

Memo

To: Town Council

From: Christine Wolfe

Date: 5/12/2022

Re: Short term rental registration

We have completed the initial period of Short-Term Rental (STR) Registration which began July 1, 2021 and ended March 1, 2022. There were 53 STRs that registered for the 2021-2022 period. Six STR registrations were not renewed for 2022. There are 11 additional new STRs registered for 2022 to date. Renewal notices were sent via email only this year. There were four 2022 renewals which paid the \$200 late fee. No official complaints were reported to the Code Enforcement Office.

Applicants struggled with providing the required information in almost all cases. The largest stumbling blocks seemed to be providing proper proof of occupancy limits, providing recorded deeds and maneuvering through insurance coverage documents to show proper limits.

We have not been able to successfully use the online platforms to determine if Short-term rentals have been registered with the town. The listings don't provide enough information to make the legal owner-listing connection.

When we review short term rental platforms it does appear that there are some rentals in Freeport that are not registered with the town. Management companies designed to assist municipalities with identifying unregistered units have submitted bids with annual fees of approximately \$10,000. Currently, a cursory search of online rentals shows 71 listings in Freeport.

Town Clerk
Christine Wolfe

TOWN OF FREEPORT
ORDINANCE 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 unit**” shall be synonymous with the definition contained in the Freeport Zoning Ordinance, Chapter 21, Article I, Section 104 “Dwelling unit - residential”, and is intended to include accessory apartments as defined in the Freeport Zoning Ordinance, Chapter 21.

Short-term Rental (STR): The use, control, management or operation of a legally-existing 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 receiving a registration number and certificate for the short term rental from 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.
- (c) Non-refundable fees for a short-term rental shall be as adopted, by order of the Freeport Town Council, and may be amended from time to time. Such fee(s) 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, 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 for 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 until the limits described in Article VI (b) have been reached. 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. Late renewal registrations will be issued on a space available basis subject to the limits and process described in Article VI (c).
- (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. First time registrations will be issued on a space available basis subject to the limits and process described in Article VI (c).
- (i) Registrations shall be transferrable only in the case of ownership transfer of the registered short term rental 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 (including late renewal applications as described in section (g) above) 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 short term rental 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 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 of the structure 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 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. Article V.a.3 shall not apply to gatherings or events that have been booked by a short-term rental prior to the effective date of this Ordinance.
 - 4) 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 for a short-term rental;
 - 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 condition, restriction or other criteria;
 - 5) Violation of any statute, ordinance, or regulation applicable to the short-term rental; and/or,
 - 6) Violations discovered through normal monitoring by Town of Free port 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 Town Manager 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. Any decision of the Town Manager described above may be appealed to the Board of Appeals using the process outlined in section 601 of the Freeport Zoning Ordinance, Chapter 21. 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.

- (e) Failure or Refusal to Obtain Short-Term Rental Registration; Enforcement. Effective September 1, 2021, 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 may 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

- (a) The total number of annual registrations issued by the Town Clerk shall be limited to three hundred (300) per registration cycle.
- (b) In the event that more than three hundred 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.
- (c) In the event that the Town Clerk receives more than three hundred (300) registration applications during any subsequent 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 after timely renewal applications have been approved by the Town Council as outlined in Article III (k).

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.