property used as an STR to:

- A. Lease or rent their property as a Short-Term Rental without first obtaining a registration number from the Town as provided herein.
- B. Provide intentionally false or materially misleading information on any Short-Term Rental Registration form.
- C. Advertise any Short-Term Rental, in any manner, without first obtaining a Town-issued STR Registration Number or to advertise any Short-Term Rental property without including the Short-Term Rental Registration Number in the advertisement.
- D. Not be a Resident Owner of Short-Term Rental property, or, if the STR is not Resident Owner occupied, to not place a STR under the active management and control of a Designated Responsible Person, who shall: (i) reside on site or (ii) reside within a forty-five (45) minute drive of the Short-Term Rental property being managed, and (for each of the foregoing) (iii) be available and authorized to respond promptly to issues or interior and exterior access to the Short-Term Rental, on a 24/7/365 basis.
- E. Not respond or have a Designated Responsible Person respond, and, if necessary, provide access to a Short-Term Rental property within forty-five (45) minutes of alarm activation or, for non-alarm incidents, within forty-five (45) minutes of notification by a Stowe Firefighter or Police Officer regarding any other issue or problem involving a Short-Term Rental. For the purposes of the foregoing sentence, “respond” shall mean arrive, in person, at the location of the involved Short-Term Rental property unless specifically excused from doing so for good cause by a Stowe Firefighter, Police Officer, the Town Manager or other Person authorized to enforce this Ordinance.

VI. **Fees.** The Selectboard may, from time to time, establish and adopt fees related to the administration and enforcement of this Ordinance and may incorporate all such fees into a duly adopted fee schedule, which may be amended from time-to-time at the Selectboard’s sole discretion.

VII. **Enforcement.** Any Person who violates a provision of this civil ordinance shall be subject to a civil penalty for each day that such violation continues. Each day the violation continues shall constitute a separate offense. The Stowe Fire Chief, the Stowe Police Chief, and the Town Manager (or their designees) shall all be designated and authorized to act as Issuing Municipal Officials to issue and pursue before the Judicial Bureau, or another court having jurisdiction, a municipal complaint to enforce this Ordinance.

**Commented [JM3]:** This highlighted language comes directly from the statute, 24 V.S.A. 1974a(a) states: “A civil penalty of not more than \$800.00 may be imposed for a violation of a civil ordinance. Each day the violation continues shall constitute a separate violation.” Note, however, that while the issuing officer does not have discretion whether to enforce the ordinance in most instances, he/she does have discretion how to enforce. For example, the issuing officer can give a warning, can give additional time to comply, etc., provided he/she is reasonable and applies the ordinance in an even-handed manner in like circumstances.

**A. Waiver Fees.** An Issuing Municipal Official is authorized to recover waiver fees, in lieu of a civil penalty, in the following amounts, for any person who declines to contest a municipal complaint and pays the waiver fee:

First Offense -	\$10
Second Offense -	\$200
Third Offense -	\$300
Fourth and Subsequent Offenses -	\$400

Offenses shall be counted on a twelve (12) month basis, beginning January 1 and ending December 31 of each year. An Issuing Municipal Official shall have authority, but shall not be required, to issue a written warning, without recovering a waiver fee, for any First Offense. In such instance, the written warning shall be counted as a First Offense for calculating the number of annual offenses.

**B. Civil Penalties.** An Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation:

First Offense -	\$200
Second Offense -	\$400
Third Offense -	\$600
Fourth and Subsequent Offenses -	\$800

Offenses shall be counted on a twelve (12) month basis, beginning January 1 and ending December 31 of each year. An Issuing Municipal Official shall have authority, but shall not be required, to issue a written warning, without recovering a civil penalty, for any First Offense. In such instance, the written warning shall be counted as a First Offense for calculating annual offenses.

**C. Other Relief:** In addition to the enforcement procedure available under Chapter 59 of Title 24, the Town Manager is authorized to commence a civil action in a court of competent jurisdiction to obtain injunctive and other appropriate relief, to request revocation or suspension of any Short-Term Rental Registration Number on behalf of the Town, or to pursue any other remedy authorized by law. The Town Manager may also pursue all lawful means to obtain payment of fees and fines, including but not limited to placing a lien on the involved STR property pursuant to 24 V.S.A. § 1981.

**VIII. Record of Compliance.** The Compliance Agent or his/her designee shall maintain a written record of violations of this Ordinance during the calendar year, including identifying the Owner of the STR, the location of the property and nature of the violation.

**IX. Severability.** If any provision of this ordinance is deemed by a court of competent jurisdiction to be unconstitutional, invalid or unenforceable, that provision shall be severed from the ordinance and the remaining provisions that can be given effect without the severed provision shall continue in effect.

**X. Effective Date.** This Ordinance shall take effect upon passage, **except that Section VII (Enforcement) shall not take effect until May 1, 2025, and no offenses or violations shall accrue prior to that date.**

**ADOPTED** at Stowe, Vermont, this \_\_\_ day of \_\_\_\_\_, 2024, and to be effective upon adoption.

**Stowe Selectboard**

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