

DRAFT 9.11.24 ORDINANCE COMMITTEE REVIEW

REGISTRATION REQUIRED: SHORT-TERM RENTAL ORDINANCE

A. Purpose

The purpose of this ordinance is to authorize and require the registration of the use of a legally existing dwelling unit for the accommodation of short-term guests, for compensation, for periods of less than 28 consecutive days. This ordinance is intended to provide a registration program that enables the Town to monitor and track short-term rentals within its borders.

B. Applicability and Permitted Short-term Rentals

Effective January 1, 2025, no person shall advertise, operate, or rent a short-term rental without first registering the short-term rental unit(s) with the Town of Scarborough.

Short-term rentals are not permitted in accessory dwelling units, nor in the single-family dwelling on the same lot as an accessory dwelling unit.

Hotels, motels, bed and breakfasts and lodging houses are exempt from the registration and other requirements of this chapter.

C. Definitions

Section VI Definitions of the Town of Scarborough Zoning Ordinance shall apply in addition to the following:

Advertising: Any form of communication for marketing that is used to encourage, persuade, or manipulate viewers, readers, or listeners into contracting for goods and/or services as may be viewed through various media, including but not limited to newspapers, magazines, flyers, handbills, television commercials, radio, signage, direct mail, websites, social media or text messages.

Non-Owner Occupied: A dwelling unit that is not occupied by its owner when any part of the dwelling unit is rented as a short-term rental.

Owner-Occupied: A dwelling unit that is occupied by such owner when any part of the dwelling unit is rented as a short-term rental.

Primary Residence: The dwelling unit in which the owner resides as their legal residence for more than one half of the year (183 days) and registers as their address for tax and government identification purposes.

Short-term Rental: The use, control, management or operation of a legally existing residential dwelling unit offered for rent for transient occupancy for dwelling, sleeping or lodging purposes by short-term rental guests for a tenancy of less than 28 consecutive days, for compensation, directly or indirectly, excluding motels, hotels, bed-and-breakfasts, inns, seasonal rental accommodation complexes, and residential rental accommodations.

Short-Term Rental Guest: Any person who rents, registrations, occupies or has the right to occupy a dwelling unit for less than 28 consecutive days.

D. Registration Process

Every short-term rental shall be registered with the Town on an annual basis. Legally existing residential dwelling units may be used as short-term rentals upon the issuance of a short-term rental registration for the premises in accordance with the requirements of this ordinance and Chapter 405 Zoning Ordinance.

Short-term rental registration applications shall be submitted to the Town Clerk. Applications for registrations for the upcoming calendar year may be submitted beginning in November of the previous registration year. The Town Clerk, or the Town Clerk's designee, shall review all applications for completeness and accuracy and in the order that they were received.

Short-term rental registrations may not be granted to a renter, lessee, or any other party who is not the owner of the proposed short-term rental unit(s).

Registrations completed under this chapter are not transferable to a new owner. Any change in ownership shall require a new registration.

Registrations are limited to the dwelling unit for which they are issued and shall not be transferable to a different dwelling unit.

Registrations shall include a non-refundable registration fee for each short-term rental as described on a fee schedule established by Town Council. Said fee schedule may be amended by Council order from time to time.

The Town Clerk shall provide a short-term rental application to be completed by the applicant and submitted to the Town Clerk accompanied by the short-term rental registration fee. The short-term rental application shall include a nonexclusive checklist of code requirements that the property owner shall demonstrate compliance with.

A complete registration and /or renewal application shall require the following information from the applicant to be considered:

- The name of all owners of the short-term rental and contact information, including the owners' addresses, telephone numbers, and email addresses;
- The street address and map/lot number of the short-term rental property;
- Type of Short-term Rental/property;
 - Single-family detached dwelling
 - Two-family or multi-family dwelling
- Whether the entire dwelling unit or only a portion of the dwelling unit is being rented as a short-term rental;
- If the short-term rental is in a dwelling unit within a two-family or multi-family dwelling, whether the owner occupies another dwelling unit in the building when any part of the building is rented as a short-term rental;

- Whether the short-term rental is owner-occupied, tenant-occupied, or non-owner-occupied;
- Whether the short-term rental is the owner's primary residence;
- Emergency Contact. At the time of registration, the owner must identify an emergency contact person, who may be the owner. The emergency contact person(s) must be able to respond within sixty minutes to complaints regarding the condition, safety, or operation of the short-term rental, or the conduct of guests; and
- Certificate of Insurance. At the time of registration, the owner must provide a certificate of insurance that expressly acknowledges that said 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 of said property in the aggregate of not less than \$1 million or proof that the Owner conducts rental transactions for said property through a hosting platform that provides equal or greater coverage. Any such hosting platform-provided insurance carrier shall defend and indemnify the owner, as additional named insured, and any user in the building for any bodily injury and property damage arising from the rental. Once registered, the owner shall maintain the required insurances, or such greater amount as otherwise required by law, throughout the term of the registration.

It is the responsibility of the owner to make sure that the information required under this Ordinance is kept current at all times and to notify the Town of any changes.

E. Approval Authority

The Town Clerk shall have the authority to issue a short-term rental registration. The Town Clerk, or the Town Clerk's designee, shall determine if the application has been properly completed before any registration is issued.

A registration shall be granted within 10 business days if the property in question complies with all Federal, State and local laws and the applicant demonstrates that the premises will be conducted in a healthful and sanitary manner so as not to jeopardize the public health, safety and welfare and that the applicant is not delinquent in the payment of any taxes or fees owed to the Town of Scarborough.

F. Registration Requirements: General Standards

The short-term rental registration shall be displayed at all times in a conspicuous place in the interior of the short-term rental that identifies the short-term rental registration number, and the name, address, phone number(s), and email address of the owner of the short-term rental, and/or the owner's local contact person.

The short-term rental owner must a) maintain accurate, up-to-date records of all rental transactions involving the short-term rental, including the number of tenants and the length of their stays, and upcoming reservations; and b) present said information to Town inspection officials upon request. Failure of the short-term rental owner to provide

this information within ten business days of a Town request for the same shall be considered a violation of this section.

G. Registration Requirements: Code Compliance

An applicant's property, without limitation, shall comply with the following building safety requirements.

Smoke alarms shall be installed in the following locations:

- In each bedroom
- Outside each separate sleeping area in the immediate vicinity of the bedrooms.
- On each additional story of the dwelling, including basements and habitable attics.

If a house has an attached garage or a fuel-fired appliance, a carbon monoxide detector is required.

At least one portable fire extinguisher shall be mounted in a prominent location. One size/type 2/A is required or two size/type 1/A extinguishers.

The applicant shall provide floor plans of the dwelling unit that shows the location of the alarms and fire extinguisher(s).

A building evacuation plan shall be prominently posted in the Short-term Rental property during the rental period.

H. Registration Requirements: Inspections Required

Anytime that a short-term rental application is submitted for a property, the short-term rental applicant shall certify on the short-term rental application that the proposed short-term rental property complies with the short-term rental standards above, and with Building Code requirements.

The Code Enforcement Officer shall inspect the premises within 12 months of the initial registration and once every three-five years thereafter, to determine compliance with the short-term standards above. If the short-term rental ownership changes, the inspection timing shall start over from the initial timing.

I. Registration Requirements: Occupancy

The maximum tenant occupancy of a short-term rental shall be limited to no more than two tenants per bedroom, plus two additional tenants total for the entire dwelling unit.

J. Registration Requirements: Parking

The applicant shall include a depiction designating parking spaces that will be provided for tenants and guests on the same lot where the short-term rental is located.

Guest parking at the short-term rental shall occur in parking spaces designated by the applicant, and the number of guest vehicles allowed at the short-term rental shall be limited to the number of on-site parking spaces designated by the applicant.

Garage parking spaces not allowed for tenant use shall not be used to meet the short-term rental parking requirement. 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.

On street parking by Short-term Rental tenants or guests is prohibited per Chapter 601 – the Town of Scarborough Traffic Ordinance.

K. Registration Requirements: Refuse and Sanitary Waste

The applicant shall submit information demonstrating adequate sanitary waste disposal is available in compliance with the Maine Subsurface Wastewater Disposal Rules or that the property is served by public sewer.

All refuse associated with the short-term rental shall be collected, stored, and transported by the short-term rental tenant in such a manner as to protect against odor, infestation of insects and/or rodents and any other nuisance condition or conditions which are inconsistent with the health, safety, and welfare of the patrons and the general public.

L. Registration Requirements: Good Neighbor Ordinance

All short-term rental tenants and owners shall adhere to the Town of Scarborough Good Neighbor Ordinance standards.

M. Registration Requirements: Violations and Penalties

Violations of this chapter include, but are not limited to, the following:

- Providing false or misleading information on an application, or renewal application, for a short-term rental registration;
- Failure to provide the registration records as provided in this chapter within five business days of a Town request for such records;
- Failure to comply with the parking provisions of this chapter;
- Failure to comply with the rental occupancy limits of this chapter;
- Failure to acquire and/or display the required short-term rental registration number;
- Violation of any short-term rental registration certification, condition, or criteria;
- Violation of any statute, ordinance, or regulation applicable to the short-term rental property.

Violations of this chapter may also be subject to fines and penalties as set forth in this section and in a penalty, schedule established by the Town Council. Each day of a violation shall constitute a separate violation.

For the violation of operating and/or advertising the rental of a short-term rental without a valid registration, the violator may be penalized with a per day fine of \$100 for the first offense and an additional per day fine of \$150 for each additional offense, to be recovered upon complaint to Maine District Court or Superior Court, for use of the Town.

For any other violation of this chapter, the violator may be penalized with a fine of \$500 per day for each such violation, to be recovered upon complaint to Maine District or Superior Court in Portland, for use of the Town.

In addition to the penalties established in the paragraph above, 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 chapter, including but not limited to suspension or revocation or non-renewal of a registration 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.

All violations shall be reported to and validated by the Code Enforcement Officer .

N. Suspension and Revocation of Permit

In addition to the provisions above, a permit for a short-term rental may be suspended or revoked if the Code Enforcement Officer determines that three or more substantiated complaints regarding short-term rentals of a property have been made in a three (3)-year period. The Police Department may provide a report of conditions observed in plain sight to the Code Enforcement Officer, but enforcement of the Ordinance shall remain with the Code Enforcement Officer.

Complaint Process General. Any individual or town official may file and/or initiate a complaint against a short-term rental permit holder. If the Police Department or the Code Enforcement Officer receives a complaint, they shall visit the property. The Police Department shall generate a report of the facts its officers have observed upon a visit, and statements made to them regarding the short-term rental. The Police Department shall then forward the report to the Code Enforcement Officer.

When the Code Enforcement Officer receives a report from the Police Department, or the Code Enforcement Officer has responded to a complaint or independently investigated, the Code Enforcement Officer shall inspect the property and shall collect information related to the complaint, including notifying the property owner and requesting information regarding the complaint.

Within five days of receiving a Police Report or complaint, the Code Enforcement Officer shall determine if the complaint is substantiated. A complaint is substantiated when the Code Enforcement Officer concludes that one or more violations of the short-term rental provisions occurred.

First Substantiated Complaint. Once the Code Enforcement Officer has made a finding of a substantiated complaint, the Code Enforcement Officer shall notify the property owner in writing.

The notification shall require the property owner to meet with the Code Enforcement Officer within five (5) business days from the date of the written notification, or such other time as is agreed upon by the Code Enforcement Officer, to identify ways in which the violation(s) will be corrected.

The owner will agree to take all necessary measures to correct the violation(s), which measures shall be memorialized in a written agreement at the conclusion of the meeting and shall be fully implemented within one (1) week of said meeting unless another date is agreed to by the Code Enforcement Officer.

Failure of the property owner to enter into such an agreement at the conclusion of the meeting will be deemed a second violation of the short-term rental provisions. In addition, the Code Enforcement Officer may suspend the short-term rental permit for a term not to exceed thirty (30) days.

Second Substantiated Complaint. Once the Code Enforcement Officer has made a finding of two (2) substantiated complaints, the Code Enforcement Officer shall notify the property owner in writing that the short-term rental permit shall be suspended for the remainder of the permit year but not less than six (6) months.

When less than six (6) month remains in the calendar year, no short-term rental permit may be submitted in the next calendar year until six (6) months after the second substantiated complaint.

The notification shall require the property owner to meet with the Code Enforcement Officer within five (5) business days from the date of the written notification, or such other time as is agreed upon by the Code Enforcement Officer, to identify ways in which the violation(s) will be corrected. The owner will agree to take all necessary measures to correct the violation(s), which measures shall be memorialized in a written agreement at the conclusion of the meeting and shall be fully implemented within one (1) week of said meeting unless another date is agreed to by the Code Enforcement Officer. Failure of the property owner to enter into such an agreement at the conclusion of the meeting will be deemed a violation of the Short-term Rental provisions.

Third Substantiated Complaint. Once the Code Enforcement Officer has made a finding of three (3) substantiated complaints, the Code Enforcement Officer shall notify the property owner in writing that the Short-term Rental permit has been revoked for three (3) years.

Appeal. An appeal to the Zoning Board of Appeals as an Administrative Appeal may be taken by any person aggrieved by a determination of the Code Enforcement Officer.