

# Short-Term Rental Registry Ordinance



## Town of Montgomery VERMONT

Adopted: \_\_\_\_\_, \_\_\_\_ 202\_\_

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## **Section 1. Authority**

The Town of Montgomery Selectboard adopts this Ordinance pursuant to the authority set forth in Chapters 59 and 61 of Title 24 of the Vermont Statutes Annotated, including but not limited to 24 VSA §§ 1971 and 2291(15) and (29). This Ordinance shall be designated as a civil ordinance under 24 V.S.A. § 1971(b).

## **Section 2. Purpose**

The Town of Montgomery values its history and status as a vibrant, year-round mountain resort town and recognizes the significant benefit to the local economy and community stemming from tourism. The Town also recognizes the need for the availability of long-term housing. The purpose of this Ordinance is to seek to balance the well-established practice of renting dwelling units to the traveling, transient, and visiting public with the needs of ensuring an adequate supply of long-term housing, preserving the character of residential neighborhoods, and otherwise protecting the public health, safety, welfare, and convenience of visitors and residents. This is accomplished through the establishment of an orderly process for compiling a database of all Short-Term Rentals in the Town, identifying contact information for each Short-Term Rental, and establishing basic requirements for the operation of Short-Term Rentals.

## **Section 3. 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:

- 3.1.1 “Designated Local Agent” shall mean an individual living both within the United States and a 25-mile driving distance of a Short-Term Rental who the registrant of the Short-Term Rental authorizes to represent the registrant, respond to the Town in matters concerning compliance with this Ordinance when the owner is not available, and act as an emergency contact for guests of the Short-Term Rental.
- 3.1.2 “Dwelling Unit” has the same meaning as in the Montgomery Zoning Regulations, as amended from time to time.
- 3.1.3 “Existing” or “in existence” in reference to a Short-Term Rental means its availability as a Short-Term Rental is listed, advertised, or otherwise marketed or it is occupied as a Short-Term Rental.
- 3.1.4 “Guest” means any individual who is renting a Short-Term Rental. This term includes both the individual paying for the rental as well as all individuals on whose behalf the Short-Term Rental is rented.

- 3.1.5 “Owner” means each individual 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 constitute the record owner or owners of a building or property.
- 3.1.6 “Primary Residence” means the dwelling unit in which a person resides as their legal residence for more than one half of a year and registers as their address for tax and government identification purposes.
- 3.1.7 “Registrant” means the person seeking to register a Short-Term Rental under this Ordinance or who holds a registration for a Short-Term Rental duly registered pursuant to this Ordinance. Pursuant to Section 4.1.1, the registrant shall be the owner of the Short-Term Rental.
- 3.1.8 “Resident-Occupied Dwelling Unit” means a dwelling unit occupied by an individual as their primary residence.
- 3.1.9 “Short-Term Rental” means a furnished house, condominium, or other dwelling room or self-contained dwelling unit, or a portion thereof, 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, but excluding the following:
- 3.1.9.1 a lodging establishment, as the term is defined in 18 V.S.A. § 4301, which holds a current license to operate a food and lodging establishment with the Vermont Department of Health; and
  - 3.1.9.2 two or fewer individual bedrooms or other portions of dwelling units rented to the transient, traveling, or vacationing public in a resident-occupied dwelling unit.
- 3.1.10 “Town” means the Town of Montgomery, Vermont.

## **Section 4. Registration**

### **4.1 Registration of Short-Term Rentals Required**

- 4.1.1 Except as provided in Subsection 4.1.2 of this Ordinance, a Short-Term Rental shall be registered with the Town by the owner of the Short-Term Rental prior to its availability as a Short-Term Rental being listed, advertised, or otherwise marketed or prior to its first occupancy as a Short-Term Rental, whichever is earlier.
- 4.1.2 For Short-Term Rentals in existence on the effective date of this Ordinance, or at any time in the 12 months preceding the effective date of this Ordinance, any owner of a Short-Term Rental wishing to continue the Short-Term Rental after the effective date of this Ordinance shall have 60

calendar days after such effective date to submit a complete signed initial registration application for the Short-term Rental to the Town, with payment of the applicable fee, although the Town may grant an extension of this date for a maximum of 30 additional calendar days for good cause demonstrated on a case-by-case basis.

- 4.1.3 For Short-Term Rentals that are bedrooms or portions of dwelling units, only one registration, and one registration number, per dwelling unit which contains a Short-Term Rental shall be required. For example, if three bedrooms in the same dwelling unit are rented separately, only one registration is needed for all three bedrooms and they will be assigned the same registration number.
- 4.1.4 Except where this Ordinance otherwise provides, registrations shall be valid until April 30 of the calendar year following the year they were issued, after which date they shall automatically expire unless renewed.
  - 4.1.4.1 Registrations shall be renewed annually on or before May 1 of each calendar year through the submission of a renewal application and payment of applicable fee by the deadline of May 1.
  - 4.1.4.2 Renewal applications submitted between May 2 and May 31 shall be accepted but treated as late renewal applications.
  - 4.1.4.3 The failure to submit a renewal application and pay the applicable fee by May 31 shall result in the forfeiture of the right to renew the registration.
    - 4.1.4.3.1 Any listing, advertising, or other marketing of the availability of, or occupancy as, a Short-Term Rental, after May 31 by registrants who failed to submit a renewal application and pay the applicable fee for the Short-Term Rental by May 31 shall constitute a violation of this Ordinance.
    - 4.1.4.3.2 Any subsequent application for registration shall require submission of a new initial registration application and initial application fee.
- 4.1.5 A Short-Term Rental shall not be considered registered unless and until all of the following have occurred:
  - 4.1.5.1 The owner of the Short-Term Rental has submitted a complete, signed application together with any additional information required by the Town and payment of the applicable fee.
  - 4.1.5.2 For an initial registration application, the Town has reviewed the application, determined the information in the application and in the Town records indicates the Short-Term Rental can be operated in compliance with this Ordinance, and provides a registration number to the registrant; or
  - 4.1.5.3 For a renewal application, the Town does not deny the application within 15 business days of its receipt.

- 4.1.6 Applications for registrations shall be denied if the Town determines the Short-Term Rental cannot be operated in compliance with this Ordinance.
  - 4.1.6.1 If an application for a registration of an existing Short-Term Rental is denied by the Town, no later than 30 calendar days after notification of the denial by the Town the registrant shall ensure its availability as the Short-Term rental has ceased being listed, advertised, or otherwise marketed and it has ceased being occupied as a Short-Term Rental.
  - 4.1.6.2 Notification of denials shall be provided by certified mail.
  - 4.1.6.3 For the purposes of calculating the deadline in Subsection 4.1.6.1 of this Ordinance, the day after the day the Town provides the notification of denial to the mail carrier or places it in an official United States post office mailbox is counted as day 1.
- 4.1.7 In the context of reviewing an initial registration application or renewal application, the Town may require additional information and perform an inspection of a Short-Term Rental in order to determine whether the Short-Term Rental can be or is being operated in compliance with this Ordinance, including but not limited to the ability to comply with all building, health, and fire safety codes, ordinances, policies, regulations, and laws adopted by the Town.
- 4.1.8 Except as provided in Subsection 4.1.8.1 of this Ordinance, Registrants shall provide an update to the Town of any changes to the information provided in an application within 15 calendar days of the change.
  - 4.1.8.1 Registrants wishing to make a material change to the manner in which the Short-Term Rental is operated shall submit a new initial registration application and shall not alter the operation of the Short-Term Rental unless and until an updated registration is provided by the Town.
  - 4.1.8.2 For the purposes of this Subsection a “material change” means any change to the information submitted in an application that is required pursuant to Subsections 4.2.1.4-4.2.1.7 of this Ordinance.
- 4.1.9 Registrations shall only be valid for the owner named on the application. Registrations shall not run with the land and shall not be transferrable or assignable.
  - 4.1.9.1 Upon sale of a dwelling unit associated with a Short-Term Rental registration, the registration shall terminate.
  - 4.1.9.2 Should the new owner desire to have a Short-Term Rental the new owner shall be subject to all of the requirements of this Ordinance, including the initial registration application and payment of the initial application fee.

4.1.10 The approval of a registration, and issuance of a registration number, by the Town for a Short-Term Rental shall not be interpreted as a finding that, or deemed to be evidence that:

4.1.10.1 the Short-Term Rental is in compliance with applicable building, health, and fire safety codes, ordinances, policies, regulations, and laws adopted by the Town or State;

4.1.10.2 the Short-Term Rental is in compliance with other requirements of this Ordinance; or

4.1.10.3 the Short-Term Rental is in compliance with the Wastewater and Potable Water Supply Permit associated with the property.

## 4.2 Application

4.2.1 Initial registration applications shall be submitted on a form supplied by the Town which shall require, at a minimum, the following information:

4.2.1.1 The physical (E-911) address of the property on which the Short-Term Rental is located.

4.2.1.2 The number of dwelling units on the property.

4.2.1.3 The number of dwelling units on the property that will include or be a Short-Term Rental.

4.2.1.4 The total number of bedrooms in the dwelling unit for which the registration is sought.

4.2.1.5 A description of whether the dwelling unit will be rented as a whole-house rental or separately per bedroom or other portion of the dwelling unit, and, if the latter, the number of bedrooms that will be separately rented and the number of other portions of the dwelling unit that will be separately rented.

4.2.1.6 The maximum number of Short-Term Rental guests the dwelling unit will be rented to.

4.2.1.7 The number of other individuals residing in the dwelling unit, such as the owner or long-term renters.

4.2.1.8 The number and location of parking spaces that are dedicated for the Short-Term Rental.

4.2.1.9 The name, physical address, mailing address, phone number, military status, and email address of the owner of the Short-Term Rental.

4.2.1.9.1 If the owner is a corporation, this information shall be supplied for both the registered corporate agent and the president, CEO, or managing officer of the corporation.

4.2.1.9.2 If the owner is a partnership, this information shall be supplied for the registered partnership agent, and each of the general partners.

4.2.1.10 The name, physical address, mailing address, phone number, and email address of any designated local agent and alternate designated local agent.

4.2.1.11 A certificate of insurance that expressly acknowledges that the registrant has insurance that meets the requirement of Subsection 5.1 of this Ordinance or proof that the registrant will conduct all

of its rental transactions through a hosting platform that provides equal or greater coverage and that the hosting platform-provided insurance carrier is obligated to defend and indemnify the registrant, as an additional named insured, and any user in the building for any bodily injury and property damage arising from the rental.

- 4.2.1.12 Proof of Vermont tax account for rooms & meals and/or sale tax purposes or proof that the registrant will conduct rental transactions through a hosting platform that pays all applicable rooms & meals and/or sale taxes on behalf of the registrant.
  - 4.2.1.13 A completed “Short Term Rental Safety, Health and Financial Obligations” form required by the State for the Short-Term Rental, or, if the form is discontinued and replaced by the State, the replacement form or documentation required by the State.
  - 4.2.1.14 For Short-Term Rentals that require inspection from the Division of Fire Safety, the resulting inspection report from the Division of Fire Safety.
  - 4.2.1.15 Any other information related to the use or occupancy of the Short-Term Rental, dwelling unit, or property that the Town identifies as material to determining compliance with this Ordinance or to gaining an understanding of the effect of Short-Term Rentals on the availability of long-term housing in the Town.
- 4.2.2 Renewal applications shall be submitted on a form supplied by the Town which shall require, at a minimum, the following information:
- 4.2.2.1 All updates and changes to the information provided in the initial registration application or most recent renewal application.
  - 4.2.2.2 If applicable, an updated certificate of insurance that expressly acknowledges that the registrant has insurance that meets the requirements of Subsection 5.1 of this Ordinance.
- 4.2.3 Providing false or materially misleading information on an application shall be considered a violation of this Ordinance.
- 4.3 Schedule of Registration Fees
- 4.3.1 Initial registration applications shall include payment to the Town of an initial application fee of \$300 per dwelling unit.
  - 4.3.2 Renewal applications submitted by the May 1 deadline shall include payment to the Town of a renewal fee of \$150 per dwelling unit.
  - 4.3.3 Late renewal applications shall include payment to the Town of a late renewal fee of \$200 per dwelling unit.
  - 4.3.4 The Selectboard shall have the discretion to modify this schedule of registration fees at any time through affirmative vote.
- 4.4 If a deadline falls on a weekend or any other day that the Town offices are closed, the deadline shall be the next business day.

## **Section 5. Requirements to Obtain Registration and Ongoing Requirements**

- 5.1 Registrants shall maintain insurance that expressly acknowledges that the property may be used for Short-Term Rental business activity and includes property insurance and general liability insurance appropriate to cover the rental use in the aggregate of not less than \$1 million per occurrence per dwelling unit or a greater amount as otherwise required by law.
- 5.2 Registrants who do not live within 25 miles driving distance of the registered Short-Term Rental and registrants who do not live within the United States shall authorize an individual to act as the designated local agent.
  - 5.2.1 All registrants shall have the option to authorize an individual to act as a designated local agent.
  - 5.2.2 All registrants shall have the option to identify an alternate designated local agent to act as the designated local agent when the primary designated local agent is unavailable.
- 5.3 The Short-Term Rental registration number assigned by the Town shall be prominently displayed in each Short-Term Rental and included in any and all listings, advertisements, and other marketing information for the Short-Term Rental.
- 5.4 The current and valid name, address, phone number, and email of the registrant and the designated local agent or agents, if any, shall be prominently displayed in the Short-Term Rental along with all additional information required by the State to be displayed.
- 5.5 Registrants shall provide guests with written documentation that contains the following information:
  - 5.5.1 The current and valid name, phone number, address, and email of the registrant and any designated local agent and alternate designated local agent.
  - 5.5.2 Written instructions on the location and use of fire extinguishers.
  - 5.5.3 Written instructions on emergency shut-off of heating systems and fuel burning appliances.
  - 5.5.4 A diagram identifying all emergency egress routes.
- 5.6 Short-Term Rental occupancy shall be limited to 2 individuals per bedroom plus no more than 2 additional individuals per dwelling unit.
  - 5.6.1 For the purposes of this subsection, the number of bedrooms is determined by using the number of bedrooms for the dwelling unit stated in the Vermont Wastewater and Potable Water Supply Permit associated with the dwelling unit or, if no such permit exists, the number of bedrooms that meets the definition of “bedroom” as defined in Section 1-806(a) of the Vermont Wastewater System and Potable Water Supply Rules, as amended from time to time.

- 5.6.2 For the purposes of this subsection, the term “individuals” includes guests and any individuals residing in the dwelling unit, such as the owner or long-term renters.
- 5.7 Registrants shall provide a minimum of 1 off-street parking space per bedroom for use by Short-Term Rental guests.
  - 5.7.1 The required parking spaces shall be 9 feet wide by 18 feet long and shall be on the same property as Short-Term Rental or adjacent property owned by the registrant.
  - 5.7.2 The required parking spaces do not have to meet the definition of parking space in the Montgomery Zoning Regulations and are not limited to parking spaces approved in the property’s zoning permit.
  - 5.7.3 Stacked parking. Registrants may designate more than one parking space in a driveway to meet the number of required parking spaces such that some vehicles will be blocked in by other vehicles from accessing the access aisle or the road unless such designation has the possibility of impacting properties not owned by the registrant.
  - 5.7.4 Registrants shall not permit Short-Term Rental guests to park on properties not owned by the registrant without the property owner’s permission or to park in the travel lane of roads or other public locations not specifically designated for parking.
- 5.8 Registrants shall comply with all applicable building, health, and fire safety codes, ordinances, policies, regulations, and laws adopted by the Town and the State including but not limited to the Vermont Department of Public Safety’s Residential Rental Housing Health & Safety Code.
- 5.9 Registrants shall not permit guests to have pets in the Short-Term Rental unless the guests provide proof of valid rabies vaccination.
- 5.10 Registrants shall prohibit guests from subleasing, sublicensing, or assigning all or any portion of the Short-Term Rental to another person.

## **Section 6. Enforcement**

- 6.1 Any person who violates a provision of this Ordinance may be subject to a civil penalty of up to \$800 per day, as specified in Subsection 6.7 of this Ordinance, for each day that such violation continues.
- 6.2 When the protection of the public health, safety, or welfare of the community warrants, the owner of a Short-Term Rental who violates a provision of this Ordinance may also be subject to the following:
  - 6.2.1 suspension of the registration for Short-Term Rentals for up to 3 months; or

- 6.2.2 revocation of the registration for Short-Term Rentals and prohibition from submitting new initial registration applications, accompanied by payment of the initial application fees and proof of compliance with this Ordinance, for a period of up to 3 months following the date of revocation.
- 6.3 The registration of all Short-Term Rentals whose owner has been found by an Issuing Municipal Officer or court of competent jurisdiction to have committed four offenses for any combination of Short-Term Rentals shall be automatically revoked, and the owner shall be prohibited from submitting new initial registration applications, accompanied by payment of the initial application fees and proof of compliance with this Ordinance, for 3 months following the date of revocation.
- 6.4 The registration of a Short-Term Rental whose owner has failed to timely pay the civil penalty after entry of a judgment against the owner by a court of competent jurisdiction shall be automatically suspended until the full amount is paid.
- 6.5 The \_\_\_\_\_ shall all be designated and authorized to act as Issuing Municipal Officials to issue and pursue a municipal complaint before the Judicial Bureau, or other court having competent jurisdiction, and to otherwise enforce this ordinance pursuant to the authority provided in 24 V.S.A. Chapter 59.
- 6.6 As a condition of registration, the Town may perform an inspection of a Short-Term Rental in order to assess compliance with this Ordinance, including but not limited to compliance by the Short-Term Rental with all building, health, and fire safety codes, ordinances, policies, regulations, and laws adopted by the Town.
- 6.7 An Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each day of a violation:
- 6.7.1 Operating a Short-Term Rental without registration: \$800
- 6.7.2 All Other Violations:
- |                                 |       |
|---------------------------------|-------|
| First Offense:                  | \$200 |
| Second Offense:                 | \$400 |
| Third Offense:                  | \$600 |
| Fourth and Subsequent Offenses: | \$800 |
- 6.8 An Issuing Municipal Official is authorized to recover waiver fees, in lieu of a civil penalty, in the following amounts for each day of a violation, for any person who declines to contest a municipal complaint and pays the waiver fee:
- 6.8.1 Operating a Short-Term Rental without registration: \$400
- 6.8.2 All Other Violations:
- |                                 |       |
|---------------------------------|-------|
| First Offense:                  | \$100 |
| Second Offense:                 | \$200 |
| Third Offense:                  | \$300 |
| Fourth and Subsequent Offenses: | \$400 |

- 6.9 Offenses shall be counted on a twelve (12) month basis beginning May 1 and ending April 30 of each year.
- 6.10 An Issuing Municipal Official shall have authority to issue a written warning, without recovering a civil penalty, for a First Offense. In such instance, the written warning shall be counted as a First Offense for the purpose of counting offenses.

### **Section 7. Other Relief**

In addition to the enforcement procedures available under Chapter 59 of Title 24, the Town 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 suspension or revocation of any Short-Term Rental registration on behalf of the Town, or to pursue any other remedy authorized by law.

### **Section 8. 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 this Ordinance and the remaining provisions that can be given effect without the severed provision shall continue in effect.

### **Section 9. Effective Date**

In accordance with 24 V.S.A. § 1972, this Ordinance shall take effect 60 days after the date of adoption.

Adopted at Montgomery, Vermont this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

MONTGOMERY SELECTBOARD

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Received and Recorded: \_\_\_\_\_ Clerk: \_\_\_\_\_