

Draft bylaw: Operation of Short-Term Rental Properties

1) Purpose and Intent.

This bylaw is enacted to provide, promote and foster a safe, healthy environment in which the residents of and visitors to Falmouth may live. By establishing an orderly process for identifying, registering and regulating Short-Term Rentals, the bylaw aims to protect against conditions that cause or create a nuisance and undermine the ability of residents to enjoy their property and the immediate neighborhood. These requirements intend to protect the ability of homeowners to rent their property and to preserve long standing economic opportunities for both year-round and seasonal residents. It is also the intent of this bylaw to prevent the corporate commercialization of homeownership for use as Short-Term Rentals and to inhibit further reduction of the stock of affordable year-round rentals. This bylaw is enacted pursuant to the Home Rule Authority of the Town as well as authority conferred to it by M.G.L. c. 64G § 14.

2) Definitions.

Owner. Any person who alone, or severally with others, has legal or equitable title or beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or person appointed by the courts. An Owner can be a single person, a marital unit, or a group of people. An LLC or Trust shall be considered an Owner only when every shareholder, partner, or member of the legal entity is a natural person.

Short-Term Rental. The rental of a whole or a portion of a dwelling unit, in exchange for payment in any form, as residential accommodations for not more than 30 consecutive days, excluding commercial accommodations as defined in Chapter 240 of the Falmouth bylaws.

3) License required to Operate a Short-Term Rental.

a. No dwelling unit or part thereof may be offered or operated as a Short-Term Rental within the Town Falmouth without first obtaining a license from the Board of Health. Licenses may be issued to owners of dwelling units upon submission and review of a complete application to the Board of Health, or designee.

b. Term of the license. Licenses shall be issued annually and shall expire on _____.

c. License Fee. The cost of the license shall not be waived, discounted or prorated for any reason.

d. Minimum license application requirements. All applications for a license shall include, at a minimum, the following information:

i) Trash and recycling plan

- ii) Parking plan, showing no more than one parking spot per bedroom
- iii) 24-Hour contact information
- iv) Noise Control and nuisance provisions
- v) Proof of ownership
- vi) Description of the rooms or units to be rented
- vii) Proof of no outstanding taxes owed to the Town of Falmouth
- viii) Copy of certification of registration in accordance with M.G.L. c. 64G
- ix) Copy of smoke detector certificate of compliance

4) Compliance with other laws.

All Short Terms Rentals shall be registered with the Commonwealth of Massachusetts Department of Revenue and shall be operated in accordance with this bylaw and all local, state and federal laws and regulations.

5) Ownership of Short Term rentals.

- a. Short term rentals are required to be owned by an Owner as defined under this bylaw.
- b. Short-Term Rentals are prohibited in dwellings owned by a corporation.
- c. No Owner shall be entitled to receive more than one license to operate a Short-Term Rental in the Town of Falmouth.
- d. No Fractional Ownership, Interval or Time Share unit may engage in Short-Term Rental activities or be eligible to receive a Short-Term Rental license for such unit;

6) Prohibitions.

The following are prohibited for any Short-Term Rental:

- a. Commercial Events. A Short-Term Rental property shall not be used for a commercial event during its occupancy as a Short-Term Rental. Commercial events include luncheons, banquets, parties, weddings, meetings, charitable fundraising, commercial or advertising activities, or other gatherings for direct or indirect compensation.
- b. Affordable Housing Units. Short-Term Rentals are prohibited in dwelling units designated as affordable or otherwise income-restricted, which are subject to an affordability restriction or are otherwise subject to housing or rental assistance under local, state, or federal programs or law.
- c. Nuisance. No Short-Term Rental shall create or result in the disruption of the peace, tranquility, or safety of the immediate residential neighborhood through the production of noise, vibration, light, glare trash, fumes, odors, traffic, parking congestion, or any other nuisance beyond that which normally occurs in the immediate residential area.

7) Inspection.

Short-Term Rentals may be subject to inspection by the Falmouth Health Department, Fire Rescue Department, and the Building Department. Short-Term Rental Owners are required to provide access for the purpose of conducting safety inspections when necessary. Failure to provide access to an inspector upon request and after proper notice will invalidate the license to operate a Short-Term Rental until an inspection by the appropriate authority has been conducted, and all violations have been addressed to the satisfaction of the Department or the Town. Failure to comply with orders to correct deficiencies may result in penalties.

8) Violations.

The Board of Health may cause an investigation into complaints of violations of this bylaw and any rules or regulations promulgated hereunder. If the Board of Health may issue a notice of violation and, after a hearing and an opportunity to be heard, may, upon a showing of a preponderance of the evidence that a violation has occurred, place conditions upon, suspend or revoke the license. The Board of Health may issue a fine pursuant to non-criminal disposition or a may issue civil penalty.

9) Non-Criminal Disposition.

Any Owner who violates any provision of this bylaw or regulation promulgated hereunder may be subject to a civil fine. Where non-criminal disposition of this section is provided for in § 1-2 of the Falmouth bylaws, pursuant to the authority granted by M.G.L. c. 40 § 21D, said violation may be enforced in the manner provided in such statute. The civil fine for such violation shall be \$300 as set forth in § 1-2. Each day a violation occurs shall be a separate offense.

10) Civil penalty.

In accordance with G.L. c. 64G, § 14(v), the Town may assess a civil penalty not to exceed \$5,000 for any violation of this bylaw or a regulation issued hereunder. Each day a violation continues shall be considered a separate offense.

11) Authority of the Board of Health.

The Board of Health is authorized promulgate rules, regulations, policies and procedures for the administration and enforcement of Short-Term Rental licenses and to effectuate the purpose of this bylaw, which may include the designation of all or part of the administration of the bylaw to the Falmouth Health Department.

12) Severability.

If any provision in this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

13) Effective Date. The provisions of this Bylaw shall take effect on _____.