

PART II CODE OF ORDINANCES

CH. II-23 SHORT-TERM RENTAL ORDINANCE [ADOPTED 07/26/2021]

Sec. 23-1. 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 30 consecutive days. This ordinance is intended to monitor the impact on residential neighborhoods by the operation of short-term rentals within the Town, and to provide a registration program that enables the Town to monitor and track short-term rentals within its borders.

Effective on: 7/26/2021

Sec. 23-2 Definitions

Accessory Dwelling Unit: An Accessory Apartment or Accessory Cottage as defined in Ch. II-19, Art. II-19-1-2.

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, or text messages.

Bed and Breakfast Establishment: A business, whether carried on in a commercial building or dwelling, which has a maximum of eight (8) bedrooms and which provides overnight accommodations and breakfast, but no other meals or cooking facilities, to guests for compensation. No guest may stay longer than seven (7) consecutive nights.

Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Dwelling, Single Family Detached: A building designed or intended to be used exclusively for residential occupancy by one family only and containing only one (1) dwelling unit, or one (1) dwelling unit with an accessory apartment as permitted under Section 19-55, including a manufactured housing unit with no horizontal dimension smaller than twenty-four (24) feet.

Dwelling, Two-Family: A building designed or intended to be used or used exclusively for residential occupancy by two (2) families living independently of one another and containing two (2) dwelling units but excluding single-family dwellings with an accessory dwelling unit as permitted under Section 19-55.

Dwelling, Multi-family: A building designed or intended to be used or used exclusively for residential occupancy by three (3) or more families living independently of one another and containing three (3) or more dwelling units.

Family: One or more persons occupying a dwelling unit, whether or not related to each other by birth, adoption or marriage, but not to consist of more than 6 unrelated persons.

Hotel: A building with guest rooms used primarily for transient occupancy of individuals who are lodged, with or without meals, with the majority of the rooms having access through the main lobby of the building.

Mobile Home: A detached dwelling unit designed to be transported, after fabrication, on streets or highways on its own wheels, or on a flat bed or other trailer or on detachable wheels, and not meeting the definition of a manufactured housing unit.

Motel: A building or group of attached or detached buildings containing rental guest rooms with or without cooking facilities in each room, most rooms having a separate bathroom and outside entrance, designed or intended to be used by automobile transients.

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: 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.

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 advertising, offering for rent, use, control, management, or operation of a dwelling unit in whole or in part, for dwelling, sleeping, or lodging purposes for a period of less than thirty consecutive days; for compensation, directly or indirectly.

Tenant Occupied: a dwelling unit that is occupied by the lawful resident of the dwelling unit, who is someone other than the owner of the dwelling unit, when any part of the dwelling unit is rented as a short-term rental.

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Sec. 23-3. Applicability

The Chapter applies to any short-term rental.

- A. Allowed short-term rentals. 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.

- B. Prohibited short term rentals. No person or entity may offer for rent, operate, or otherwise use any property in the Town of Falmouth for short-term rentals if such person or entity has not secured or maintained a valid short-term rental registration for the premises owned by such person or entity; or
- C. Exempt accommodations. The following residential accommodations are exempt from the registration and other requirements of this chapter: hotels, motels, and bed and breakfasts.

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Sec. 23-4. Registration Required

Effective January 1, 2022, no person shall advertise, operate, or rent a short-term rental without first registering the short-term rental unit with the Town of Falmouth. Registration must be renewed annually on or before January 1.

A short-term rental shall not be considered registered until all the information required in Sec. 23-5 and fees are provided to the satisfaction of the Town and a registration number is assigned to the unit. It is the responsibility of the owner to make sure that the information required under Sec. 23-5 is kept current at all times and to notify the Town of any changes.

Eligibility for Registration/Renewal.

- A. 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).
- B. Registrations completed under this chapter are not transferable to a new owner. Any change in ownership shall require a new registration.
- C. Registrations are limited to the dwelling unit for which they are issued and shall not be transferable to a different dwelling unit.

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Sec. 23-5. Information/Documentation Required

Registration and/or renewal applications must be completed annually on forms supplied by the Town and must provide the following information:

- A. Non-refundable registration fee for each short-term rental as described on a fee schedule established by Town Council order. Said fee schedule may be amended by Council order from time to time;
- B. -----
- C. The name of all owners of the short-term rental and contact information, including the owners' addresses, telephone numbers, and email addresses;
- D. Type of Short-term Rental/property;
 - 1. Single-family detached dwelling;
 - 2. Two-family or multi-family dwelling; and
 - 3. Accessory dwelling unit
- E. Whether the entire dwelling unit or only a portion of the dwelling unit is being rented as a short-term rental;

- F. 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;
- G. If the short-term rental is on a property that contains both a single family detached dwelling and an accessory dwelling unit, whether the owner occupies one of the dwelling units when any part of either dwelling unit is being rented as a short-term rental;
- H. Whether the short-term rental is owner-occupied, tenant-occupied, or non-owner-occupied;
- I. Whether the short-term rental is the owner's primary residence;
- J. The street address and map/lot number of all other short-term rentals in the Town in which the owner has an ownership interest;
- K. 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
- L. 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.

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Sec. 23-6. Enforcement, Penalties

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 \$1,000 for the first offense and an additional per day fine of \$1,500 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.

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