DRAFT

TOWN OF WARREN SHORT-TERM RENTAL (STR) ORDINANCE

December 10, 202<u>5</u>4

§ 1. Authority

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§ 1. Authority.

This <u>o</u>Ordinance is adopted by the <u>Selectboard of the Town of Warren ("Selectboard") under authority of 24 V.S.A. § 2291(15) and (29), and 24 V.S.A. Chapter 59pursuant to the authority set forth in Chapters 59 and 61 of Title 24 of the Vermont Statutes Annotated, including specifically 24 VSA § 2291(29). This Ordinance is a civil ordinance under 24 V.S.A. § 1971(b).</u>

§ 2. Purpose.

The Town of Warren ("Town") values a sense of community that is derived from being a good neighbor, respecting the surrounding environment and demonstrating regard for health and safety. The purpose of this \bullet Ordinance is to promote the public health, safety, and welfare of the Town and to effectively mitigate secondary impacts from Short Term Rental ("STR") operations including, but not limited to, not adversely impacting the availability of long-term housing and protecting property values while simultaneously preserving the residential character and livability of the community. This Ordinance regulates STRs in furtherance of these purposes by:

- Requiring disclosure and licensing of STRs to support the responsible operation of STRs
 Gather and to provide data on Short Term rental their activity in the Town Warren; and
- 2.—Analyze that data to help us better understand the impact of such activity on the availability of attainable housing
- Carrying out the objectives of the Town Plan in a manner that balances both the shared and individual rights of Town property owners, residents, and transient visitors;
- 3. Communicate clearly our expectations for behavior that supports the first sentence of this Purpose Statement
 - 4. The Town to act in situations where the owner of a STR property demonstrates that they are not respecting these values.

§ 3 Definitions.

For purposes of this Ordinance, the following words and phrases will apply:

Commented [KR1]: Just so you don't forget to delete before adopting

Commented [KR2]: Update before adopting

Commented [KR3]: Update Table of Contents

Commented [KR4R3]: Some subsections begin with numbers with parentheticals, whiles others begin with number without them, same with the lettering. I recommend formatting in the following manner: Section #; Subsection, capital letter; Sub-subsection, lower case letter; Sub-sub-subsection: lower case roman numeral (e.g.), etc.

Commented [KR5]: Capitalizing "ordinance" is more of a personal preference than any legal drafting best practice, but I think it helps it stand out to grab the reader's attention as a way of indicating to them that you're about to say something important about the ordinance.

Commented [KR6]: Suggest using plain language for readability and citing all applicable authority.

Commented [KR7]: Define acronym (STR) early

Commented [KR8]: The ordinance does not analyze, it requires disclosure of info that can later be analyzed.

Commented [KR9]: Addressed by "responsible operation" in #1 above

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- (1) "Short-Term Rental (STR)" means a furnished house, condominium, or other dwelling room or self-contained dwelling unit 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 residence rented for fewer than 30 consecutive days and for more than 14 days per calendar year, excluding commercial lodging establishments (e.g., hotels, motels, inns and bed and breakfasts).
- (2) "Property Owner" means the individual(s) or entity/entities that hold legal title to <u>a building</u> structure or land or a part thereof where the STR is located the STR property.

(3) "Local Host" means an individual designated by the property owner who can respond on site to the STR property within one hour (by automobile) in case of emergencies.

(4) "STR Administrator" means the zoning administrator (administrative officer) or other person or persons designated by the Selectboard to administer and enforce compliance with this Ordinance and to represent the Town in any associated proceedings, legal or otherwise. Zoning Administrator" means the Town official responsible for administering and enforcing this ordinance.

§ 4 Regulations.

Property owners must obtain a permit whenever a dwelling unit is to be used as a short-term rental.

- 1.—A short-term rental permit shall be obtained prior to using the unit as a short-term rental. (Include grace period language. 30-90 days after adoption.)
- The Zoning Administrator may inspect the short-term rental for compliance with this Ordinance. The short-term rental shall not operate unless it is in full compliance with Town and state codes.
- 2. A short-term rental permit shall be valid for one calendar year, shall expire on October 31, and must be renewed upon expiration as long as the unit is to be continued to be used as a short-term rental.
- 2:—The short-term rental permit is transferable to a new owner, so long as the new owner registers with the Town, updates the short-term rental permit application and agrees in writing to comply with the requirements of the short-term rental permit and these regulations within 30 days of sale.

§ 45. Permit application requirements.

Registration of a STR should be completed online through the Town of Warren Website. It must be accompanied by payment of a permit fee, as determined by the Town Select Board. If relevant information on the property change or for any reason the permit is or becomes inaccurate, the application must be updated within 30 days. An application for an STR License must include the following to be deemed complete and processed:

The application shall provide the following information:

The owner(s) of the STR's name, addresses, telephone numbers and email addresses.

Each property owner must also provide the address of their principal residence if it is different from that of the short term rental. (In the event the property is owned by an

Commented [KR10]: The definition of "STR" must precisely mirror the enabling statute (24 V.S.A. 2291(29)):

"To regulate by means of an ordinance or bylaw the operation of short-term rentals within the municipality, provided that the ordinance or bylaw does not adversely impact the availability of long-term rental housing. As used in this subdivision, "short-term rental" means a furnished house, condominium, or other dwelling room or self-contained dwelling unit 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."

Commented [KR11R10]: By definition, a motel, hotel, etc. are not STRs because they are not a "a furnished house, condominium, or other dwelling room or self-contained dwelling unit." Those imply a residence not a rooming establishment.

Commented [KR12]: I'd recommend deleting this definition as the key word search I conducted reveals that it doesn't actually appear elsewhere in the body of the ordinance. If you delete it, be sure to renumber accordingly.

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Commented [KR13]: Moved to 5.1 General regulations, licenses and approvals. The singular expiration date will make enforcement difficult so I simplified to annually. And, rather than requiring a re-registration I just simplified to make them non-transferable, which just means the new owner needs to reapply.

Commented [KR14]: There should be an option to submit applications by paper and the note about updating applications is unneccessary because it is implied - changes require and amendment or may be a violation of the permit - so I recommend striking most of this section

Commented [KR15]: The way it was worded read that the application had to include the "Name of the owner(s) including their address..." A name doesn't include an address.

Commented [KR16]: What is the purpose? I suggest striking

entity such a trust or LLC, the ultimate owners and/or beneficiaries of shall provide the information required by this paragraph.) If the Owner is a corporation, LLC, partnership, trust, association, or company, the name of the majority or controlling member is required on all applications.

- 2.—Property owners must provide the following:
 - b.a. The number of sleeping rooms within the short-term rental, as defined in the standards located in Section 5.2
 - e.b. The maximum occupancy of the STR.
 - c.—Confirm compliance with the following standards:
 - The Short-Term Rental Safety, Health and Financial Obligations of the Vermont Departments of Health and Fire Safety [See the Vermont Division of Fire Safety at: Safety Consideration short term rentals.pdf. (vermont.gov). For units with an occupancy of greater than eight guests, a State Division of Fire Safety inspection may be required by the State of Vermont. The Waterbury Regional Office of Fire safety can be reached at 802-479-4434. (Ask Fire Marshall if this is a reasonable provision)
 - iii-ii. All exterior doors mustshall be operational and all passageways to exterior doors must shall be clear and unobstructed.
 - iv:iii. Electrical systems must shall be serviceable with no visual defects or unsafe conditions.
 - <u>v:iv.</u> Town of Warren Solid Fuel Burning Ordinance (https://www.warrenvt.org/wpcontent/uploads/2018/03/Solid-Fuel-Burning-Ordinance.pdf)
 - d.c. The owner of an STR must post within the unit a telephone number for the person responsible for the unit and the contact information for the Department of Health and the Department of Public Safety's Division of Fire Safety. For owner-occupied short-term rentals (i.e., the owner is present during the entire rental period), the owner must provide their name, address, telephone number and email address. For non-owner-occupied short-term rentals, the owner must designate one or more local (i.e., within 60 minutes by automobile) host(s) and provide the name, address, telephone number and email address of the local host, who shall be responsible, and authorized, to act on the owner's behalf to promptly remedy any violation of these standards or the permit. The host may be the owner, ora local host or agent designated by the owner to serve as a contact person.
 - e.d.A copy of a Certificate of Insurance showing commercial liability
 coverage.hasurance coverage specific to the renting of short-term vacation
 rentals is required.
 - f.e. Payment of all applicable STR fees which has been as established set by the Town Selectboard.

f.

§ 56. General Standards Requirements.

1. Licensing & Approvals All short-term rentals must meet the following standards:

Commented [KR17]: You may also want to add "property manager" or "owner' agent" contact info for required information.

Commented [KR18]: I'd specify where the standards can be found since the section was renamed and it's now a subsection.

Commented [KR19]: Make #2 and #3

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Commented [KR20]: This is a separate process administered by the state and the town's ordinance can't require compliance except with regard to Fire Safety's required posting for STRS. See edits below in subsection (c), formerly (d)) for the required posting.

Commented [KR21]: I recommend striking as enforcement will be difficult and authority is questionable

Commented [KR22]: Some of this info is already requested by #1 above if local host is owner, and section 4467 requires the posting of the rental operator's contact info (phone) as noted. You can ask for more, but I don't see the value in asking for email and address because they don't address the need for prompt contact. The "within 60 minutes" requirement is not enforceable.

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- All bedrooms must have a secondary means of egress in accordance with the fire safety considerations for short term rental operators (link).
- a) An STR license must be renewed annually.
- b) An STR license is NOT transferable.
- c) No STR license will be approved unless the applicant has submitted all required documents to the STR Administrator.

2. Standards

All STRs must meet the following standards:

- b)d) The property must have sufficient off-street parking spaces for all guests and they must be used.
- c)a) The property must have aA house number visible from the street or road that it abuts. shall be maintained.
- d)b) Trash shall be stored in a secure place from animals and not in public view Garbage must be dealt with responsibly, with consideration of pests and wildlife, and in a timely manner. (attach bear awareness link).
- e) Advertisements for the short-term rental must conform to what is allowed under these regulations and the short-term rental permit.
- f)c) In the event of a federal, state or local disaster declaration, all owners and guests must comply with federal, state and/or local disaster orders.
- A Knox-Box (i.e., for emergency keys) is required for all short-term rental properties in which an alarm system is active., The Knox-Box must be registered with the Warren Fire Department. [To order the Knox-Box, see this form:]
- h)d) For all short-term rental properties for which the owner is not present during the entire rental period, tThe property must contain; in a visually prominent location for guests to access:
 - a. a list of emergency contact numbers; and
 - b. detailed instructions for guests on how to respond in the event of an emergency and/or should an alarm sound;
 - c. A copy of, or link to the -Town of Warren Solid Fuel Burning Ordinance;
 - d. A copy of, or link to the Town of Warren Noise Ordinance.

b.

§ 67. License Processing Procedure upon filing application.

The STR Administrator must either approve or deny a complete license application in a reasonable timeframe. Any denial will be in writing and provide the reasoning and cite any applicable section of the Ordinance as the basis of the denial. Upon filing with the Town (permit application, permit fee, and all documents and information required by this ordinance) the Town shall have up to 45 days to review the application and then either issue the permit, with or without conditions, or notify the applicant in writing that the application has been denied along with the reason or reasons for denial.

The Town may decline an application for any of the following reasons:

Commented [KR23]: This is managed by the state fire code and authority here is questionable without a housing code. I recommend removing.

Commented [KR24R23]: Recommend having a separate informational handout for applicants and licensees with State requirements (tax, health, fire/safety, etc.) instead of including them in the local ordinance.

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Commented [KR25]: Unenforceable vague, needs to include a standard - e.g. 1 off-street space for every 2 bedrooms

Commented [KR26]: Unsure why they would be required to be used, suggest striking

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Commented [KR27]: Failure to maintain is a violation

Commented [KR28]: Attachments should be included separately for the STR Administer or applicants to use, or be attached as appendices below

Commented [KR29]: No authority to regulate commercial advertisement. Though advertisements can be used to identify violations

Commented [KR30]: Unneccessary

Commented [KR31]: This needs to be more specific (e.g. fire, police, ambulance, etc.), otherwise the Town runs a risk of a court deeming it void for vagueness.

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Commented [KR32]: I added this given the connections you've made in this document to these ordinances. Requiring the full ordinances to be posted may be aspirational though because its a little unrealistic to expect STR guests to read through these ordinances. It may make sense for the Town to make a one page document which clearly spells out that certain activities such as burning trash or loud noises after 10pm are violations of Town ordinances and subject to fines and require STR owners to post those instead. Or you may just want to list the most important ones in the permit itself as required below in section 6(1)©.

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Commented [KR33]: There is no 45 day requirement that is for zoning permits - so I would recommend

- 1.— If the application is incomplete, the documentation required by this ordinance was not included with the application, or the full permit fee, in payment form acceptable to the Town Treasurer, was not included with the application.
- 1:—If the Town of Warren issued a short-term rental permit to any of the owners needing to sign the short-term rental permit application and any of such owners had a short-term rental permit revoked within the previous year.
- Short-term rental permits issued pursuant to this section <u>mustshall includestate</u> the following:
 - a)—The names, addresses and phone numbers of every person or entity who has an ownership interest in the short-term rental property and the host who shall be available during the entire time the short-term rental property is being occupied.
 - a) The telephone number for the person responsible for the unit;
 - b) _The maximum occupancy and vehicle parking limitations for the short-term rental unit:-
 - c) A statement that no outdoor fires are allowed, except as permitted by local and state law_i. Outdoor barbecues and supervised fires in fire pits are permitted.
 - d) A statement that no-noise shall not exceed beyond normal levels shall emanate after 10:00 p.m.as pursuant to the established by the Town's noise ordinance;
 - e) A statement that the short-term rental permit may be revoked for violations.

§ 8. Inspection

The Zoning Administrator may inspect any property before issuing a permit, or at any time thereafter. The Town reserves the right to validate via inspection or otherwise any information contained in the permit application.

§ 7. Violations:

- 1. A violation of this ordinance shall be a civil matter which may be enforced in the Vermont

 Judicial Bureau or in the Washington County Superior Court, at the election of the STR

 Administrator.
- 2. Violations enforced in the Judicial Bureau will be in accordance with the provisions of 24
 V.S.A. §§ 1974a and 1977 et seq. For purposes of enforcement in the Judicial Bureau, an STR
 Administrator will have authority to issue tickets and represent the Town at any hearing.
- Violations enforced in the Superior Court will be in accordance with the Vermont Rules of Civil Procedure. The Town may pursue all appropriate injunctive relief.

3.

§ 89. Compliance, hearings and penalties Enforcement & Fines.

Owners of short-term rental units must obey all applicable laws, ordinances and regulations of the Town of Warren, Washington County, Vermont, and the United States of America, and shall be subject to the enforcement and penalty proceedings contained in this ordinance.

Commented [KR34]: Unnecessary, implied

Commented [KR35]: See "Section 9, Suspension or Revocatoin of License" below

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Commented [KR36]: This seems over burdensome for a permit which is public facing. I suggest limiting to just including The telephone number for the person responsible for the unit as is required to be posted in the unit by 18 V.S.A. § 4467

Commented [KR37]: This is for the towns burn ordinance. I recommend including a copy of the ordinance in the required unit postings to address this issue - see above 6.6.c

Commented [KR38]: This is likely an overbroad grant of authority. The authority to investigate potential violations exists without this provision, and despite a provision like this a landowner could refuse entry - e.g. an inspection must be accompanied by landowner consent. So I would recommend either entirely removing the inspections provisions, or instead limiting it to part of the approval process - e.g. permit will not be issued until the property has been inspected. See suggested revisions in licenses and approvals above - 5.1.b - for a n option to require inspections.

Commented [KR39R38]: If the STR administrator has reason to believe that a violation has occurred and an inspection was rejected by the landowner, they could proceed to ticket them like a violation exist - or the three

Commented [KR40]: Recommend including both court and Judicial Bureau enforcement options. See

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1. Enforcement

- a) Inspection: May be carried out for accuracy of bedroom counts, ensuring posting requirements are met, and investigating complaints.
- b) Notice: If the Town ZoningSTR Administrator determines there is a violation of the permit or of this Ordinance or the Town's Land Use and Development Regulations, the STR Administrator must first issue a Notice to Remedy within (xxxx) days. ay do any of the following depending on the circumstances, starting with the issuance of (1) a Notice to Remedy and followed by::

(2) Impose a fine or suspension pursuant to the Schedule below;

- (3) Initiate a hearing before the Selectboard; and/or
- (4) Attach reasonable conditions to the existing short-term rental permit.

2. Fines:

- a) If the violation has not been substantially cured within (xxx) days. Each day a
 violation exists after the date set for remedy shall be subject to a separate fine until
 the violation is cured.
- b) Repeated violations of the same provision(s) of this Ordinance shall not be given time to remedy the violation before additional daily fines accrue.
- c) A subsequent violation that is identical to, and that occurs within XXX months of a previous violation shall be considered a higher offense (i.e., second, or third offense). Any subsequent identical violation that occurs after XXX months of a previous identical violation shall be considered a new first offense.
- d) The STR Administrator is authorized to recover a waiver fee in lieu of a civil penalty, in the stated amount, for any person who declines to contest a municipal complaint and pays the waiver fee.
- e) An Enforcement Officer is authorized to recover civil penalties for violations of this Ordinance in the following amounts for each violation:

Fine Schedule

	1 st violation	2 nd violation	3 rd violation	•
Fine for advertising a property for short-term rent (online or offline) without first having obtained a permit or complying with local listing requirements.	\$300	\$600	\$900	Upon the fourth or subsequent violation in any twenty- four-month period, the Town may suspend or revoke any permit. The
Fine for violating any other requirements of this short-term rental regulation.	\$100	\$200	\$400	suspension or revocation can be appealed Se.

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Commented [KR41]: How? Still, this is not required in an ordinance and recommend against establishing for a local level appeals process. There is no requirement for towns to hear license appeals or appeals of admin decisions as there is in zoning, for instance. It then becomes another burden on town resources.

An STR owner can already challenge the ordinance or a decision/act under this ordinance in court. Rule 75 allows an appeal of any action or failure to act by a state agency or subdivision that is not appealable under Vermont Rule of Civil Procedure 74. Where legislation is silent as to review, an appeal may be taken under Rule 75. Hunt v. Vill. Of Bristol, 159 Vt. 439, 620 A.2d at 1266 (1992). Like a Board of Abatement decision in Hunt v Vill. Of Bristol, the STR statute does not explicitly provide for an appeal oror require an appeal. Thus, here, Rule 75 will likely apply and provide an avenue for challenge.

If the town wants to offer a local appeal, the selectboard needs to be ready to manage the increased workload. Narrow it to be the applicant/owner can appeal a STR Administrator decision (license denial, revocation, etc.), and provide a process - e.g. applicant or abutting landowner may appeal a decision of the STR administrator within 30 days by submitting a written request for a hearing before the selectboard on the STR administrators decision."

Commented [KR42]: Conditions can be imposed with relation to the issuance of the permit, but not regarding violations or fines.

Commented [KR43]: Waiver fee is required by law. Sequence of offenses recommended and this is our model language.

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Commented [KR44]: No authority to regulate commercial advertisement as noted above - though advertisements can be used to identify violations - so no authority to fine.

Commented [KR47]: The fine schedule needs to be amended to include the waiver fee as required by law. A waiver fee is the fee to be paid if the penalty is not being contested. See Section 7.A of our Model Parking

Commented [KR45]: Appealed to who and when and

Commented [KR46]: Moved, see Section 9 below

Notes:

a. Any unpaid fine will be subject to interest from the date on which the fine became due and payable to the Town until the date of payment.

b. The remedies provided for in this fine schedule are in addition to, and not in lieu of, all other legal remedies, criminal or civil, which may be pursued by the Town to address any violation or other public nuisance.

c. Right to appeal pursuant to Chapter 59 Title 24 of the VSA.

§10. Expiration

This ordinance will expire in two years after its initial adoption to allow for a period of data gathering and analysis. Upon expiration of this ordinance, the Selectboard will revisit the issue of STRs and may adopt a new ordinance to replace this one.

§ 9. Suspension or Revocation of License.

- In addition to the penalties available for enforcement of a violation(s), the license may also be subject to suspension, revocation, or non-renewal per the terms of this ordinance.
 Determination of these additional penalties will be made, in writing to the licensee, by the STR Administrator.
- 2. If a licensee commits three (3) violations within X months, their license will be revoked.
- 3. CONSIDERA Licensee who has had their License revoked may not re-apply for a period of one (1) year from the time their revoked License was due to expire.)

§ 10. Other Laws.

This Ordinance is in addition to all other ordinances of the Town of Warren and all applicable laws of the State of Vermont. All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this OOrdinance are hereby repealed to the extent of such inconsistency.

§ 11. SEVERABILITY.

If any section of this Ordinance is held by a court of competent jurisdiction to be invalid, such finding will not invalidate any other part of this Ordinance.

§ 11 Effective Date.

Adoption History

This Ordinance will become effective 60 days after its adoption by the Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute will govern the taking effect of this Ordinance.

Adopted this	day of _	, 20
SIGNATURES:		
		-
		-
		-

expire, the selectboard should just make a point to revisit the ordinance in a couple years.

Commented [KR50]: Consider adding: "3. A Licensee who has had their License revoked may not re-apply for a

Commented [KR48]: No authority to collect interest on

Commented [KR49]: Rather than making the ordinance

period of one (1) year from the time their revoked License was due to expire."

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Commented [KR51]: Standard language we

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1. Agenda item at Selectboard meeting held on	<u>.</u>
2. Read and approved at Selectboard meeting on	and entered in the minutes of
that meeting.	
3. Posted in public places on	
4. Notice of adoption published in the newsp	paper on with a
notice of the right to petition.	
Other actions [petitions, etc.].	

Commented [KR52]: Adoption History section so you can memorialize the requisite adoption process for their records right in the Ordinance itself for ease of future reference to counter any procedural legal challenges.