




TOWN OF FREEPORT, MAINE

Town Manager's Office
30 Main Street
Freeport, ME 04032

Phone: 207-865-4743
Email: pjoseph@freeportmaine.com

MEMORANDUM

TO: Freeport Town Council
FROM: Peter Joseph, Town Manager 
DATE: 02/18/21
RE: **Short Term Residential Rental Registration Ordinance**

As Councilors are likely aware, the Town Council has been discussing and considering the possibility of enacting regulations on short term rentals for several years now.

More recently, the issue was referred to the Ordinance Committee to consider what a potential Short Term Rental regulation structure might look like. After a lengthy period of deliberation and consideration of available options for the regulation of short term rentals, the Ordinance Committee began development of the draft document before you for consideration approximately 6 months ago.

This draft has gone through numerous edits over a number of public meetings, with significant participation by members of the public throughout the drafting process. There has been a great deal of open back and forth communication between staff, members of the Ordinance Committee, and members of the public throughout the development process, which in my opinion has generally been very helpful and productive. The Town Attorney reviewed an intermediate version of the Ordinance, and her suggestions that were adopted by the Ordinance Committee were incorporated into the final draft before you.

This draft was recommended for consideration (with edits by Town staff) by the full Town Council at the Ordinance Committee's 02/08/21 meeting.

TOWN OF FREEPORT
CHAPTER 61
SHORT-TERM RESIDENTIAL RENTAL REGISTRATION ORDINANCE

Article I: Purpose

The Town of Freeport recognizes the desire of some property owners to rent their legal residential unit(s) as short-term rentals. At the same time, property owners in the vicinity of existing short-term rentals have raised legitimate concerns about quality of life and continued quiet enjoyment of their properties, due to the inherently transient nature of short-term rentals. It is the intent of this Ordinance to allow the continued, reasonable short-term rental, of legal residential properties in the Town of Freeport, while minimizing the negative impacts said short term rentals generate upon abutting and neighboring residential properties.

Article II: Definitions

For this Ordinance, the following terms will be defined as follows:

Accessory Apartment in a Single-Family Dwelling: A small dwelling unit that meets the performance standards for accessory apartments and is located on the same lot as and is accessory to a single-family dwelling. One accessory apartment per dwelling unit is allowed.

Dwelling: A fixed structure containing one or more dwelling units.

Dwelling, One-Family: A dwelling designed for or occupied exclusively by one family;

Dwelling, Two-Family: A dwelling designed for or occupied exclusively by two families living independently that are similar in size but in no way shall one unit be less than 40% in size than the other unit unless the land area per dwelling unit can be met for each unit; for the purposes of this Ordinance a group of one or two family dwellings on commonly owned land shall not be considered a multiple family dwelling.

Dwelling, Multiple Family: A dwelling or group of dwellings in one structure containing separate living units for three or more families.

Dwelling Unit - residential: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one (1) family at a time, and containing living, sleeping, toilet, cooking facilities. The term shall include prefabricated or modular housing, mobile homes, and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. This does not include hotels, motels, rooming houses, temporary trailers, or recreational vehicles with its tires on the ground and registered with the Maine Bureau of Motor Vehicles.

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Hosted Home Stay: A dwelling unit that is the owner’s residence; is occupied, including overnight, by such Owner during the short-term rental period. In the case of a single-family dwelling with a legally permitted accessory apartment, the owner shall reside in either unit during the short-term rental period. In the case of a property comprised of a multiple family dwelling units in single ownership, the unit is considered a hosted home stay if the owner is present in one of the legally permitted dwelling units on such property during the short-term rental period. There is no minimum night stay required for hosted home stay short-term rentals.

Non-Hosted Home Stay: A dwelling unit that may or may not be the owner’s residence and will not be occupied by such owner during the short-term rental period. There is only one rental allowed for each seven-day period for non-hosted home stay short-term rentals.

Short-term Rental (STR): The use, control, management or operation of a legally-existing dwelling unit or legally-existing accessory dwelling unit, in whole or in part, for dwelling, sleeping or lodging purposes for fewer than 30 consecutive days and for compensation, directly or indirectly. Short-term rentals do not include motels, hotels and bed and breakfast inns. A short-term rental does not include legally existing dwelling units that are rented no more than twice per calendar year and for less than a total of 14 days in a calendar year.

Article III: Prohibited Activities

The following activities are prohibited:

- (a) The short-term rental of property to short-term rental guests that is not in compliance with this Ordinance.
- (b) Offering a short-term rental in a structure that was not permitted by the Town of Freeport for human habitation.
- (c) Sublease or assignment of any portion of a short-term rental to another person during the rental period. The short-term rental shall not be deemed sublet or assigned if the renter of the short-term rental is accompanied by guests during the period the renter occupies the short-term rental.
- (d) The preparation or serving of food to short-term rental guests by the hosted-home stay or non-hosted home stay registrant or his/her/its agent that would require a victualer’s license from the Town of Freeport or a food license from the State of Maine.

Article IV: Registrations

- (a) Effective June 1, 2021 no person shall operate a short-term rental without first registering the unit with the Freeport Town Clerk. Registration forms and a self-inspection checklist will be available on the Town’s website and at the Freeport Town Hall.
- (b) For the first effective registration cycle of this Ordinance (06/01/21 until 03/01/22), initial registration applications from existing short-term rental units may be submitted to the Town Clerk from April 1, 2021 until June 1, 2021. Applications received after June 1, 2021 will be processed as first-time applications, per Article IV(d) on a space available basis. Initial registrations during the first effective registration cycle of this Ordinance will be valid until

March 1, 2022, after which time the registration timeline indicated in in Article IV(c) and (d) below shall apply.

- (c) Beginning on 03/01/2022, registration cycles will run for a one-year period from March 1st until March 1st of the following year. Registration renewals shall be required on an annual basis. Applications for renewals will be accepted from December 1 – March 1 of each calendar year. Any renewal applications received after that date will be considered late and will be subject to a late fee at a rate established by the Freeport Town Council.
- (d) First time registration applications may be completed at any time during a calendar year or registration cycle. For the purposes of this Ordinance “first time applications” shall include property owners wishing to register their short-term rental units for the first time, or after more than one year’s lapse of a previously issued registration.
- (e) A proposed short-term rental may only be registered by the legal owner of the proposed short-term rental unit.
- (f) All first time and renewal registrants will be required to file an “Application for Short Term Rental Registration” with the Town Clerk. The applicant shall provide all the information requested on the short-term rental registration application form provided by the Town of Freeport, including, but not limited to, the following information: owner and property information, emergency contact information, proof of occupancy limits, and documentation of how the off-street parking requirement will be met.
- (g) Registration of each individual short-term rental is required, and a registration number will be given to each unit registered. Registrations are limited to the dwelling unit for which they are issued and shall not be transferable to a different dwelling unit.
- (h) Non-refundable fees for a short-term rental registration/renewal shall be as adopted, by order of the Freeport Town Council, and may be amended from time to time. Such fee must be submitted with the registration form at the time of registration and/or renewal.
- (i) A short-term rental shall not be considered registered until all information and fees are provided to the satisfaction of the Town Clerk, a registration number has been assigned to the unit, and a registration certificate has been issued.
- (j) Registrations shall be transferrable only in the case of ownership transfer of the registered property between immediate family members. For the purposes of this section “immediate family member” is defined as a child, spouse, sibling, or parent of the original registration holder. For purposes of this Ordinance, immediate family is not intended to include trusts or corporate owners. In the case of a transfer of ownership between immediate family members, the new owners shall notify the Town Clerk of the change of ownership in writing and may continue to operate the short term rental until March 1st, at which point the property owner shall be eligible to apply for a registration renewal according to the provisions of Article IV(c). Any change in ownership other than a transfer between immediate family members require registration application as a “first time” registration according to the provisions of Article IV(d).

- (k) All first-time registration applications, and any renewal applications for which there have been changes over the previous year, will be reviewed by the Codes Enforcement Officer prior to the issuance of the registration number by the Town Clerk.
- (l) All renewal registration applications shall be reviewed and approved annually by order of the Freeport Town Council prior to the issuance of the registration number by the Town Clerk. The Codes Officer shall provide a summary of all complaints and any resolution to said complaints filed during the previous registration cycle to the Town Council for their review along with the registration renewal applications.

Article V: Operating Standards

In addition to the registration requirements set forth in Article IV of this document, the following operating standards shall apply:

- (a) Emergency Contact. The owner must identify a registered agent or representative for emergency contact purposes, who may be the owner. The emergency contact person must be able to respond within 60 minutes (24 hours per day) to complaints regarding the condition, safety or operation of the dwelling unit as a rental or the conduct of guests, and must be able to take such remedial action on behalf of the owner, or as otherwise allowed by law, to resolve such complaints.
- (b) Occupancy limits. Guests shall be limited to a maximum of two guests per legally permitted bedroom, plus no more than two additional overnight guests. Limits will be based upon information on the number of bedrooms as permitted by a building permit and/or by a Certificate of Occupancy issued for the space to be used as the short-term rental.
- (c) Minimum night stays. There is no minimum night stay required for hosted home stay short-term rentals. There is only one rental allowed for each seven-day period for non-hosted home stay short-term rentals.
- (d) Parking. The owner must provide sufficient off-street parking to meet the parking requirements of Chapter 21 Town of Freeport Zoning Ordinance, Section 514 Off-street Parking and Loading, for the dwelling unit(s), as well as sufficient off-street parking for all overnight guest vehicles. The number of overnight guest vehicles allowed shall be restricted to the number of off-street parking spaces provided by the owner. Parking space(s) within a garage may be counted for this purpose. Tenants and guests of Short-term rentals are prohibited from parking in a manner that impedes access by emergency vehicles to the property or any other dwelling in the neighborhood. Guest parking on any public street is prohibited between 11pm and 7am.
- (e) Evacuation Plans. All property owners are required to create an evacuation plan and post in a visible location in the rental property in case of emergency.
- (f) Life safety. All short-term rental units shall comply with the following requirements:
 - 1) Be properly identified with their legal street number and in accordance with the Town of Freeport Street Numbering Ordinance.

- 2) Shall have at least one appropriately sized portable fire extinguisher shall be mounted in a prominent location within the short-term rental.
- 3) Any dwelling unit(s) **constructed on or after December 1, 2010** shall comply with the Maine Uniform Building and Energy Code (MUBEC) that was effective at such time that a building permit was issued for the unit. In addition, they must also comply with all applicable National Fire Protection Association (NFPA) codes and standards that have been adopted by the Town and State.
- 4) Rental units contained in structures **constructed prior to December 1, 2010** shall comply with the following standards:
 - i) The "2013 Egress Policy" issued by the Office of the State Fire Marshal;
 - ii) State of Maine Title 25, §2464: Smoke detectors;
 - iii) State of Maine Title 25, §2468: Carbon monoxide detectors.
- (g) Solid Waste Disposal. The owner and renters must adhere to the standards of the Freeport Solid Waste Disposal Ordinance. In addition, the property owner shall ensure that solid waste is removed from the property prior to new guests entering the property.
- (h) Noise. The owner and renters must adhere to the standards of the Freeport Loitering, Curfew and Noise Ordinance. Violations of the referenced Ordinance shall be punishable by a civil penalty as described in the Freeport Loitering, Curfew and Noise Ordinance.
- (i) Insurance. At the time of registration, the owner must provide a certificate of insurance that expressly acknowledges that the property may be used for short-term rental business activity and evidencing (a) property insurance and (b) general liability insurance appropriate to cover the rental use in the aggregate of not less than \$1 million or proof that the owner conducts rental transactions through a hosting platform that provides equal or greater coverage. The owner must maintain such insurance coverage for the duration of the annual registration period.
- (j) Advertising. It shall be prohibited to advertise occupancy or use of a short-term rental that is not legally registered with the Town of Freeport according to the provisions of this Ordinance. For the purposes of this Article, the term "advertise" shall mean any form of communication for marketing that is used to encourage, persuade or manipulate viewers, readers or listeners into contracting for the use of the short-term rental as may be viewed through various media included, but not limited to newspapers, magazines, flyers, television commercials, radio, signage, direct mail, websites, online platforms, and/or text messages. The short-term rental advertising shall be consistent with the requirements this Ordinance, shall include the municipal registration number and clearly note the number of permitted bedrooms for the rental unit. The advertising shall not include offering the property for non-residential uses such as corporate events, large weddings, or other similar events.
- (k) Posting of Short-Term Rental Registration Certificate. The Short-Term Rental Registration Certificate issued by the Town Clerk, must be posted inside the short-term rental unit, in plain sight, near the entrance to the unit.
- (i) Other. Nothing contained in this Ordinance shall supersede any condominium, homeowner or restrictive deed covenants that apply to the Hosted Home Stay or Non-Hosted Home Stay short-

term rental property and it is the responsibility of the applicant to research and comply with any such restrictions.

Article VI: Violations and Enforcement

- (a) Violations of this Ordinance. Violations of this ordinance include, but are not limited to, the following:
1. Providing false or misleading information on an application, or renewal application, for a short-term rental registration;
 2. Failure to comply with the parking provisions of Article V(d) of this Ordinance;
 3. Failure to comply with the rental intensity limitations of Article V(b) of this Ordinance;
 4. Violation of any short-term rental registration condition, restriction or other criteria;
 5. Violation of any statute, ordinance, or regulation applicable to the short-term rental property; and/or,
 6. Violations discovered through normal monitoring by Town of Freeport staff.
- (b) Complaints Concerning Short-term rentals. All complaints regarding short-term rentals shall be brought to the attention of the Codes Enforcement Officer through the completion and submission of a Citizen Complaint Form. The Codes Enforcement Officer shall establish and maintain a record of all complaints received for each short-term rental and investigated by the Codes Enforcement Officer. The Codes Enforcement Officer shall seek to obtain voluntary compliance through the correction of all substantiated complaints by the short-term rental registrant. A list of complaints and any resolutions shall be reported to the Town Council by the Codes Enforcement Officer annually, as described in Article IV(k).
- (c) Suspension or Revocation of a Registration. If in the opinion of the Codes Enforcement Officer a violation of Article VI(a) of the Ordinance cannot be resolved within a reasonable time period, and if the nature and/or number of complaints warrants further review of the registration, the Codes Enforcement Officer shall provide a report to the Town Council for review and consideration. Following a public hearing, the Town Council may condition, suspend, or revoke a short-term rental registration on the basis of the property owner's non-compliance with this ordinance, any applicable law, ordinance, regulation, short term rental certification, condition or criteria. Registrants who have previously had a registration(s) revoked pursuant to Article VI this Ordinance, shall be allowed to register the subject property in the future only by order of the Town Council.
- (d) Failure or Refusal to Obtain Short Term Rental Registration; Enforcement. Failure or refusal to obtain a short- term rental registration prior to operating and/or advertising a short-term rental as required by this Ordinance, shall be considered a violation of this ordinance, and shall be subject to fines and penalties as set forth in this section and in the fee schedule established by the Town Council. Each day that a violation continues shall constitute a separate violation. For the violation of operating and/or advertising a short-term rental without a valid registration, the violator shall be penalized with a per day fine equal to the yearly registration fee for the first offense and an additional per day fine equal to three times the yearly registration fee for each additional offense, to be recovered upon complaint to Maine District Court or Superior Court, for use of the Town. Any such fines or penalties may be in addition to any suspension or revocation imposed in accordance with the provisions of Article VI(c) of this Ordinance. The Town may

institute or cause to be instituted any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this Ordinance. In any court action, the Town may seek injunctive relief in addition to or instead of fines/penalties. The Town shall be entitled to recover its costs of enforcement, including its reasonable attorneys' fees.

- (e) Appeal. Any registrant aggrieved by the decision of the Town Council to suspend or revoke a short-term rental registration may appeal the decision of the Town Council to Superior Court, pursuant to Maine Rule of Civil Procedure 80B, within thirty (30) days of the Town Council's decision.

Article VII: Limits on Annual Short-term Rental Registrations

The Town Clerk shall issue short-term rental registrations on an annual basis. The total number of annual registrations issued shall be limited to three hundred (300) per registration cycle.

In the event that the Town Clerk receives more than three hundred (300) registration applications during a given registration cycle, first priority shall be given to renewal applicants who submit a complete renewal registration application within the time period described in Article IV.

Late renewal applications and first-time applications will be given second priority and shall be awarded on a space available basis through a lottery process held by the Town Clerk.

In the event that more than 300 applications are received during the first registration cycle (as described in Article IV(b)), the Town Council may increase the amount of registrations issued during the first registration cycle only by order.

Article VIII: Conflicts with other Ordinances

In the event of a conflict between the provisions of this Ordinance and any applicable State or local law, ordinance or regulation, the more restrictive provision shall control. The issuance of any Hosted Home Stay or Non-Hosted Home Stay registration pursuant to this Ordinance shall not relieve the Owner of the obligation to comply with all provisions of the other municipal ordinances or any other applicable laws or regulations pertaining to the use and occupancy of the property on which it is located.