

MEETING MINUTES
MUNICIPALITY OF WOODSTOCK, VERMONT
WOODSTOCK PLANNING COMMISSION
31 The Green
Woodstock, VT 05091

The Woodstock Planning Commission held a public meeting on Wednesday, February 7, 2024, to discuss the following:

Members present: Frank Horneck (Chair), Nicole Green, Benjamin Pauly, Mary Margaret Sloan, and Matt Driscoll

Public present: Mark Chamberlain, Derek Demas, Susan Fuller, David Hill, Mary McCuaig, Deborah Neuhof, Michael Nielsen, and Michael Peters.

Staff present: Steven Bauer, Director P&Z

Administrative Tasks

1. Call to Order – Frank Horneck called the meeting to order at 7:00pm.
2. Adjustments to Agenda – None.
3. Approve Minutes – 1/17/23
Benjamin Pauly motioned to approve the minutes as presented.
Nicole Green seconded the motion.

Vote 5-0. Approved.

On Going Business – Short Term Rental Regulation Draft Review

Steven Bauer provided a status report of the timeline:

The goal of the 2/7/2024 meeting is to finalize this second draft with the intent to approve the draft next Monday, 2/12/2024 in preparation for a Planning Commission hearing to be held on March 6, 2024.

Areas of high certainty that are unlikely to change include:

- The cap on the allowable number of short-term rentals in Woodstock should not exceed 5% of the total supply of available housing units.
- There will be an annual registration process required. That registration year will be a calendar year from January 1 to December 31.
- The application review process will be an administrative type of review. There will be no Board review or conditional use approval process.
- The current caps on the number of times rented depending on what jurisdiction or district the property is in should be removed. Instead, there will be a cap on the total number of registrations issued by ownership type (owner-occupied or non owner-occupied).
- The process and fees should prioritize owner-occupied registration holders over non owner-occupied registration holders.
- The registration fees must cover all associated costs of the program (i.e. software, technical support, administration, potential litigation, etc.) These costs should not be the responsibility of the general taxpayer.
- Registrations would be non-transferable upon change of ownership.
- Only one short term rental per parcel, only one short term rental per registrant.

Administrative Costs and Fees

Steven Bauer presented the estimated fixed annual cost to administer the program (i.e. software, technical support, administration, potential litigation, etc.) is approximately \$90,000 to \$110,000. The Department has budgeted approximately \$30,000 for the software alone. Going forward, that figure is anticipated to go up 10% each year (common amongst software companies that the Department has inquired about services).

Mary Margaret Sloan commented that that amount seems high to manage 105 registrations per year and \$35,000 to administer the program seems more reasonable.

Frank Horneck raised the question, "What happens if the revenue generated cannot cover the cost of administration, specifically if funds are needed to continue litigation?"

Steven Bauer informed the group that the Selectboard typically budgets a small amount each year to account for litigation. In recent years, that amount has been around \$30,000. Some years, the Selectboard ends up spending much more than that and some years there is not a need to spend as much. If the revenue generated from this STR program cannot pay for the administration, including litigation costs, the Selectboard would then have to dip into their general litigation fund that is funded by the general taxpayer to help support the litigation. That is a "worst case scenario" the Department is trying to avoid by conservatively projecting revenues and mildly overcompensating the cost of administration.

Matt Driscoll stated that with some unknown factors in the administration costs and potential litigation costs, it seems reasonable to say, "if we're going to miss, we're going to miss high so that we can say with a straight face the likelihood of this program hitting the budget is super low because the feedback has been to be revenue neutral to positive, not negative." The value there is that we are prioritizing making sure we cover the costs over minimizing the cost of the permit.

Steven Bauer agreed that that is correct. How we structure the fees needs to be neutral to positive with great certainty that is not negative.

Frank Horneck raised the question, "What happens if we end up with a surplus?"

Steven Bauer responded that if we generated a surplus, the Department would recommend that the Town reinvest that surplus in back into programs and planning toward generating more long-term housing options.

Mary Margaret Sloan stated that if the program is maxed out at 105 registrations and if each STR has a maximum occupancy of 4, that would generate about \$300,000. That is a big difference.

Steven Bauer responded that the Department's data supports a more modest approach to the calculation. For example, if the average maximum occupancy of (currently permitted) owner-occupied STRs is 2.1 and the average maximum occupancy of (currently permitted) non owner-occupied STRs is 2.8, and only 70% of the permits are filled, that would generate approximately \$190,000. Again, the Department is tasked with covering the cost entirely.

Benjamin Pauly stated that he is comfortable with it. When looking at other regulations on short term rentals, Burlington is kind of the closest to home, and they have a 9% tax on STRs. However, they (Burlington) have a whole city and has its own tax department. We don't really have the luxury to collect our own taxes. So that's why I think we're going the fee route. Even so, I still don't think we're even hitting the amount that Burlington is taxing their short-term rental operators. So, I feel good about going higher and making sure we cover our costs. If we end up ahead, that's great. I feel like we've talked over the economics of short-term rentals, and that those fees are not a detriment to people making a lot of money, especially since we're taking out the number of times they can rent out. So, if they have unlimited rentals, I feel like it's a fair allocation of fees.

Frank Horneck reminded the Commission and public that the proposal had changed from last month in response to public comments. The Commission listened to the community and altered the fee to make them make sense with our intentions.

Summary of changes to the proposed Short-term rental ordinance from January

- Occupied-occupied versus non owner-occupied: The owner-occupied fees decreased 25% to \$750 base + \$250 per occupant. Non owner-occupied fees increased 50% to \$3,000 base + \$250 per occupant. Owner-occupied cap increased from 40 to 55 annual registrations. Non owner-occupied was decreased from 65 to 50 registrations.
- Annual inspections: Reduction from annually to every five years unless there is a change in ownership, occupancy, or construction that would automatically require a new registration or life and safety inspection.
- Business registration with the Vermont Secretary of State: This requirement was replaced with an affidavit of compliance at the time of application.
- The penalties for violations increased from up to \$200 (bylaw) to up to \$800 (ordinance). Revenue generated from enforcement actions has not and should not be included in our budgeting process discussed under "Administrative Costs and Fees."

Bed and Breakfasts

The definition of bed breakfast was amended:

"Bed and breakfast" means a residential building that offers lodging for transient occupancy with at least two (2) but no more than nine (9) distinct and individually-rentable units, not to exceed a total of nine (9) sleeping rooms. A bed and breakfast must provide breakfast to guests in a common dining area but shall not provide cooking facilities for guests and shall not serve food to the public. A caretaker must reside on-site.

Maximum occupancy

Maximum occupancy is determined by the Fire Marshal and supplied to the Department on the Marshal's certificate of occupancy. The maximum allowable occupancy on the certificate of occupancy is

how the Department calculates the “per occupant” fee. It is also how the Department can verify whether an advertisement or use of a short-term rental is complying with their stated occupancy.

Short-term rental use that does not require a Short-term rental registration

If a homeowner rents their property for 14 days or less, no registration is required. Data shows that a 3-4 bedroom home can generate between \$6,000 to \$8,000 on average in those 14 days. Note: Any person who rents “for a period of fewer than 30 consecutive days” must still pay the 9% meals and rooms tax and 1% local option tax to the Department of Taxes.

If a homeowner exclusively rents their property for periods of more than 30 consecutive days, no registration is required. As soon as the property is rented for a period of less than 30 days, a registration is required.

Life Safety, Access, and Responsiveness

At all times, a registered STR must have a natural person who can respond within 30 minutes.

Mary Margaret stated that in Section 5, it should expressly stated that the Administrative Officer has the authority to issue registrations.

Application Requirements

- (1) Application form
- (2) Full payment of proper fee amount
- (3) Building floor plan, showing sleeping areas, fire exit (i.e. egress windows)
- (4) Photographs of each room and the outside of the unit, showing the parking area (These should match the advertisement on the platform).
- (5) Site plan, showing guest parking and total S.F. of parking
- (6) Self-certification that the property owner only operates one STR
- (7) Valid change of use/ certificate of occupancy from Fire Marshal
- (8) Proof of tax account or platform tax account
- (9) Proof of STR rental insurance
- (10) Statement of knowledge and compliance with the rules and penalties

Application Windows

The Commission discussed whether there should be a third on-going window for applicants that are unable to apply in the first two application windows. Collectively, it was determined that a third application “open until filled” window would open on November 1 for any remaining owner-occupied permits (assuming they are available). There is no pro-rated rate for this third window. If an application applies within the ongoing window, they can qualify for priority as an existing permit holder for next year but only if they qualify before May 31st of the current rental year as to not interfere with the next year’s application process.

Enforcement, Penalties, and Revocation

As a municipal civil ordinance, enforced by the Judicial Bureau, the fines for violations is up to \$800.

Advertising or operating without registration is a fine of \$800 each offense. The penalty is strict to encourage folks to comply.

Other violations, such as noise, trash, too many occupants, parking, not responding in a timely manner to a complaint, etc. is \$500 for the first and second offense and \$800 with a potential revocation and prohibition of a registration as necessary for subsequent offenses.

Public Comment

Michael Peters inquired about the administrator's discretion when it comes to issuing a ticket for violating the "30-minute drive" provision. His concern is while he is responsible for the property and tenants 90% of the time, if something happened while he was out of town but had guests, is that an automatic \$500 fine?

Steven Bauer responded that there is an allowance for discretion when it comes to issuing these fines and each violation is separate and unique. The general intent behind that provision is to ensure that police and fire have as close to immediate access in the event of an emergency. A secondary intent behind that provision is to have rapid response to potential neighbor concerns. If a neighbor calls in to voice a noise complaint, and we are unable to reach the operator or their manager to quickly resolve the issue, that is going to be different.

Derek Demas requested more information about the basis for potential litigation. Derek wanted to confirm that the life and safety inspection went from every year to every five years. Derek stated that he's received feedback that the non owner-occupied fees are high, especially for second homeowners who utilize the property themselves most of the year but rent it out while they are gone. For the income that those people plan to generate, a \$5,000 fee is steep.

Steven Bauer responded that unfortunately, we must be prepared for any and all litigation and that the burden for bringing a case is low, even if the burden for winning a case is high. Most of the STR litigation across the country has been brought on constitutional grounds. Most of those cases have failed but that process can still be costly.

Steven Bauer confirmed that yes, the annual inspection requirement changed outside of those changes in occupancy, etc. mentioned earlier.

Frank Horneck reminded the public that part of the tradeoff is the removal of the cap on number of times rented. That allows operators to generate more income to make up the difference.

Steven Bauer reiterated that the trend for municipalities that have been regulating or are starting to regulate STRs, especially resort towns, is to add a steep tax on top of an annual registration fee. While recognizing that would be a more equitable solution, the Town does not currently have the capacity to do so but will continue to investigate in future years.

Derek Demas inquired, "What happens if we end up with a surplus?"

Steven Bauer responded that if we generated a surplus, the Department would recommend that the Town reinvest that surplus into programs and planning toward generating more long-term housing options. For example, part of those funds could be added to the existing EDC housing grant programs. The Town could also use funds to mitigate some of the infrastructure cost to develop in the East End. While the funds are not currently earmarked (because they do not currently exist), if this program resulted in a positive benefit, it would be my (Steven Bauer's) preference to see those funds positively invested into the community.

Susan Fuller commented that she believes the fees are high and punitive. Susan suggested that the Commission consider looking into a delay to renting after a property transfers. Susan further explained that she believes the photographs of each room to be invasive and that requiring one car for every two guests is too much. Susan also suggested a rolling application window if the cap is not met.

Mary McCuaig stated that Woodstock taxes are high and people rents these out to help cover the rising cost of taxes. The fees may discourage people from renting short-term.

Michael Nielsen inquired as to whether an abatement program would be available for people who do not rent out their property as much and whether there was thoughts to exempting the five acre or forestry zones.

Steven Bauer responded that no, there is no abatement process or exemption.

Other Business

The Commission will meet again for a special meeting on Monday, February 12, 2024.

Adjournment

Mary Margaret Sloan motioned to adjourn the meeting.
Nicole Green seconded the motion.

Vote 5-0. Approved.

Meeting adjourned 9:34pm