

Town of Brownfield Short-Term Rental Ordinance

Section 1. Authority; Purpose

This Ordinance is adopted pursuant to the Town of Brownfield's home rule authority established in Article VIII, Part Second of the Maine Constitution and in 30-A M.R.S. § 3001.

The purpose of this Ordinance is to balance the desire of property owners to rent their properties to short term tenants and the desire of residents to preserve the peaceful quiet enjoyment of their residences and residential neighborhoods and to ensure the health, welfare, and safety of occupants of short-term rentals.

Section 2. Definitions

As used in this Ordinance, the terms below shall be defined as indicated. All terms not defined below shall be afforded their customary dictionary definition.

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, text messages, or mobile applications.

Bedroom/Sleeping Area: an individual room providing sleeping areas for guests of a short-term rental. In order to be eligible to provide sleeping areas for short-term rental guests in the Licensed Premises, a bedroom must meet all additional dimensional standards specified in Section 5(B) of this Ordinance.

Dwelling: Any building that contains one or two dwelling units used, intended or designed to be built, used, rented, leased, let or hired out to be occupied or that are occupied for living purposes.

Dwelling unit: a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

License period: the period of one (1) calendar year, beginning on the date that the Planning Board votes to approve a short-term rental license, and all applications, permits and fees have been fulfilled. Unless renewed by the Planning Board, a short-term rental permit expires at the end of the license period.

Licensed premises: a dwelling that has received a short-term rental license from the Planning Board consistent with the provisions of this Ordinance.

Owner: a natural person or revocable trust that is the owner of record of real property as documented by deed or other document evidencing ownership recorded at the Oxford County Registry of Deeds.

Short-term rental: the use, control, management, or operation of a dwelling unit, in whole or in part, for dwelling, sleeping or lodging purposes by short-term rental guests, as defined in this Ordinance, for compensation, directly or indirectly, where the tenancy of such short-term rental guests lasts for fewer than thirty (30) consecutive days. For the avoidance of doubt, the term “short-term rental” includes, but is not necessarily limited to, accommodations offered to guests in conjunction with a wedding or other event, even if such wedding or event is not occurring on the licensed premises, and regardless of whether or not a separate fee is charged for said short-term rental above and beyond any fee charged for use of said wedding or event venue. A “short-term rental” does not include a bed and breakfast or other establishment that has received and maintains a license from the State of Maine to operate as a “lodging place,” as defined in 22 M.R.S. § 2429(7-F), as amended, and as more particularly specified in 22 M.R.S. § 2492 and 144 C.M.R. ch. 206.

Short-term rental guest: any person who rents, licenses, occupies, or has the right to occupy a dwelling unit, in whole or in part, for fewer than 30 consecutive days. Such definition is to be interpreted broadly, to prohibit subleases, occupancies, or assignments designed to circumvent the purposes of this Ordinance.

Section 3. Permitted Short-Term Rentals; All Others Prohibited.

No short-term rental may be advertised for rent, held out as being available for rent, or otherwise rented to a short-term rental guest, unless said short-term rental is:

- A. contained within the Town of Brownfield, Maine. Under no circumstances may a short-term rental be located within an object or structure that does not comply with current Maine building codes and including but not limited to a vehicle, recreational vehicle, camper van, trailer, or tent;
- B. rented as a hosted short-term rental as that term is defined in Section 2 of this Ordinance;
- C. rented only after receiving a short-term rental license from the Planning Board; and
- D. rented in a manner consistent and compliant with all provisions of said license and all performance standards contained in Section 5 of this Ordinance.

Section 4. Short-Term Rental License Required.

No short-term rental may be advertised for rent, held out as being available for rent, or otherwise rented to a short-term rental guest, without first obtaining a short term rental license from the Planning Board, and all other requirements of this ordinance which then may only be granted in a manner consistent with this Section.

- A. **Application Required.** Applications for short-term rental licenses shall be submitted to the Planning Board Secretary on a form provided by the Town. All attachments that are required for this application must be presented in an organized manner that is

accurately labeled and indexed. At a minimum, this form shall require the applicant to provide the following information:

i. Owner contact information. Legibly list the owner's name, mailing address, email address, and day and evening telephone numbers. If the owner is a revocable trust, the names and other relevant contact information of all trust beneficiaries must be provided. When this contact information changes, the owner must notify the Planning Board and the CEO within 14 days. Failure to do so is a violation of this ordinance. This information will be available to all owners of abutting and adjacent properties.

ii. Emergency contact information. The owner must also provide the name, mailing address, email address, and day and evening telephone numbers of two individuals, who shall be available to respond to and act upon any emergencies that may occur at the short-term rental during the tenancy of any short-term rental guest. For the avoidance of doubt, the designation of an emergency contact does not obviate any primary residence or other requirement of this Ordinance. When this contact information changes, the owner must notify the Planning Board and the CEO within 14 days. Failure to do so is a violation of this ordinance. This information will be available to all owners of abutting and adjacent properties.

iii. Location information. The street address and map/lot number of the proposed short-term rental must be provided. If the proposed short-term rental is not located on the same parcel of property as the owner's primary residence then the street address and map/lot number of this parcel of property must also be provided. If the property is not located on a public road, the form shall include directions to the property from the nearest public road.

iv. Availability. The permit application form shall include when, during the calendar year, the short-term rental will be available for rent.

v. Proof of Insurance. The Owner must provide a certificate of insurance that expressly acknowledges that the licensed premises may be used as a short-term rental and evidencing both property insurance and general liability insurance appropriate to cover the rental use in the aggregate of not less than \$1 million, or proof that the owner will conduct rental transactions through a hosting platform that provides equal or greater coverage.

vi. All additional information needed to demonstrate compliance with the performance standards listed in Section 5 of this Ordinance.

vii. A non-refundable application fee in the amounts listed below which represents the costs to the Town of administering this Ordinance. However,

if re-inspections are required, there will be an additional fee of \$100.00 for each re-inspection if the first inspection fails. The fees are as follows:

- Tier One – consisting of 1 through 3 guests = \$150.00
- Tier Two – consisting of 4-6 guests = \$225.00
- Tier Three – consisting of 7 or more guests = \$300.00

ix. A Certificate of Occupancy from the Town is required.

B. Completeness Review. Following receipt of a short-term rental application, the Planning Board shall place consideration of the application on the next Planning Board meeting agenda. At that meeting, the Planning Board shall determine whether the applicant has submitted all information required by Section 4(A) of this Ordinance. If the Board determines that the applicant has provided all required information, the Planning Board shall schedule a public hearing consistent with Section 4(C) of this Ordinance. If, however, the Planning Board determines that the applicant has failed to provide all required information, the Planning Board shall provide the applicant with fourteen (14) calendar days to submit all such information to the Planning Board. The Planning Board may extend this deadline upon a finding of good cause documented by the applicant. Failure of an applicant to provide the required information within this timeframe, as may be extended by the Planning, so shall constitute an automatic withdrawal of the application.

C. Planning Board Deliberations. Following the completion of the public hearing, the Planning Board shall deliberate and consider whether or not the short-term rental application submitted by the applicant is compliant with all provisions of this Ordinance, and all additional requirements imposed by ordinance or state or federal law. In reaching this conclusion, the Planning Board may only consider evidence, both written and oral, submitted by the applicant or members of the public during the public hearing. The Planning Board shall prepare detailed findings of fact and conclusions of law. A written notice of decision, which shall constitute a short-term rental license, shall be prepared and disseminated to the applicant within fourteen (14) days of the date of Planning Board's vote.

D. License Period; Renewal. A short-term rental license is valid for a period of one (1) calendar year from the date of the Planning Board vote approving the short-term rental application. Licensees must submit new short-term rental applications, consistent with the terms of this Ordinance, each year. Renewal short-term rental licenses must be obtained from the Planning Board prior to the expiration of the license period, in order to avoid enforcement action being taken against the owner. Applications for renewal must be submitted thirty (30) calendar days prior to the expiration date, along with the renewal fees as established by Section 4(A)(vii) of this

Ordinance. However, if re-inspections are required because the first inspection failed, there will be an additional fee of \$100.00 for each re-inspection.

- E. **Licenses Non-Transferable.** Short-term rental licenses received under this Ordinance are not transferable to a new owner of the licensed premises. Any change in the ownership of the licensed premises shall require the issuance of a new short-term rental permit by the Planning Board before use of the licensed premises as a short-term rental may continue.

Section 5. Performance Standards; Conditions of Approval

The Planning Board shall not grant a short-term rental permit, unless it has found that the applicant has proven that their short-term rental license application complies with the performance standards contained in this section. If a short-term rental permit is granted, these performance standards shall become conditions of approval of the permit. Any failure of the Owner to remain compliant with these performance standards during the license term shall be grounds for the issuance of a notice of violation and/or a notice of revocation pursuant to Section 6 of this Ordinance.

- A. **Noise.** No noise may be generated from a short-term rental that is in excess of 60 dB as measured from any property line of the licensed premises.
- B. **Occupancy Limits; Bedroom Dimensional Requirements.** The maximum tenant capacity of a short-term rental is as follows: one (1) tenant for each bedroom of at least seventy (70) square feet in area, and 50 additional square feet for each additional tenant in any sleeping area. In order to be eligible to be counted towards these occupancy limits, a bedroom must, in addition to meeting the area requirements listed above: (i) have a ceiling of at least seven (7) feet in height for no less than 50% of the square footage of the bedroom and under no circumstances may have a ceiling height lower than five (5) feet at any point. Bedrooms must also meet all applicable requirements contained within the Town's and the State's fire and life safety codes including those for egress.
- C. **No Disorderly Building.** The licensed premises shall not be determined to be a "disorderly building" as that term is defined in the Town of Brownfield Ordinance to Control Disorderly Buildings. Should a licensed premises be deemed to be a "disorderly building" consistent with that Ordinance, the Code Enforcement Officer shall immediately issue a notice of revocation to the owner, consistent with Section 6(B) of this Ordinance.
- D. **Code Compliance.** The licensed premises must, without limitation, comply with all applicable state and local building, plumbing, property maintenance, life safety, and subsurface wastewater codes and rules, including but not limited to the following building safety requirements:

(i): *Smoke Alarms*: A smoke alarm is required in each bedroom. A smoke alarm is also required outside of each bedroom and in the immediate vicinity. A smoke alarm is also required to be on each story of the residence, including basements and habitable attics. The alarms shall be interconnected as much as reasonably possible.

(ii): *Carbon Monoxide Alarms*: If the house has an attached garage or a fuel fired appliance, a carbon monoxide alarm shall be installed outside each bedroom and in the immediate vicinity.

(iii): *Portable Fire Extinguishers*: At least one (1) portable fire extinguisher shall be mounted in a prominent location.

(iv): *Fuel Gas Detectors*: Fuel gas detectors must be installed in a manner consistent with 25 M.R.S. § 2469, as may be amended.

Prior to the initial issuance or renewal of any short-term rental license pursuant to this Ordinance (including any renewal thereof), the licensed premises must be inspected by the Town's Code Enforcement Officer and Fire Chief, or their designees, and deemed to be in compliance with all applicable codes and all applicable portions of this Ordinance.

E. Building Evacuation Plan. A building evacuation plan shall be prominently posted at every entrance, exit, sleeping area and public meeting room in the short-term rental property during the license period. This plan will include wording directing the tenants to call 911 for any emergency and all pertinent information for all emergency contacts.

F. No Revocation. A short-term rental owner whose short-term rental permit was revoked in accordance with Section 6 of this Ordinance is ineligible to receive a short-term rental permit for a period of one (1) calendar year from the date of said revocation.

G. No Serving Of Food. No food shall be prepared for, or served to short-term rental guests by an owner in a manner that would require an eating establishment licensed under State law.

H. No Large Gatherings. No parties, conferences, family reunions, weddings, fundraisers, or similar gatherings that involve more than the maximum allowable number of short-term rental guests under this Ordinance may occur at a licensed short-term rental.

I. Adequate Sanitary Waste Disposal. The applicant shall submit information demonstrating that adequate sanitary waste disposal is available in compliance with State of Maine Subsurface Wastewater Regulations.

Section 6. Notices of Violation; Revocation of Permit

A. Notice of Violation. After a license has been issued and upon determining that an owner is in violation of any provision of this Ordinance, the Code Enforcement Officer shall notify said owner of said violation in writing, and shall provide the owner with fourteen (14) calendar days to correct the violation. If the owner encounters extenuating circumstances that prevent the correction of any violations, the owner may confer with the authorities having jurisdiction to determine whether they will grant an extension of time to correct those violations. The authorities having jurisdiction have the sole authority to grant an extension. However, that if the licensed premises is deemed to be a disorderly building by the Select Board, consistent with the Town of Brownfield Ordinance to Control Disorderly Buildings then the Code Enforcement Officer shall immediately issue a notice of revocation to the owner consistent with Section 6(B) of this Ordinance.

B. Notice of Revocation. If, following the passage of fourteen (14) calendar days from the date of issuance of a notice of violation, or at the conclusion of a extension of time that had been granted by the authorities having jurisdiction, the Code Enforcement Officer re-inspects the short-term rental and deems the same to not be in compliance with this Ordinance, or if at any point in time the Code Enforcement Officer determines that grounds to issue a second notice of violation to the same owner are appropriate, the Code Enforcement Officer shall issue a notice of revocation to the owner. Upon receipt, further operation of the short-term rental at the licensed premises is expressly prohibited. Further licensure of the licensed premises as a short-term rental is also prohibited for a period of one (1) calendar year from the date of the notice of revocation.

Section 7. Appeals

Any appeal of a decision of the Planning Board to grant or deny a short-term rental permit application, or the issuance of any Notice of Violation or Revocation by the Code Enforcement Officer, shall be to the Town of Brownfield Board of Appeals within **30 days** of the date of the vote/issuance.

The Board of Appeals shall conduct a *de novo* hearing in which it will hear evidence on the application and make its own findings of fact and conclusions of law on the issue of whether the short-term rental application, or existing short-term rental is in compliance with the terms of this Ordinance. Any appeal of a decision of the Board of Appeals shall be to Superior Court, in accordance with 30-A M.R.S. § 2691(2)(G) and Rule 80B of the Maine Rules of Civil Procedure.

Section 8. Enforcement and Penalties

The advertisement, rental, or other operation of a short-term rental without a permit issued by the Town of Brownfield Planning Board, or the operation of a short-term rental in violation of any of the terms of this Ordinance, shall be a violation of this Ordinance. However, a current owner who is renting their dwelling as an STR will be allowed an advertising/rental grace period of 90 days while their permit application is being processed provided the owner submits their STR license application within 60 days from the date the STR Ordinance is adopted by majority vote at a duly called Town

Meeting. Violations of this Ordinance shall be subject to a minimum fine of \$100.00 per day and a maximum fine of \$2,500.00 per day, pursuant to 30-A M.R.S. § 4452. Each day that a violation remains constitutes a separate violation. Payment of all fines is the obligation of the property owner. The Select Board, or its authorized agent, is authorized to initiate legal proceedings in Maine District Court to enjoin the advertisement, rental, or operation of short-term rental, as applicable. If the Town is the prevailing party in such proceedings, the Town shall be entitled to recover its costs of enforcement, including its attorney's fees.

Section 9. Construction; Severability

The provisions of this Ordinance shall be liberally construed and applied to promote its underlying purposes, as contained in Section 1 of this Ordinance. The provisions of this Ordinance are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

Section 10. Other Laws

In the event of a conflict between the provisions of this Ordinance and the provisions of said Act or any other applicable state or local law or regulation, the more restrictive provision shall control

Section 11. Effective Date

The effective date of this Ordinance, and the licensing requirements thereunder, shall be the date of adoption by majority vote at a duly called Town Meeting.