

BE IT ORDAINED by the Selectboard of the Town of Fairlee that the Town of Fairlee Ordinances are hereby revised as follows:

TOWN OF FAIRLEE SHORT TERM RENTAL ORDINANCE

I. Authority

This Ordinance is adopted pursuant to the authority set forth in 24 V.S.A. § 2291(14) and (15). This Ordinance is designated a civil ordinance under Chapter 59 of Title 24, V.S.A.

II. Purpose

The Town of Fairlee Selectboard hereby find that unregulated short term (i.e., less than 32 days) transient occupancy of dwelling units in residential neighborhoods presents a threat to the public welfare relating to compatibility with residential uses and preservation of the character of the neighborhoods in which they are located, and to the availability of housing stock in the Town, and the threat to water quality in the Town's lakes due to excess use of onsite wastewater systems. Unregulated short term rentals have negative secondary effects on residential areas, with such areas experiencing heightened adverse impacts from parking, garbage, noise and outdoor/nighttime activities. These negative effects, when left unchecked, injure and degrade the community as a whole and constitute a public nuisance. The purposes of this Ordinance are:

- (a) to balance the desire of property owners to rent their residential properties to short term rental guests for compensation against the desire of residents to preserve the traditional peace and quiet of their residential neighborhoods;
- (b) to preserve and protect residential neighborhood character and livability from the nuisance impacts that are often associated with short term rentals;
- (c) to limit or prevent long term rentals from being replaced with short term rentals;
- (d) to ensure the safety of occupants of short term rentals and the well-being of the community;
- (e) to protect the water quality of the Town's lakes by limiting occupancy within the capacities of onsite wastewater systems; and
- (f) to promote the public health, safety and welfare of the Village, its residents and visitors.

III. Definitions.

A. Words, terms and phrases specifically defined in the Town of Fairlee Unified Development Bylaw shall have the same meaning in this Ordinance unless another meaning is specifically indicated.

B. "Short Term Rental" or "STR" shall mean any publicly promoted rental for stays of less than 32 days of any residential home unit or accessory building that is not regulated as a commercial use or residential business or service.

C. "Owner Occupied" shall mean that the owner of the Short Term Rental, or another person authorized by the owner to act on his, her or its behalf, will be present at and residing on the property where the Short Term Rental is located during the rental period.

D. "Property Manager" shall mean a person empowered to address tenant and legal problems and issues that may arise during the operation of the Short Term Rental and shall:

- (i) be located within a 30 minute drive of the Short Term Rental property being managed,
- (ii) available and authorized to respond promptly to incidents involving the Short Term Rental, and
- (iii) capable of providing timely interior and exterior access to the Short Term Rental, on a 24/7 basis.

E. "Compliance Officer" shall mean a person or persons designated by the Selectboard to administer and enforce this Ordinance and to serve as a representative of the Town in any associated legal proceedings.

IV. Compliance with Law

The owner of any Short Term Rental property 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 Fairlee Unified Development Bylaw, as amended from time to time. A building in which people rent accommodations, whether as a Short Term Rental or for a term of 32 days or more, constitutes a public building" under 30 V.S.A. §2730(a)(1)(D) and may be subject to the authority of the State of Vermont Division of Fire Safety or its designee.

V. Short Term Rental Registry & Annual Report Conditions for Renewal

To provide Town officials, including designated Compliance Officers, with up to-date emergency contact, identification, occupancy, and pre- and post-incident planning and compliance information for Short Term Rental properties in the Town, the Town will utilize a "Short Term Rental Registry and Annual Reporting Program." The Short Term Rental Registry and Annual Reporting Program shall include all Short Term Rental properties, whether or not Owner Occupied. To qualify for an annual license and inclusion in the Rental Registry the property owner must first obtain a conditional use approval from the Fairlee Development Review Board and zoning permit from the Zoning Administrator per §5.3 of the Town of Fairlee Unified Development Bylaw.

A. Short Term Rental Registry

On or before April 30 of each year:

(1) The owner of property proposed for use as a Short Term Rental shall complete and submit a Short Term Rental Registry form to the Town on an annual basis as a part of the annual renewal application. Said form shall be approved by the Selectboard and may be modified or amended from time to time by the Selectboard.

(2) The following information shall be provided by owner(s) of Short Term Rental property on or in conjunction with the Short Term Rental Registry form (note: proof of ownership may be required if the person submitting the Short Term Rental Registry form is not the record title holder, as indicated by documentation maintained in the Town of Fairlee Land Records):

(a) physical address(es) of all property advertised, offered for use, or used as a Short Term Rental;

(b) contact information for property owner, including: name, mailing and/or physical address, telephone number, email address;

(c) contact information for any person present at and residing on the property and authorized to act on the owner's behalf, including: name, mailing and/or physical address, telephone number, email address;

(d) contact information for any property manager, including: name mailing address, telephone number, email address;

(e) a copy of the written property management agreement or contract, if applicable, stating the duration/term of any contract;

(f) if not a whole building rental, the number of Short Term Rental dwelling units located within the building and the 911 addresses assigned to the units (if separate from the building);

(g) a sketch plan depicting the Short Term Rental property and all proposed onsite parking spaces, including guest parking;

(h) an emergency exit plan consisting of a floor plan of the Short Term Rental depicting the location of all bedrooms and fire exits, including egress windows;

(i) valid proof of homeowners insurance with a short term rental endorsement;

(j) proof of Vermont tax account for room & meals and/or sale tax purposes;

(k) proof of positive inspection, for both new and existing buildings, by Division of Fire Safety or its designee; and

(l) copy of any Short Term Rental rules applicable to the rental property.

(m) date, duration, and number of guests for each short term rental during the prior year.

(3) The Short Term Rental Registry form may also require such additional information as the Town of Fairlee Selectboard, in their discretion, deem reasonable, necessary and appropriate.

(4) Upon transfer of ownership of any property on the Short Term Rental Registry, the new owner shall complete a new Short Term Rental registry form and make new application for an annual license with updated information and any prior Short Term Rental authorization shall be null and void.

(5) Any owner of a Short Term Rental property who fails or refuses to complete a Short Term Rental Registry form as provided herein shall be subject to civil penalties under this Ordinance and denied renewal of annual license.

(6) Upon complete and proper submission of all required information, as determined by the Short Term Rental Compliance Officer, the Compliance Officer shall issue a Short Term Rental Authorization and Registration Number authorizing lawful rental of the Short Term Rental property.

(7) All Short Term Rental Authorization and Registration Numbers shall expire on March 31 of each year, with registration renewal forms submitted no later than April 30 of each year (even if actual rentals will occur later in the year).

VI. Regulatory Requirements and Prohibited Activities.

A. The Short Term Rental of property that is not in compliance with this Ordinance is prohibited.

B. Providing false or materially misleading information on any Short Term Rental Registry or Annual Report form shall be a violation of this Ordinance.

C. All Short Term Rental property shall be Owner Occupied or, if not Owner Occupied, under the active management and control of a property manager.

D. All Short Term Rental property shall conspicuously display within each dwelling unit the current and valid name, address and phone number of the Short Term Rental operator (whether the owner, on-site manager, or property manager), the Vermont Department of Health, and the Vermont Division of Fire Safety. In addition, the contact information of the Village's Short Term Rental Compliance Officer shall be similarly displayed.

E. Advertising any Short Term Rental without first obtaining a Town-issued Registration Number or not including the Registration Number in the advertisement to demonstrate that the STR is lawful shall be a violation of this Ordinance.

F. Renting, using or occupying a Short Term Rental without first obtaining a Short Term Rental Authorization and Registration Number shall be a violation of this Ordinance.

G. Short Term Rental guests shall not sublease, sublicense or assign all or any portion of the Short Term Rental to another person during the rental period.

H. Short Term Rental properties shall be limited in occupancy to two guests per bedroom.

I. The following are expressly prohibited in connection with Short Term Rental properties:

a. Signs and other outside indications, other than on-site parking, that a property is used or occupied as a Short Term Rental.

VII. Fees.

A fee shall be paid to the Town in connection with the submission of any Short Term Rental License and Registry form or renewal thereof. The fee is based on the attached fee schedule. The Selectboard, from time to time, may modify this fee and may establish and adopt other fees related to the administration and enforcement of this Ordinance, and may incorporate all such fees into the adopted fee schedule.

VIII. Waiver/Variance. To prevent undue hardship or delay, avoid injustice, or for other good cause shown, the Selectboard may, upon good cause shown, waive or vary the requirements of this Ordinance upon such reasonable terms and conditions as it may require, unless precluded by the Ordinance itself or by other provisions of law. In considering any request for waiver or variance, the Selectboard shall at least consider:

- (1) the reason for the request, including its reasonableness, and the reason for the requirement at issue,
- (2) the risk to public health, safety, welfare and convenience in granting the request,
- (3) the danger of prejudice to the applicant and third parties if the request is granted,
- (4) the timeliness of the request, and
- (5) whether the requestor is acting in good faith.

IX. Enforcement.

Any person who violates a provision of this civil ordinance shall be subject to a civil penalty of up to \$800 per day for each day that such violation continues as described in the attached fee schedule. Each day the violation continues shall constitute a separate offense. The Compliance Officer, Fairlee Police Officers, the Fairlee Zoning Administrator and the Fairlee Town Administrator shall all be designated and authorized to act as Issuing Municipal Officials to issue and pursue before the Judicial Bureau, or other court having jurisdiction, a municipal complaint.

X. Waiver Fees.

An Issuing Municipal Official is authorized to recover waiver fees, in lieu of a civil penalty, in the following amount, for any person who declines to contest a municipal complaint and pays the waiver fee, which are listed in the adopted fee schedule.

Offenses shall be counted on a twelve (12) month basis, beginning April 1 and ending March 31 of each year. An Issuing Municipal Official shall have authority to issue a written warning, without recovering a waiver fee, for any First Offense violation other than Operating a Short Term Rental without authorization or a Registration Number. In such instance, the written warning shall be counted as a First Offense for calculating annual offenses.

XI. Civil Penalties.

An Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation. Penalties are listed in the adopted fee schedule. Offenses shall be counted on a twelve (12) month basis, beginning April 1 and ending March 31 of each year. An Issuing Municipal Official shall have authority to issue a written warning, without recovering a civil penalty, for any First Offense violation other than Operating a Short Term Rental Without Authorization or a Registration Number. In such instance, the written warning shall be counted as a First Offense for calculating annual offenses.

XII. Other Relief

In addition to the enforcement procedures available under VSA Title 24 Chapter 59, the Town Administrator is authorized to commence a civil action in the Civil Division of the Vermont Superior Court to obtain injunctive and other appropriate relief, to request revocation or suspension of any Short Term Rental Authorization and Registration Number on behalf of the Town of Fairlee Selectboard, or to pursue any other remedy authorized by law.

XIII. 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.

XIV. Effective Date

This Ordinance is hereby adopted by the Selectboard of the Town of Fairlee, Vermont on this 6th day of Nov 2023 and shall, unless a petition is filed as provided by State law, become effective sixty (60) days from this date.

CITIZENS' RIGHT TO PETITION FOR VOTE

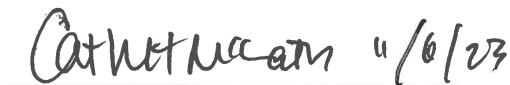
Title 24 V.S.A. § 1973 grants citizens the right to petition for a vote at a special or annual Town Meeting to disapprove ordinances adopted by the Selectboard. To exercise this right, citizens must present to the Selectboard or the Town Clerk a petition for a vote on the question of disapproving the ordinance signed by not less than five percent (5%) of the Town's qualified voters. The petition must be presented within forty-four (44) days following the date of the adoption of the amendments. Unless a petition requesting a vote is filed pursuant to 24 V.S.A. § 1973, the Short-Term Rental Ordinance shall remain in effect.


11/6/23

Chair, Lance Mills



Vice-Chair, Peter Berger


11/6/23

Cathy McGrath

Adoption History

1. Agenda item at regular Selectboard Meetings Held on 5/8/2023, 6/5/2023, 7/10/2023, & 7/17/2023, 10/30/23, 11/06/23
2. Read and approved at a regular Selectboard meeting on 11/6/23 and entered into the minutes of that meeting, which were approved, on 11/13/23
3. Posted in public places on 11/7/23
4. Notice of adoption published in the Journal Opinion newspaper on 11/15/23 with a notice of the right to petition.
5. Other actions (petitions, etc.) Petition submitted on 12/19/23 by David Adams
Special Town meeting held concerning Petition of Ordinance
on 2/24/24. 92 ballots cast
34 disapprove
58 do not disapprove ordinance stays in effect