



southburlington

VERMONT

MEMORANDUM

To: Jessie Baker, City Manager
From: Steven Locke, on behalf of the Project Team
Subject: Rental Registry and Short-Term Rental Ordinance Draft
Date: August 14, 2023

As a follow up to the May 15, 2023, City Council presentation regarding the creation of a rental registry, the project team has updated the draft ordinance to address questions that were posed. The updated ordinance is now available for further Council consideration.

The project team amended the draft ordinance to include:

- Changing the annual fee to \$110 per unit except for buildings with greater than 40 units where the fee would be \$90 per unit. The team estimates this is sufficient revenue to cover the reoccurring operating expenses of the new program not including facility costs.
- Added accessory on-farm businesses to the list of places that are not considered rental units and thereby are exempt from the ordinance.

Once the Council is satisfied with a draft, the next step is to hold a first reading of the ordinance and warn a public hearing.

Space Planning

As previously discussed, there is a strategic advantage to co-locating our Fire Prevention and Fire Suppression teams. There is shared learning and understanding about our physical structures that will improve the health and safety of our neighbors. Additionally, since our last discussion we have received notice from the School District that we must vacate the space at 577 Dorset we currently use as Recreation storage. To understand these costs, we secured the professional services of Dore + Whittier to do an initial cost estimate for an addition to the north side of Fire Station 1 that would accommodate both the entire Prevention Division as well as approximately 1,000 square feet of storage for the Recreation and Parks Department. An additional 2,000 square feet of office space is needed to accommodate a total of six inspectors (Fire Marshal, Assistant Fire Marshal, Electrical Inspector, three inspectors), a foyer for the public to enter and an area for an administrative assistant. The estimated project costs for the storage space is \$500K to \$1M. The estimated project costs for the inspectors' additional space are between 1.3 million and 1.8 million dollars. This estimate was just recently received, and we suspect this is considerably more than the Council anticipated spending to create additional office/storage space. The project team is requesting more time to develop alternative options for your consideration and would welcome your feedback or ideas.

The project team thanks you for your consideration and looks forward to discussing this with you.

Residential Rental Unit Registration Requirements

The Council of the City of South Burlington hereby Ordains:

1. Purpose and Authority.

This Ordinance is enacted to promote the public health, safety and welfare of the City under the authority granted to it by 24 V.S.A. §2291 and Sections 103-104 of the South Burlington City Charter. Due to an ongoing increase in the number of rental dwelling units in the City of South Burlington, continued and projected population growth in the City, the aging of some of the City's housing stock, and the existing and potential future conversion of permanent housing into short-term accommodations, the Council hereby finds that the regulation of rental dwelling units is necessary to maintain and protect the public health, safety and welfare of the City and its residents. This Ordinance is intended to provide a process:

- through which dwelling units used for rental housing must be registered with the City of South Burlington for use as long-term or short-term rentals;
- to disclose the ownership of such rental properties;
- to regulate the renting of dwelling units within the City;
- to make owners and persons responsible for the maintenance of property more accessible and accountable with respect to the premises;
- to ensure that housing units remain available for rent to those who reside or seek to reside within the City;
- to ensure that the City is not unduly impacted by the operation of short-term rentals; and
- to ensure that owners and tenants of rental dwelling units comply with all building, health and fire safety codes and ordinances adopted by the City of South Burlington.

This Ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

2. Definitions.

The following words, terms and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Long Term Rental shall mean the letting of a rental unit in whole or in part for thirty (30) or more consecutive days.

Multi-Unit shall mean a single, detached building in common ownership interest containing more than one (1) residential or commercial unit.

Owner-Occupied shall mean a rental unit owned and occupied by the registrant as his or her primary residence. An accessory dwelling unit as defined in the City's Land Development Regulations, is considered a separate dwelling unit from an owner-occupied primary residence for purposes of short-term rental registration and regulation.

Owner shall mean each individual person or entity including, without limitation, all partners, officers, or trustees of any real estate trust; all members or managers of a limited liability

company; and all officers and directors of a corporation; that is the record owner of a building or property.

Primary Residence shall mean the dwelling in which a person resides as their legal residence for more than one half of a year and registers as his or her address for tax and government identification purposes.

Registrant shall mean the owner of a rental unit, or a tenant, with permission from the owner, seeking to register a rental unit.

Rental Unit is any residential structure, furnished house, condominium, or other dwelling room or self-contained dwelling unit, or portion thereof, that is rented or available for rent to any individual or individuals for any length of time. Any portion of a dwelling unit or accessory dwelling unit that is rented or available to be rented to an individual or individuals who are not the owner or owners shall be considered a rental unit. The following are not to be considered Rental Units for the purpose of this Ordinance:

- As defined by the City's Land Development Regulations: motels, hotels/inns, bed and breakfasts, group homes, dormitories, congregate care facilities, continuum of care facilities, skilled nursing facilities, extended stay hotels, schools, and hospitals;
- As defined by 24 V.S.A. §4412(11): accessory on-farm businesses;
- As defined by 24 V.S.A. §4303(40): Emergency shelters; or
- Other facilities that, in the sole discretion of the City Building Inspector, share similar characteristics with those listed in the three bullets above.

Short Term Rental is a rental unit rented 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.

Tenant-Occupied shall mean a rental unit in which the registrant is not the record owner of the rental unit, but lawfully occupies the rental unit as his or her primary residence.

3. Registration Required.

(a) Registration of Ownership.

- 1) All Rental Units must be registered in accordance with this Ordinance by April 1st of each year; Rental Units entering the rental housing market must be registered and pay the appropriate fee prior to their listing as an available rental unit or prior to their first occupancy, whichever is earlier. Registration must be renewed annually, on or before April 1st, including updating all changes in previously submitted registration information.
- 2) If a rental unit is rented as both a short term and long term rental, it must be separately registered for each type of rental.
- 3) Each owner, manager, and person/entity otherwise responsible for the rental unit, such as a property manager, shall be obligated under this Ordinance. Any new owner, manager, or responsible person/entity must apply to register

within thirty (30) days of purchase of the rental unit or transfer of management or responsibility. New owners or tenants applying to register an existing Short Term Rental unit are considered new applicants and shall be subject to all limitations and regulations in effect at the time of the application.

- 4) A rental unit shall not be considered registered unless and until the registrant has submitted a complete application together with all information and fees required by this Ordinance, to the satisfaction of the City's Building Inspector, or designee.
- 5) As a condition of registration, all owners and/or registrants must allow onsite inspections by the City of their property including, without limitation, all rental units. Inspections will be performed in accordance with the Inspection Cycle adopted by Resolution of the City Council. All units of a multi-unit building owned by the same property owner are subject to inspection, including an owner-occupied unit that is not a rental unit, if one or more units in the building are rental units. Likewise, all areas of an owner-occupied dwelling are subject to inspection if any portion of the owner-occupied dwelling is a rental unit. The purpose of this inspection is to ensure compliance with all building and fire safety codes, ordinances, and regulations adopted by the City of South Burlington and safety of the Rental Unit.

(b) Information/Documentation Required. Registration must be completed on forms supplied by the City's Building Inspector or their designee and must provide, at a minimum, the following information:

- 1) The address of the property;
- 2) The number of dwelling units at that address;
- 3) The number of rental units at that address;
- 4) The number of sleeping rooms in each rental unit;
- 5) The number of parking spaces that are dedicated for the rental units at the property;
- 6) The name, address, phone number, email address, and date of birth of the property owner, and if the owner is a corporation, the registered corporate agent and the president of the corporation and their name and address, and if the owner is a partnership, the registered partnership agent, and the names and addresses of the general partners;
- 7) The name, address, phone number, and email address of:
 - a. Any local (within Chittenden County) managing agent. All owners or Registrants who do not live within Chittenden County are required to designate a managing agent located in Chittenden County who is empowered to represent the owner or registrant in matters concerning compliance with this chapter;
 - b. An emergency contact for this property. All properties must have an emergency contact within Chittenden County;

8) All Additional Information Required for Short Term Rentals.

(c) Additional Information required for Short Term Rentals. A Short Term Rental shall not be considered registered unless and until all the registration requirements of this Ordinance have been met to the satisfaction of the City's Building Inspector, or designee, and a Short Term Rental registration number has been issued.

- 1) A Short Term Rental registrant must provide at a minimum the following information and any other information requested to the City's Building Inspector or their designee:
 - a. A Short Term Rental application.
 - b. The number of whole unit or partial unit Short Term Rentals within the building, or in the case of multiple buildings on a parcel of land, on the entire lot.
 - c. Whether the rental unit is owner-occupied, tenant-occupied, or non-owner occupied;
 - i. For Short Term Rental Units that are owner occupied, the owner must provide a notarized primary residence affidavit, on forms provided by the City. The owner must also produce for review one of the following demonstrating residency at the owner-occupied unit:
 1. Valid driver's license or other state-issued identification;
 2. Valid motor vehicle registration;
 3. Proof of homestead exemption pursuant to 32 V.S.A. §5410; or
 4. Other documentation proving primary residence to the satisfaction of the City's Building Inspector.
 - ii. For Short Term Rental units that are tenant-occupied, the tenant must provide their name, address, phone number, email address, date of birth, a notarized primary residence affidavit, and a notarized statement of permission by his/her landlord, both affidavits on forms supplied by the City. The tenant must also produce for review one of the following demonstrating residency at the tenant-occupied unit:
 1. Valid driver's license or other state-issued identification;
 2. Valid motor vehicle registration; or
 3. Other documentation proving primary residence to the satisfaction of the City's Building Inspector.
 - d. Proof of liability insurance required. At the time of registration, the Registrant 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 Registrant conducts rental transactions through a hosting platform that provides equal or greater coverage. Any such hosting platform-provided insurance carrier shall defend and indemnify the Registrant, as additional named insured, and any user in the building for any bodily injury and property damage arising from the rental. Once registered, the Registrant shall maintain the required insurances, or such greater amount as otherwise required by law, throughout the term of the registration.

- e. Proof of Vermont tax account for rooms & meals and/or sale tax purposes or proof that the Registrant conducts rental transactions through a hosting platform that pays all applicable rooms & meals and/or sale taxes on behalf of the Registrant.

- 2) Upon request by the City, at any time, all registrants and/or agents of Short Term Rental units must provide the City with their registration information, rental history, and upcoming reservation information. Failure of Short Term Rental unit owners, tenants, and/or their representatives to adequately respond to inquiries by the City within two business days from the date of the request shall be considered a violation under this Ordinance.

(d) No registration under this Ordinance shall be transferrable or assignable.

4. Registration Fees.

- (a) Annual Registration Fee. Upon initial registration and by April 1st of each year, registrants shall pay the City a registration fee for each Rental Unit, in the amounts set forth below. A Rental Unit shall not be considered registered unless and until this fee is paid in full.
- (b) Long Term Rental Registration Fee. The registrant of a long term rental shall pay one hundred dollars (\$110.00) to the City by April 1st of each year. New Construction of greater than 10 units, rental registration fee is waived for first 3 years. Long Term Rental Registration Fee for any multi unit building with 40 or more units and owned by one owner shall be \$90 per unit.
- (c) Short Term Rental Registration Fee. The registrant of a Short Term Rental shall pay one hundred dollars (\$110.00) to the City by April 1st of each year.
- (d) Failure to renew a registration of a rental unit by April 1 shall result in the forfeiture of the right to renew the registration of that rental unit, and any subsequent application for the same rental unit shall be treated as a new application for registration.

5. Requirements of Short Term Rental Units.

- (a) Occupancy Limit. Overnight Short Term Rental guest occupancy in each rental unit will be limited to two (2) guests per bedroom or sleeping area plus no more than two (additional) guests.
- (b) Short term rentals shall adhere to all City of South Burlington regulations and ordinances related to parking.
- (c) No individual or entity may register a Short Term Rental unless it is owner-occupied, tenant-occupied with permission of the owner, or an accessory dwelling unit.
- (d) Registrants shall comply with all applicable State laws and regulations regarding Short Term Rentals.
- (e) Short Term Rentals must be serviced and cleaned before each new guest arrives and guests must be provided with soap, clean linen, and sanitized utensils.
- (f) Registrants shall provide guests written documentation with the following information:
 - 1) The name, phone number, and email of the Registrant and, if not the Registrant individually, an emergency contact within Chittenden County who is available at all times during a guest's rental.
 - 2) Contact information for the City Fire Marshal.
 - 3) Written instructions on the location and use of fire extinguishers
 - 4) Written instructions on emergency shut-off of heating systems and fuel burning appliances
 - 5) A diagram identifying emergency egress routes
 - 6) A copy of South Burlington's Public Nuisance Ordinance.
- (g) No pets are permitted in any Short Term Rental unless guests provide proof of valid rabies vaccine and hosts provide information on the City's leash and pick-up/disposal of pet waste requirements and the presence of ticks in Vermont.
- (h) Display of Short Term Rental Registration Number Required. Once registration is approved by the City, each Short Term Rental shall be given a registration number, which must be displayed in plain sight in the Rental Unit and in any and all advertisements for the Rental Unit.
- (i) Short-term rental guests shall not sublease, sublicense or assign all or any portion of the short-term rental to another person during the rental period.
- (j) Parties, conferences, family reunions, weddings, fundraisers or similar gatherings that are reasonably foreseeable to involve an assemblage of vehicles or a greater number of persons than the maximum allowable number of short-term guests for the rental unit are prohibited to be conducted by short-term rental guests during a short-term rental.

6. Violations.

Violations of this article include, but are not limited to:

- (a) Any person, business entity, or other organization failing to timely register or renew the registration of a rental unit, including providing all required information and paying the required registration fee;
- (b) Any person, business entity, or other organization failing to timely file any required update to the registration;
- (c) Any person, business entity, or other organization failing to acquire and/or display the required Short Term Rental registration number;
- (d) Any person, business entity, or other organization providing false information with respect to registration.
- (e) Any person, business entity, or other organization renting any rental unit that is not registered under this article, advertising for rent such rental unit without registration, or permitting the occupancy of such premises without registration;
- (f) Failure of Short Term Rental unit owners, tenants, and/or their representatives to adequately respond to inquiries by the City pursuant to Section 3(c)(3) within two business days from the date of the inquiry.
- (g) Failure to maintain a Rental Unit in compliance with all building, health and fire safety codes and ordinances adopted by the City of South Burlington.
- (h) Failure to allow an inspection of a Rental Unit by the City.
- (i) Failure to conspicuously display within each Short Term Rental Unit the current and valid name, address and phone number of the Short Term Rental operator (whether the owner, tenant, on-site manager, or property manager) and the City Fire Marshal.
- (j) Any sublease or sublicense of a Short Term Rental by a guest to another person during the rental period.
- (k) Any signs or other outside indications, other than on-site parking, that a property is used or occupied as a Short Term Rental.
- (l) Noise or unreasonably loud activities, whether inside or outside, that violate the City's Public Nuisance Ordinance.
- (m) Failure to abide by any other specific requirement of this Ordinance.

7. Enforcement.

Any person who violates a provision of this civil ordinance shall be subject to:

- (a) Suspension or revocation of the short term rental unit registration for the violating rental unit. A short term rental unit that has had its registration either suspended or revoked may also be prohibited from renewing or registering the rental unit for a period of up to 12 months following the current registration expiration date.

AND

- (b) A civil penalty of up to \$800 per day for each day that such violation continues. Each day the violation continues shall constitute a separate offense. The Building Inspector, City Fire Marshal, South Burlington Police Officers, South Burlington Zoning Administrator, and the South Burlington City Manager shall all be designated

and authorized to act as Issuing Municipal Officials to issue and pursue before the Judicial Bureau, or other court having jurisdiction, a municipal complaint.

8. Civil Penalty; Waiver Fees.

(a) Civil Penalty. An Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation:

- (1) Operating a Rental Unit Without Authorization or Registration Number: \$800
- (2) All Other Violations:
 - First Offense: \$400
 - Second Offense: \$600
 - Third Offense: \$800
 - Fourth and Subsequent Offenses: \$800 plus automatic revocation for twelve (12) months before a new Long Term or Short Term Rental Registration Application may be submitted.

(b) Waiver Fee. An Issuing Municipal Official is authorized to recover waiver fees, in lieu of a civil penalty, in the following amount, for any person who declines to contest a municipal complaint and pays the waiver fee:

- (1) Operating a Rental Unit without authorization or registration number: \$500
- (2) All Other Violations:
 - First Offense: \$100
 - Second Offense: \$250
 - Third Offense: \$500
 - Fourth and Subsequent Offenses: \$700

(c) Offenses shall be counted on a twelve (12) month basis beginning April 1 and ending March 31 of each year. An Issuing Municipal Officer shall have authority to issue a written warning, without recovering a waiver fee, for any First Offense violation other than Operating a Rental Unit Without Authorization of Registration Number. In such instance, the written warning shall be counted as a First Offense for calculating annual offenses.

9. Other Relief.

In addition to the enforcement procedures available under Chapter 59 of Title 24, the City is authorized to commence a civil action in the Civil Division of the Vermont Superior Court to obtain injunctive and other appropriate relief, to request revocation or suspension of any Long Term or Short Term Rental authorization or registration number on behalf of the City, or to pursue any other remedy authorized by law.

10. 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.

11. Effective Date.

In accordance with South Burlington City Charter Section 108, this Ordinance shall take effect upon passage. However, in order to allow time for residents and property owners to become familiar with the requirements of this Ordinance, the prohibitions on certain types of short-term rentals, and the penalties for violations of this Ordinance, compliance with the requirements of this Ordinance shall not be mandatory until April 1, 2024.

Adopted at South Burlington, Vermont this ___ day of _____, _____, and to be effective upon passage.

SOUTH BURLINGTON CITY COUNCIL

...