

General Bylaw – Chapter 136 - Residential Short-Term Rental Units

October 18, 2022

§ 136-1 Purpose.

This bylaw is adopted in accordance with the Town of South Hadley's Home Rule Authority, in furtherance of the following public purposes:

- A.** To protect the health, safety, and welfare of tenants and other citizens of the Town of South Hadley by monitoring and enhancing compliance with basic life safety and sanitary codes through the registration and licensing of residential Short-Term Rental Units.
- B.** To ensure safe and sanitary conditions in South Hadley's rental housing stock.
- C.** To provide clear and accessible guidelines for the operation of residential Short-Term Rental Units for tenants, owners, landlords, and neighbors, and to extend awareness of related Town bylaws and health regulations related to operation of a rental property and those regulations related to noise, alcohol and nuisance behaviors.
- D.** To establish and expand awareness of the requirements for use and maintenance of rental housing exteriors and grounds, including parking requirements.
- E.** To ensure awareness of and responsibility for occupancy limits in rental units on the part of property owners, managers, tenants, and neighbors.
- F.** To help to stabilize, protect, and enhance the essential characteristics of and quality of life within existing residential neighborhoods for all residents.

§ 136-2 Registration & License Required.

Except as provided in § 136-4 below, no person, firm, trust, partnership, corporation or other legal entity may rent, or offer to rent, to individuals or households any Short-Term Rental Unit without a license issued by the Building Commissioner.

§ 136-3 Enabling Legislation & Regulations.

All Short-Term Rental Units regulated hereunder shall comply with all applicable local bylaws and regulations, as well as all state laws and health, building and fire codes. All inspections, enforcement, and other actions taken under these regulations are authorized under those applicable local and state laws and regulations, as amended.

§ 136-4 Applicability & Exemptions.

Licenses shall be required of all residential properties containing Short-Term Rental Units, or offered for that purpose, except for the following:

- A. Lodging Facilities. Hotels, motels, inns, hostels, or bed and breakfasts.
- B. Halfway Houses & Group Homes. Residential facilities authorized and operated under state and federal law, congregate or similar group housing for the elderly or disabled, half-way houses for persons with substance abuse problems, congregate living arrangements for persons with disabilities, or other similar housing facilities operated under license by the Commonwealth of Massachusetts.
- C. Short-Term Rental Exception. This bylaw shall not apply to the Short-Term Rental of a Dwelling Unit during a pending sale of the property by the Owner-Occupant.

§ 136-5 Definitions.

Under these regulations, the following terms have the meanings indicated:

AFFORDABLE HOUSING UNIT

Dwelling units restricted to rental or purchase by households with an annual income no greater than 80% of the median income for South Hadley, as calculated by the U.S. Department of Housing and Urban Development or any successor agency, adjusted for family size. Such units must be countable under MGL c. 40B as part of the Town's subsidized housing inventory.

CODE OFFICIAL

The Building Commissioner/Zoning Enforcement Officer of the Town of South Hadley, the Health Director, the Police Chief, Fire Chief, or their designees and/or any of the inspectors or officers authorized to enforce the law, regulations and codes listed under Section 3 of this bylaw. The specific Code Official in each instance will be the official duly designated under the relevant statute, bylaw, or regulation.

DWELLING UNIT

The room or group of rooms within a dwelling used or intended for use by one family, or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

EMERGENCY

Events or conditions involving natural disasters, fire, or other threats to the health and safety of the residents of a rental property.

OWNER

Every person who alone or jointly or severally with others: (1) has legal title to any building, structure, or property subject to this bylaw, or; (2) has care, charge, or control of any such building, structure, or property in any capacity including but not limited to agent, executor, administrator, trustee or guardian of the estate of the holder of legal title; or (3) is a lessor under written agreement; or (4) is the mortgagee in possession; or (5) is the recognized agent, trustee or other person with care, charge, or control appointed by the courts.

OWNER-OCCUPANT(S)

One or more natural persons who, in their individual capacity as distinct from any representative capacity, own(s) a whole or undivided interest in fee simple of certain real property and at least one of whom occupies a dwelling unit thereon as his or her principal residence (see definition).

PERSON

An individual, corporation, trust, partnership (including general partnership, limited partnership, and limited liability partnership), and a limited liability company. In addition, any similar entity licensed by law to hold title to real estate shall for the purpose of this bylaw be deemed a “person.”

PRINCIPAL RESIDENCE

The primary residence of an individual, family (as defined in the Zoning Bylaw), or property owner, i.e., the home where an owner, and the owner’s family if applicable, resides as their primary dwelling; provided however, that no person shall hold concurrent rights in more than one (1) principal residence, as set forth under MGL Ch. 188, Section 1, as amended. Regular or periodic interruptions in residency shall not be considered to change the status of principal residency where such interruptions are the result of illness, catastrophe, professional or academic scheduling, or other temporary reasons for absence which do not affect basic indices of residency. For the purposes of this Bylaw, principal residency shall be determined by the Code Official based upon a preponderance of evidence, including but not limited to the following indicia of residency and address, as applicable: declaration of homestead, filing of state and federal income taxes, voter registration, annual street list, driver's license, motor vehicle registration, mortgage, mailing address, and telephone listing (if any).

SHORT TERM RENTAL

Any rental of all or part of a Dwelling Unit for 28 consecutive days or less, including home-sharing and vacation rentals.

§ 136-6 Conditions

Licenses for Short-Term Rental use are conditioned upon the following:

- A. Only spaces intended for human habitation may be offered for rent as Short-Term Rentals. For example, the applicant cannot offer for rent an accessory structure such as a shed or garage.

- B.** Only legally established Dwelling Units may be offered for rent as Short-Term Rentals. Structures including but not limited to campers, mobile homes, RVs, tents/tent platforms, yurts, and any other temporary structure or mobile vehicle do not qualify as Dwelling Units for the purpose of short term rental lodging.
- C.** Short-Term Rentals may not be advertised using any exterior signs or displays.
- D.** All Short-Term Rental advertisements must include the license number issued by the Town.
- E.** Only Owner-Occupants may offer all or part of their Principal Residence as a Short-Term Rental.
 - 1. Owner Occupied
 - a. The owner-occupant or their representative must reside on the property during the rental period to satisfy the owner occupancy requirement.
 - b. In the event the property is owned by multiple persons, related or unrelated, only one of the persons having an ownership interest in the property must reside on the property to be owner-occupied.
 - c. In the event the property is owned by a business entity, a designated owner representative must reside on the property in a permanent or ongoing basis to carry out the functions as if they were the owner of the property.
 - 2. Non- Owner Occupied
 - a. The owner-occupant must be the license applicant.
 - b. The owner-occupant does not reside on the property during the rental period, however they assume all responsibility for the operation and maintenance of the property, including but not limited to any complaints as herein defined.
 - c. In the event the property is owned by a business entity, a designated owner representative must be identified including their name and contact information.
- F.** Licensees shall maintain liability insurance appropriate to cover Short-Term Rental use.
- G.** Short-Term Rentals may only be rented to one party or group at a time, individual rooms may not be rented to separate, unrelated parties or groups at the same time.
- H.** The number of individual bedrooms made available for Short-Term Rentals within a Dwelling Unit shall not be greater than the number of lawful bedrooms in the Dwelling Unit.
- I.** Renting for less than Twenty-Four (24) hours is prohibited.
- J.** Commercial meetings and uses are prohibited.

- K.** Affordable Housing Units, or units otherwise rent controlled, are not eligible for Short-Term Rental Licensing.

§ 136-7 Licensing.

A. Application Process and Requirements.

License applications shall be made on forms approved by the Town, and shall provide such information as the Building Commissioner shall deem reasonable and appropriate. Completed applications shall be submitted to the appropriate Building Department. Complete license applications shall be reviewed, and licenses shall be issued within fourteen (14) working days from the date of submission. A license application shall identify the total number of rental units on the property.

Information required as part of a license application shall include:

- (1)** Contact Information. Name(s) and current contact information, including but not limited to mailing address, telephone number and email address, for all owners, or agent of the owner, and person who can be contacted 24 hours a day/ 7 days a week in case of Emergency.
- (2)** A list of each room, including bedrooms, offices, dens, living rooms, kitchen, sunroom, in the Dwelling Unit. The list shall include for each room: (i) whether or not the room will be rented; (ii) the maximum number of overnight guests that will be allowed.
- (3)** An affidavit certifying that the Owner will comply with all of the provisions of the Residential Short-Term Rental Property Bylaw.
- (4)** Compliance Through Self-Certification. Evidence of current compliance with all applicable local zoning and regulations, as well as state health, fire and building codes, shall be provided through submission of an Owner's Self-Inspection and Certification Checklist provided by the Town.
- (5)** Complete & Accurate Information Required. No incomplete application will be accepted. It shall be a violation of this Bylaw for anyone to knowingly provide false or misleading information on an application, and may constitute grounds for fines and other penalties hereunder.
- (6)** Certification by the Applicant that the Applicant is the Owner Occupant of the Principal Residence which is the subject matter of the Application.

B. Renewal.

Licenses shall be valid for a period to begin on July 1 and shall end on June 30, regardless of when a license is applied for or approved and issued. Completed applications for license renewals shall be submitted and received by June 15th of each calendar year.

C. License Posted.

A license shall be conspicuously posted and maintained within the premises in a common area or area as is necessary to be visible to tenants and inspectors.

D. Transferability.

Licenses shall not be transferable upon a change of ownership.

E. Limits on Number of Licenses.

Limits on the total number of licenses within South Hadley shall be twenty-five (25) total active units or less at any one time. Of the total number of active units, no more than five (5) shall be non-owner occupied.

§ 136-8 Inspections & Complaints.

- A. Self-Certification Program.** Owners of Short-Term Rental property governed by this bylaw shall self-inspect and certify their properties as required under this section. Nothing in the Self-Certification program shall limit the Town's authority or the authority and/or discretion of the Code Official to investigate and inspect a property in response to a complaint or for other good cause, or to compel abatement of any violation under this bylaw in a manner consistent with or required by the laws of the Commonwealth.

Owner Self-Inspection & Certification. Unless inspected by local, state or federal government officials, an owner or local agent shall conduct an annual inspection of the property, using a Self-Certification Checklist provided by the Town. The owner or agent shall sign the Checklist indicating, that the information contained therein is complete and accurate as of the date of said annual inspection, and shall submit the Checklist and any required materials along with the application for annual renewal of the license for the property in question. Any false statements or information provided on the Checklist shall constitute a violation of this bylaw for which the Owner shall be responsible.

B. Complaints & Response Process.

Upon receipt of a complaint or notice from any person alleging that the condition, operation, or use of a rental unit or property is in violation of any law or State or local requirement, including but not limited to South Hadley General Bylaw Chapter 179 Nuisances, or of any violation of this Bylaw, the Code Official shall conduct an inspection of a premise within a reasonable amount of time. Inspections shall be as scheduled by the Code Official. Inspections shall be conducted in accordance with all applicable local and state laws, regulations and codes, in a manner consistent with the laws of the Commonwealth. Subject to the above limitation, all rental units are subject to inspection upon complaint or request by a tenant. Issuance of a license to an owner does not preclude tenants' right to file a complaint with the Town, to which the Town must respond with an inspection in compliance with the provisions of state law and regulations.

The licensee shall make a good faith effort to arrange access by authorized Town personnel to any licensed rental property for the purpose of conducting inspections within twenty-four (24) hours of receiving a request.

§ 136-9 Tenant Information.

The Owner shall be required to distribute to tenants, or maintain documents on the premises for use by the tenants, the following information: (1) instructions for disposal of trash/waste per the Town's rules and regulations; (2) an emergency-exit diagram; (3) contact information for the Owner or Agent who is available to respond to all emergencies and problems which may arise during the rental period; and (4) a copy of the license.

§ 136-10 Records.

The Licensee shall keep accurate books and records of all rentals, including the name and address of the tenant based on a legal form of identification, the length of stay and the rent charged. Said records must be made available to the Town upon request and shall be retained for a period of three years from the date of the transaction.

§ 136-11 Occupancy Limits.

The maximum number of adult persons who may occupy a dwelling unit shall be determined by State standards for fitness for habitation, the State Building Code and fire regulations.

§ 136-12 Parking.

All existing parking and any new or expanded parking on residential rental properties within the Town of South Hadley shall comply with the South Hadley Zoning Bylaw.

A. Parking Site Plan. A Basic Parking Site Plan, as described below, meeting the requirements of this section shall be developed and submitted as part of any license application. Submission of an existing site plan approved under a land use (zoning) license and which accurately represents current on-site parking shall meet the requirements of this section.

(1) Basic Parking Site Plan Requirements. The parking site plan shall be drawn to scale (1"=20' preferred), as appropriate to the site. Except as may otherwise be required by the Code Official or under the provisions of South Hadley's Zoning Bylaw, Town of South Hadley GIS mapping, available through the Town of South Hadley website, may be used as the base for a site plan developed under this section.

(2) The Basic Parking Site Plan shall accurately depict the area within which parking is proposed, including:

- i. Property boundaries
- ii. Existing driveways and pedestrian walks
- iii. Dwellings and structures
- iv. All existing and proposed on-site parking spaces
- v. Existing and proposed landscaped areas

- vi. Fencing or other barriers or screening
 - vii. Site features such as trees over 12 inches in diameter (as measured five feet above grade), bedrock outcroppings, steep slopes, and such other site features as may affect parking locations.
- (3) Any provision of this section with regard to Basic Parking Site Plan Requirements may be waived or modified by the Building Commissioner.
- (4) Review. Existing on-site parking and circulation shall be reviewed by Building Commissioner for conformance with existing zoning requirements, including but not limited to parking layout and circulation, paving, parking space dimensions, screening, and, in consultation with the Fire Chief, the sufficiency of circulation and vehicular access for public safety and emergency vehicles.

§ 136-13 Fees.

The Selectmen or designee may set, and periodically revise, a schedule of fees for license applications.

§ 136-14 Enforcement.

- A. Enforcement Personnel. The Building Commissioner and Code Officials.
- B. Enforcement Options. This Bylaw shall be enforced by criminal complaint through a court of competent jurisdiction. In addition, any person committing a violation under this section may be subject to a fine or issued a citation under the noncriminal disposition process of M.G.L. c. 40 section 21D. Furthermore, in appropriate circumstances, a license may be modified, suspended or revoked, or a civil action may be initiated to compel compliance herewith.
- C. Fines. The fine for any violation shall be one hundred dollars (\$100.00) for each offense. Each day such violation continues shall be deemed a separate offense. Fines for other applicable local and state laws, regulations and codes, shall be set and assessed in a manner consistent with those laws, regulations, and codes, and the laws of the Commonwealth.
- D. Suspension. The Building Commissioner is authorized to suspend a license. A suspension shall take effect immediately upon the day following the end of the current lease, or upon any termination of the lease prior to that date. Licenses may be suspended if:
- (1) An Owner or Agent has knowingly allowed or assisted in allowing violations of this Bylaw.
 - (2) An Owner or Agent repeatedly refuses or neglects to comply with an order of the Code Official. The Code Official must find that the Owner or Agent has not taken action to achieve compliance of the property and that at least 90 days have expired without compliance since the date of receipt of the Enforcement Order. During this time the Code Official shall inform the Owner or Agent in writing that the license is subject to suspension.

Suspensions shall be as follows:

First Offense – 90 days

Second Offense in a twelve-month period – 180 days

Third Offense in a twelve-month period – 3 years

- E. Immediate Suspension.** In those instances where a rental unit has been condemned or deemed an unsafe structure pursuant to health, building and fire regulations, the license shall be immediately suspended and shall remain suspended until as such time the property is found to be habitable and in compliance by the appropriate Code Official.
- F. Owner Responsibility.** The Owner shall be responsible for any violations of this Bylaw, including acts or omissions of his/her Agent.

§ 136-15 Appeals.

All appeals must be filed with the Board of Selectmen within 14 days of the decision or enforcement action and shall be heard within 30 days of filing. All appeals shall be heard at a duly noticed public hearing and any party filing such an appeal shall have the right to be represented by counsel.

A decision of the Selectmen shall be final. Further relief of a decision by the Selectmen made under this Bylaw shall be reviewable in a court of competent jurisdiction.