

Town of Waterbury, Vermont

Draft Ordinance to Regulate the Operation of Rental Properties

Draft #1: April 1, 2024

Section 1: Authority. This ordinance is adopted pursuant to the authority set forth in Chapters 59 and 61 of Title 24 of the Vermont Statutes Annotated, including specifically 24 VSA § 2291 (29); the ordinance is also adopted pursuant to the authority set forth in Chapter 137 of Title 9 of the Vermont Statutes Annotated, including specifically 9 V.S.A. § 4461 (g).

Section 2: Purpose.

Manager Notes: This section should generally outline the various reasons the selectboard believes this ordinance is necessary and in the public interest. While the purpose section is typically aspirational, it should also be clearly limited to the specifics of the ordinance and the desired outcomes. When reading through the ordinance any required action by a property owner should align with the purpose statement. I recommend considering the following bullets and adding or deleting as desired. Once a comprehensive list is developed, I will draft a paragraph for your consideration. Note that counsel recommends reviewing 24 V.S.A. § 2291, which is a comprehensive listing of municipal regulatory powers. I also recommend reviewing the policy objectives set by the Housing Task Force.

- Understand the balance between long-term and short-term rentals.
- Ensure adequate market supply of both short and long-term rental opportunities, which ties to local employment opportunities and business success and growth.
- Ensure the town remains livable to persons of all income ranges.
- Public health and safety for first responders, residents and visitors – fire department contact information, lock boxes, etc.
- Preserve resident rights to quiet enjoyment
- Adverse impacts on parking, garbage, noise, and outdoor/nighttime activities, and public nuisances
- Provide for violations of this ordinance
- Establish a registry to better understand all of the above.

Section 3: Definitions. The following definitions shall apply to this ordinance.

“Short-Term Rental” (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.

Manager Notes: This definition is fairly standard and is consistent with other towns. This is also consistent with language in a different ordinance we are drafting, and this ordinance pertains to our ability to enforce zoning regulations. I also note that Chester distinguishes between hosted (generally meaning owner occupied).

“Long-Term Rental” (LTR) shall mean any lease or rental of residential real property, as described above, that is rented for a period of more than 30 consecutive days and for more than 60 days per calendar year. (see Montpelier, Burlington, Barre for definition of long-term rental).

Manager Notes: Necessary to define this if the intent is to create a rental property registry rather than just an STR registry. At this point my understanding of selectboard intent suggests interest in a broader rental property registry.

Note from Joe Camaratta: Growing market for temporary/seasonal workers that are longer than 30-days, but do not offer an annual lease. He prefers a definition that a long-term rental definition that means those with a term of 12-months or longer.

“Designated Responsible Person” shall mean a person or persons designated and authorized by the Owner to act as their agent, or that Person’s employee or agent, capable of and responsible for responding to emergency situations and other issues related to the STR when the property is being rented or leased as an STR, including providing first responders with timely interior and exterior access to the STR. For the purposes of clarity, the Designated Person may be the owner of the STR.

Manager Notes: This is a current challenge we are seeking to overcome. The Fire Chief can comment on this in more detail if desired. I also suggest we consider adding a requirement that the designated responsible person be reasonably local. Sometime like a reasonable response time to an emergency.

“Owner” shall mean the person or persons in whom is vested title to the real property in or on which an STR is located, or that is rented as an STR, regardless of whether that title is undivided or fractional. The Owner is ultimately responsible for the rental property.

“Rental Property Registration Form” shall mean the form that Owners of a rental property must submit to the Town containing the required information related to the rental property. The form shall be developed by the Town Manager, Fire Chief and Zoning Administrator and shall be adopted by the Selectboard. The Selectboard may modify the form at its reasonable discretion.

“Rental Property Administrator (RPA)” means a person or persons designated by Municipal Manager to administer and enforce this ordinance.

Manager Notes: as per the Town Charter the selectboard will not have to designate a staff person to administer the ordinance.

Rental Property Registration

1. The Rental Registration Form shall be developed by the Town Manager and, subject to the requirements of this ordinance, may be administratively modified from time to time. The form shall require, at a minimum, the following information:
 - a. Physical (E-911) address(es) of all rental property offered for lease/rental.
 - b. Contact information for the property owner, including the owners full name and physical address, telephone number and email address.
 - c. Contact information for the designated responsible person, including the full name and physical address, telephone number and email address.
 - d. Whether the rental is an STR or LTR based on the definitions in this ordinance.
 - e. If the rental is a furnished house, condominium, apartment, or an accessory dwelling unit or cabin that is not the owner’s primary residence or located on the premises or property of the owner’s primary residence.
 - f. If the rental is a room or group of rooms located within an owner’s primary residence or an accessory dwelling unit or cabin on the premises of the owner’s primary residence.

- g. After completing and submitting the rental registration form the owner shall report to the Town any material change(s) in the required information submitted to the Town within thirty (30) days of the occurrence of the change.
- h. Upon the conveyance of title to any property on the Town's Rental Registry, and no later than thirty (30) days from the date of the conveyance as evidenced by the date an instrument conveying the property filed in the Town's land records, the new owner shall complete a new Rental Property Registration form with updated information.
- i. For STR's the name and telephone number of the Designated Responsible Person shall be posted in a conspicuous location.

Rental Property Requirements

1. The rental of a dwelling unit, whether as a STR or LTR, requires the issuance of a Rental Property Registration Form from the RPA. A person shall not commence the use of a dwelling unit as a STR or LTR unless and until the RPA issues the requisite rental registration.

Manager Notes: if we require a rental registration form to be completed annually I suggest we can shorten the form in year 2 if there are no changes in the responsible party, ownership, etc. That would make the registry more user friendly).

2. The owners of all rental properties shall ensure that the Waterbury Fire Department has year-round, 24-hour access to the STR through a Fire Department approved lock box or other reasonable means of providing immediate access authorized by the Fire Department.

Manager Notes: This section was suggested by the Fire Chief who has a legitimate public safety concern. He has no desire to damage private property. You may want to consider this for all rental properties. You also may want to consider giving property owners additional time to implement this, or to give the Fire Chief time to reevaluate once we have designated responsible persons.

3. All rental properties shall have a Designated Responsible Person who is available and authorized to respond to emergency situations and other issues that may arise when a property is rented or leased. The Designated Responsible Person shall respond within 45 minutes of notification by a Waterbury Firefighter or the RPA should an issue or problem arise.

Manager Notes: The 45-minute rule is simply a suggestion. Some ordinances use 1-hour, some use 30 minutes. Counsel suggests a reasonable standard is defensible.

4. *See Chester ordinance, section C items 6 through 8, and Section D.* These go beyond the basics of establishing a registry, but you may wish to consider these items for addition to a draft ordinance. These items are addressed via state statute/regulation/permits. The state may or may not be performing its functions in regards to some of these items; nonetheless, I am leery of tying local requirements to state requirements. I wanted to present the selectboard with a range of options for consideration. But I advise a great deal of caution and reflection in regards to these options.

Dwelling Capacities

1. *Chester defines dwelling capacities. Again, this crosses a bridge from a registry requirement to more direct regulation. We can address this issue through the questions asked via the registry.*

Regulation of Security Deposits for Long-Term Rentals

Manager's notes: this issue has not been studied by the Housing Task Force. This section of the ordinance was reviewed with counsel and he advises it is defensible. Note this can also be a standalone ordinance.

Under the authority granted in 9 V.S.A. § 4461 (g) the Selectboard of the Town of Waterbury hereby adopts the following civil ordinance pertaining to security deposits for Long-Term Rental properties:

1. A landlord may require a security deposit equivalent to no more than one (1) month's rent for the rental, lease or occupancy of a rental unit as a dwelling. All or part of the deposit can be held against damage beyond normal wear and tear to the premises which is attributable to the tenant, against nonpayment of rent, against nonpayment of utility or other charges which the tenant was required to pay directly to the landlord, and against expenses required to remove from the rental unit articles abandoned by the tenant.

Manager Notes: May want to consider an additional deposit for pet or pets.

2. All Long-Term Rental agreements made prior to the adoption to this ordinance shall be exempt from the provisions contained in section 1, as defined above. Lease agreements that reach their end date shall be subject to Section 1, as defined above.

Fees

The Selectboard may, from time to time, establish and adopt fees related to the administration of this Ordinance, including but not limited to rental property registration and renewal fees, 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.

Manager Notes: As a matter of law fees should be tied to the cost to administer the program. I do not have a proposed fee schedule at this time. I suggest our initial costs to establish the registry will be less than \$5,000. If any fee is considered we should divide this figure by the estimated number of rental units in the Town.

Enforcement (proposed language is identical to section VI. Of Stowe's Ordinance, which was written with assistance from our counsel).

Enforcement. Any Person who violates a provision of this civil ordinance shall be subject to a civil penalty for each such violation. Each day the violation continues shall constitute a separate offense; provided, however, that liability for continuing violation(s) shall not accrue unless and until seven (7) days have expired after notice of the violation. The Stowe Fire Chief, the Stowe Police Chief, and the Town Manager for 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, municipal complaints to enforce this Ordinance. An Issuing Municipal Official or the Town Attorney may dismiss or amend a municipal complaint in appropriate circumstances in accordance with law or court rules.

- 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:	\$100
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 discretion, for good cause shown, 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 discretion, for good cause shown, 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 relief and/or to seek such other appropriate relief to enforce this Ordinance as is authorized by law.

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.