

GENERAL BYLAW AMENDMENT: SHORT-TERM RENTALS

To See if the Town will vote to amend Chapter 123 of the Town Code (Short-Term Rentals) as follows: (*NOTE: new language is shown as highlighted text, language to be deleted is shown by ~~strikeout~~; these methods to denote changes are not meant to become part of the final text*):

Short-Term Rentals

§ 123-1. Purpose and Intent.

This bylaw is enacted pursuant to the Town's Home Rule Authority and the authority set forth in General Laws c. 64G, § 14 and is intended to:

- (1) provide for an orderly process for identifying, registering, and regulating Short-Term Rentals within the Town so as to ensure that such Short-Term Rentals do not create or cause any nuisance conditions within the Town.
- (2) prevent the further growth of residential dwellings owned by Corporations ~~and other financial and commercial entities~~ used for the purpose of Short-Term Rentals.
- (3) Continue to permit the operation of Short-Term Rentals by natural persons in order to protect the time-honored tradition of home rentals in Nantucket.
- (4) Allow the Town to implement the Short-Term Rental registration process and to collect sufficient data to accurately assess the practice of Short-Term Rentals including the impact (if any) this practice may have on affordable/attainable housing and to substantially develop additional regulations, if such data demonstrates additional regulation is necessary.
- (5) Collect and analyze comprehensive and comparable locally collected data across a sufficient time period to provide residents and voters an accurate factual foundation to inform their future decisions regarding the number of Short-Term Rentals that can be sustainably accommodated on Nantucket.
- (6) Use collected and analyzed local data to anticipate and minimize further adverse impacts of Short-Term Rentals on Nantucket's economy, fragile environment, infrastructure, local taxation, housing alternatives, and preservation of community and residential quality of life.

§ 123-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CORPORATION

All businesses and charitable entities required to file Articles of Incorporation and Annual Reports with the Massachusetts Secretary of State or an equivalent agency of another state, pursuant to G.L. c. 156D, § 2 or G.L. c. 180, § 4, respectively.

OPERATOR

A person or other legal entity operating a short-term rental including, but not limited to, the owner or proprietor of such premises, the lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such short-term rental. It is the intent of this bylaw that the operator shall have the same meaning as set forth in General Laws c, 64G, § 1.

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, a group of people, LLC, or a Trust. The Owner may also be referred to as the operator, or the Host.

SHORT-TERM RENTAL

A dwelling unit or portion(s) thereof that is not a transient residential facility, where: (i) at least one room or dwelling unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance. Rental periods with a change in occupancy in excess of 31 calendar days shall not be considered a short-term rental. The rental of property for a total of 14 days or less in any calendar year shall not be considered a short-term rental.

~~TIME SHARING OR TIME INTERVAL OWNERSHIP DWELLING UNIT OR DWELLING~~

~~A dwelling unit or dwelling in which the exclusive right of use, possession or ownership circulates among various owners or lessees thereof in accordance with a fixed or floating time schedule on a periodically recurring basis, whether such use, possession or occupancy is subject to either: a time-share estate, in which the ownership or leasehold estate in property is devoted to a time share fee (tenants in common, time share ownership, interval ownership) and a time share lease; or time-share use, including any contractual right of exclusive occupancy which does not fall within the definition of "time share estate," including, but not limited to, a vacation license, prepaid hotel reservation, club membership, limited partnership or vacation bond, the use being inherently transient.~~

§ 123-3. Registration, Permitting, Prohibitions, Inspection and Fees.

- A. No person or other legal entity shall operate a short-term rental without having first obtained a certificate of registration from the Board of Health. An application for a certificate of registration shall be on a form provided by the Town and shall contain the Department of Revenue identification number or proof of exemption under G.L. c. 64G. The operator shall provide with the application a certificate of registration issued by the Department of Revenue in accordance with § 67 of Chapter 62C of the General Laws.
- B. The annual fee for such certificate of registration shall be set forth in the regulations issued pursuant to § 123-4.
- C. The application for the certificate of registration shall include an attestation that the owner and/or operator is in compliance with all applicable federal, state and local laws, including but not limited to G.L. c. 64G and the Fair Housing Act, G.L. c. 151B, and local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings, and that the owner and/or operator of the property is current with all Town taxes, water, and sewage charges and other fees, subject to the requirements of Chapter 19, §§ 13 through 18, of the Town Code. Any property offered for a short-term rental shall not have any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, or stop work orders. Nothing contained herein shall relieve the owner or operator from complying with all local permits, rules and regulations issued by the Board of Health and other Town boards generally applicable to resident dwelling units.
- D. The Board of Health shall not issue any certificate of registration unless the Operator has:
- (1) submitted a complete application and paid all associated fees;
 - (2) Provided contact information for the operator and persons designated to address any issues at the short-term rental within two hours' notice; and
 - (3) Provided the Town with a certificate of insurance evidencing liability insurance coverage for the short-term rental in an amount to be determined by the regulations issued pursuant to § 123-4.
- E. Operators are subject to inspection of the short-term rental by the Board of Health upon reasonable notice via consent or administrative warrant, or without such notice in the event of an imminent threat to public health or safety.
- F. Certificates of registration are valid for one year and may be renewed at the discretion of the ~~Town~~ Board of Health, provided that the operator has complied with the provisions of this chapter and any associated regulations issued by the Board of Health during the preceding year. An application for renewal of a certificate of registration shall be submitted along with the annual fee no later than November 1 of the next year. A renewal application shall include an attestation that the Short-Term Rental was operated in accordance with all bylaws and regulations of the Town during the previous year.

- G. The certificate of registration is issued to the operator and does not run with the land. If the short-term rental is sold or transferred out of ownership, a new application for a certificate of registration shall be filed by the new operator before short-term rentals can continue or resume.
- H. In order to collect and assess data pertaining to the number of Nantucket's Short-Term Rentals and their impact on the Island, the Town shall, for a period of 36 months beginning January 1, 2026, based upon applications received by the Town's Board of Health by November 1, 2025, limit the number of Nantucket Short-Term Rental certificates of registration issued to 1350 per calendar year.
- I. During this period, the Board of Health shall, by regulation, establish and operate an approval process for the issuance of certificates of registration which, should the applications for certificates of registration exceed the temporary limit, prioritizes applications based on the number of prior years of continuous Short-Term rental history under the same ownership as evidenced by the payment of occupancy tax to the Commonwealth of Massachusetts, or other certifiable documentation, and then by the date of application. Applications for an annual renewal of any certificate of registration must be filed by the preceding November 1st for each subsequent calendar year during this period.
- J. During this period, no owner or operator shall engage in a Short-Term Rental for a single Dwelling Unit on a Lot for which a certificate of registration has been issued for more than 70 days in the calendar year. For Lots containing more than one Short-Term Rental Dwelling unit, no owner or operator may receive a Nantucket Short-term Rental certificate of registration for more than two, and the total number of rental days for the calendar year for both dwellings combined shall not exceed 70. Each of the two Dwelling Units must receive a separate certificate of registration and each will be included in the total number of Short-Term Rentals allowed for the Town under Section H above. Owners of more than one Lot may apply for a certificate of registration for no more than two Lots, and the combined total number of rental days for both Lots may not exceed 70 days in a calendar year.
- ~~H.~~ K. Short-Term Rentals are prohibited in dwelling units owned by a Corporation. Short-Term Rentals are permitted in dwelling units owned by an LLC, Trust, or S Corporation only when every shareholder, partner, or member of the legal entity is a natural person, as established by documentation provided by the applicant at the time of registration.
- ~~I.~~ L. 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. Any Short-Term Rental in any sub-leased Dwelling Unit which has not received a separate certificate of registration under the name of the sublessee for that specific property is also prohibited and shall be subject to the penalties set forth in Sections 123-5(D) below.
- ~~J.~~ ~~No Time Sharing or Time Interval Ownership Dwelling Unit or Units may engage in Short Term Rental activities or be eligible to receive a certificate of registration for such~~

~~unit; except that this section shall not apply to the creation of mortgages, liens, easements or other similar interests encumbering the residential property as a whole to secure a loan or for any other legitimate purposes; and this section shall not apply to natural persons or non-commercial groups, such as families, partnerships, associations, or trusts with divided interests or agreements in which the real estate is held and transferred within the family, partnership, association or trust, as opposed to sold on the open market. In addition, Time Share or Time Interval Ownership Dwelling Units shall be exempt from Sections H, I, J, and K, provided that the owner obtains a certificate of registration and provides sufficient evidence that the Unit was rented to one or more third parties for at least one period of less than 30 days prior to January 1, 2024.~~

- K. ~~Any person or other legal entity, except Corporations, but including LLC's, Trusts, and S Corporations, which paid the rooms excise tax on a Short-Term Rental dwelling unit in any calendar quarter prior to January 1, 2024 and which owned the property prior to May 7, 2024, shall be exempt from the requirements of Sections H, I, and J of this Chapter until the dwelling unit is transferred or conveyed, or the Rental Certificate is not renewed or is revoked by the Board of Health. If a property is bequeathed to a person or other beneficiary through a will, trust, or other instrument, the new owner may continue to engage in Short-Term Rental activities in accordance with this section.~~
- M. During this 3-year period, beginning January 1, 2026, the Town will publish by March 1, 2026, and retain on its web site for the entire 36-month period, the Short-Term Rental statistical data for the preceding calendar year which shall include, at a minimum, (1) the number of applications received to Short-Term rent, (2) the number of certificates of registration granted, (3) the number of Short-Term Rental contracts and Short-Term Rental days by month, (4) the fees, fines, occupancy tax, and penalties collected in that calendar year, and (5) the number of applications on the Town's Short-Term Rental waiting list, should one be needed.

§ 123-4. Regulations.

The Board of Health, subject to the approval of the Select Board, shall promulgate regulations to carry out and enforce the provisions of this chapter. Such regulations may also include but are not limited to requirements to insure that the operation of the short-term rental does not create or cause a nuisance to the surrounding neighborhood due to unreasonable noise, overburdening of parking areas, and other nuisance conditions.

§ 123-5. Enforcement.

- A. Whoever violates any provision of this bylaw or a regulation promulgated hereunder may be penalized by indictment or on complaint brought in the district court. The Town may seek to enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

- B. Whoever violates any provision of this bylaw or a regulation promulgated hereunder may be penalized by a noncriminal disposition process as provided in Massachusetts General Laws, Chapter 40, § 21D and the Town's non-criminal disposition bylaw (Chapter 1 of the Town Code). If noncriminal disposition is elected, then any person who violates any provision of this bylaw or regulation shall be subject to a penalty in the amount of \$100 for the first offense; \$200 for the second offense; and \$300 for a third and subsequent offense. Each day or portion thereof shall constitute a separate offense. The Board of Health or its agent, or any police officer of the Town, shall be the enforcing authority.

- C. If a notice of violation of this bylaw or any regulation promulgated hereunder or other order is issued to the operator or the owner of the property by the Board of Health or its designee, after a certificate of registration is issued, the Board of Health, after a hearing, may suspend for a period of time determined by the Board of Health or revoke said certificate of registration until the violation has been cured or otherwise resolved. Multiple violations by any operator may, at the discretion of the Board of Health and after a hearing, disqualify that operator from obtaining a certificate of registration for a period of up to three years.

- D. 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.

§ 123-6. Severability.

If any provision in this chapter 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.

Or take any other action relative thereto.

By Matthew Peel and others on behalf of Nantucket Neighborhoods First