



TOWN OF FREEPORT, MAINE

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MEMORANDUM

TO: Freeport Town Council
FROM: Peter Joseph, Town Manager
DATE: 04/01/21
RE: **Short Term Residential Rental Registration Ordinance (STRRRO)**

The Ordinance Committee met on 03/22/21 and 03/29/21 to review suggested changes to the draft STRRRO after the public hearing held on 03/15/21. In addition to numerous organizational and clarifying amendments, the following amendments were made after these meetings. Staff reviewed these changes with the Town Attorney following the 03/29/21 meeting, and we expect to receive comments from the Attorney in advance of 04/06/21 Town Council meeting. The following changes were made by the Ordinance Committee:

- The distinction between hosted and non-hosted stays was eliminated.
- The “one rental per seven day period” provision that was previously attached to non-hosted short term rentals was eliminated.
- Requirements for removal of solid waste were changed from “prior to the arrival of new guests” to a minimum of “once a week”.
- A prohibition on events hosted at short term rentals with more than 16 attendees (including renters) was added. Staff expects that the Town Attorney’s comments will address this change. It is possible that this language constitutes a substantive change (as a new restriction) and may require re-noticing and a second public hearing. If so, staff will have language prepared for the Council on Tuesday night, if the Council wishes to take such action.
- A provision was added clarifying that the Police Department may be utilized for complaints disturbing the quiet enjoyment of abutting properties.
- The enforcing body for complaints was changed from the Town Council to the Board of Appeals. Staff expects that the Town Attorney’s comments will address potential problems with this change.
- The requirement that all short term rentals receive an approved registration from the Town in Article III (a) was changed to a requirement that an application must be made to the Town Clerk. Staff expects that the Town Attorney’s comments will address potential problems with this change.

Additionally, on further review of the proposed STRRRO, staff identified concerns with Article V (b), and suggests changing the first two words of the last sentence of that section from “Residents who...” to “Short term rental units which...”. Staff’s specific concern is that a property owner who has had their registration revoked by action of the Town could easily obtain a registration as first time registrant by transferring the property into the ownership of an LLC, trust, or similar ownership structure.

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 the purposes of this Ordinance, the definition of “dwelling” shall be synonymous with the definition contained in the Freeport Zoning Ordinance, Chapter 21, Article I, Section 104 “Dwelling”, the definition for “dwelling unit” shall be synonymous with the definition in the Freeport Zoning Ordinance, Chapter 21, Article I, Section 104 “Dwelling Unit - residential”, and the definition for “accessory dwelling unit” shall be synonymous with the definition in the Freeport Zoning Ordinance, Chapter 21, Article I, Section 104 “Accessory Apartment in a Single Family Dwelling”.

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 twenty-eight (28) 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: Registrations

- (a) Effective July 1, 2021 no person shall operate a short-term rental without first submitting an “Application for Short-Term Rental” for the unit with the Freeport Town Clerk. Application forms and a self-inspection checklist will be available on the Town’s website and at the Freeport Town Hall.
- (b) A proposed short-term rental may only be registered by the legal owner of the proposed short-term rental unit.
- (c) 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.

- (d) 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.
- (e) 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.
- (f) For the first effective registration cycle of this Ordinance (07/01/21 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 July 1, 2021. Applications received after July 1, 2021 will be processed as first-time applications, per Article III (h) 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 III (g) and (h) below shall apply.
- (g) 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.
- (h) 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.
- (i) 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 III (g). Any change in ownership other than a transfer between immediate family members shall require registration application as a “first time” registration according to the provisions of Article III (h).
- (j) 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 and certificate by the Town Clerk.
- (k) 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 and certificate 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 Manager for their review.

along with the registration renewal applications.

- (l) A unique registration number for each dwelling unit shall be assigned by the Town Clerk at the time of registration, which shall not be transferrable to any other unit.

Article IV: Operating Standards

In addition to the registration requirements set forth in Article III of this document, the following operating standards shall apply, and shall constitute violations of this ordinance if not followed:

- (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 short-term 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 on the number of bedrooms listed on the building permit, approved septic system design, sewer district connection information, or certificate of occupancy for the property. In the case of a dwelling legally existing without any of the information listed above, the number of bedrooms shall be based upon the historic and traditional use as represented by the property owner.
- (c) 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.
- (d) Evacuation Plans. All property owners are required to create an evacuation plan and post in a visible location in the short-term rental property in case of emergency.
- (e) 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 type A/B/C fire extinguisher 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) Short-term 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.

- (f) 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 or securely stored prior to new guests entering the property. In no case shall solid waste remain on the property for more than a week after the rental period.

- (g) 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.

- (h) 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 general liability insurance appropriate to cover the short-term rental use in the aggregate of not less than \$1 million, or proof that the owner conducts short-term rental transactions through a hosting platform that provides equal or greater coverage. The owner must maintain such insurance coverage while rented.

- (i) 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 short-term rental unit. The advertising shall not include offering the property for non-residential uses such as corporate events, large weddings, or other similar events.

- (j) 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.

Article V: Prohibited Activities, Violations, and Enforcement

- (a) The following activities are prohibited:
 - 1) The short-term rental of property to short-term rental guests that is not in compliance with this Ordinance.
 - 2) Offering a short-term rental in a structure that was not permitted by the Town of Freeport

for human habitation.

- 3) Gatherings or events with more than 16 attendants, including occupants of the short-term rental.
- 4) 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.
- 5) The preparation or serving of food to short-term rental guests by the registrant or their agent that would require a victualer's license from the Town of Freeport and/or a food license from the State of Maine.

(b) 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 IV (c) of this Ordinance;
- 3) Failure to comply with the occupancy limits of Article IV (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.

(c) 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. Any complaints that interrupt the quiet enjoyment of a resident in their home or immediate neighborhood may be reported to the Freeport Police Department. 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 III (k).

(d) Suspension or Revocation of a Registration. If in the opinion of the Codes Enforcement Officer a violation of this Ordinance exists and 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 Manager for review and consideration. Following a public hearing, the Board of Appeals 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 this article shall be allowed to be registered 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 this Article. 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.
- (f) Appeal. Any registrant aggrieved by the decision of the Board of Appeals to suspend or revoke a short-term rental registration may appeal the decision of the Board of Appeals to Superior Court, pursuant to Maine Rule of Civil Procedure 80B, within thirty (30) days of the Board of Appeals decision.

Article VI: 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 III.

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 III(f)), the Town Council may increase the amount of registrations issued, during the first registration cycle only, by order.

Article VII: 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 registration pursuant to this Ordinance shall not relieve the owner of the obligation to comply with all provisions of any other municipal ordinances or any other applicable laws or regulations pertaining to the use and occupancy of the property on which it is located.