

Responses to Additional STR Ordinance Questions

(ANSWERS READ AT THE APRIL 9, 2024, VILLAGE TRUSTEES MEETING).

These responses are provided for the convenience of the public and members of the Town Selectboard and Village Trustees. They are intended to provide answers to questions raised about the Short-term Rental Ordinance as proposed by the Planning Commission and may not be exhaustive. It has been prepared by the staff of the Planning and Zoning Department and Chair of the Planning Commission. It is not intended to aid in the interpretation of the ordinance or to serve as a source of legislative intent.

What are you trying to do with this ordinance proposal?

We find that there are both positive and negative aspects of STRs in our community and we are trying to find a balance for the betterment of our entire community. We believe that to make an argument for or against STRs that stresses no regulation or complete abolishment does not take into account the balance needed for our community.

We have heard from people that having an STR allows them to stay in Woodstock to be able to afford the taxes and we have also heard from people that have lost their housing in the community because their long term housing was converted to an STR. We have heard from neighbors who have said that having an STR next to their residence has had no impact on their experience, while we have also heard from people that neighboring STRs have drastically impacted their quality of life. We heard that STRs contribute to the local economy and bring in tourism, but we also are aware of the negative impact of STRs on increasing home and rental costs that exacerbate the ability for workers of our community to live here. We have heard from STR owners that they are great ambassadors to our community, while we have also seen investors converting long term housing into STRs.

While Woodstock is experiencing a significant long term housing deficit, we are not making the claim that STRs are the main contributors of this crisis. It is a much more complicated issue than that. However, we do argue that our existing STR regulations do not address the needs for balance and we do not find it in our best interest as a community for unchecked STR growth to continue to cause us to lose long term housing units or greatly affect their attainability. We feel that our proposed ordinance is based on balancing the many positive and negative aspects of STRs in our community.

As a Planning Commission, we are attempting to focus on what is in our purview to help address long term housing needs of our town. Planning is forward looking, and we are looking to get ahead of issues we currently see around our state. We believe an enforceable ordinance with registration cap limits is the most effective way to achieve this. Without these components in a new ordinance, we will continue to have an imbalance in our community that will only worsen as time goes on.

To find balance in the ordinance we looked at these objectives:

- (1) Promote the public health, safety, and welfare of Woodstock's residents and visitors;
- (2) Preserve Woodstock's sense of place;

(3) Allow a limited number of short-term rentals to contribute to the local tourism economy.

that does not adversely impact the availability of long-term rental housing;

(4) Balances the needs and rights of property owners and neighbor; and

(5) Incentivize the conversion of short-term housing to long-term housing.

How was the limit of 55 owner-occupied and 55 non-owner-occupied STRs limit determined?

As we started out in this process, we repeatedly stated that we were not looking at eliminating STRS nor were we looking at having no restrictions on STRs. The 110 total cap and 55/55 split is our best recommendation on finding the balance that we strived to achieve in our objectives. While the caps limits are split equally, it is important to look at the STRs that currently exist legally in Woodstock to see our thought process in recommending these limits.

In our current STR landscape, the number of non-owner occupied units is significantly higher than owner occupied units. There are about 70 permitted STRs, of which roughly 1/3rd are owner occupied and 2/3rds are non owner occupied. We determined that providing a path for existing legal STRs to continue operating was important in our ordinance proposal as part of our finding balance in the objectives of this ordinance. The cap of 110, which is based on our recommendation to limit the total number of STRs to be 5-6% of the housing units in Woodstock, would be able to accommodate all 70 existing legal STRs but focus future growth on owner occupied units.

If all existing permit holders apply and become registered, it would allow for a very limited number of additional non-owner occupied STRs to fill the cap of 55. For owner occupied, less than 50% of the 55 owner occupied cap would be filled. By this viewpoint, we significantly restrict the expansion of non-owner occupied STRs but allow for significant growth in owner-occupied STRs, all while allowing existing permitted STRs to continue.

We see a likely outcome that the cap on owner occupied STRs would not be met in the first year of the ordinance, therefore not restricting immediate future growth in this group. We do anticipate that the 55 slots for non-owner occupied STRs will fill up quickly and entirely this first year.

We also recognize that this proposed ordinance reflects a moment in time. We hope that this ordinance would be looked at again after a year of operating and beyond to see if there are more opportunities to redefine the balance we are striving to meet.

Besides monitoring software, what other expenses are associated with the STR program?

Estimated quasi-fixed costs.

Staffing (appx. 1,200 hours per year)	\$66,000
---------------------------------------	----------

Software*	\$30,000.00
Advertising & mailings**	\$5300.00
IT equipment	\$900.00
Travel for enforcement	\$800.00

*Expected 7-10% increase in costs year over year

**Communication campaigns (this figure does not include the cost of providing legal notice via mailings and postings because the proposed ordinance does not recommend requiring a conditional use-like process).

Variable Costs

Legal fees*	\$42,000
-------------	----------

*Includes legal fees for both boards and Planning & Zoning

This totals \$145,000, which we see as the minimum amount that would need to be generated by fees to cover the cost of the program. As noted, some of these costs are variable and we recommend having a higher fee to buffer against potentially higher costs not being passed along to the general taxpayer.

What is the fee structure based on?

Our fee structure, fee waiver, and the definitions of what constitutes someone to register for an STR all take into account balancing several factors relating to cost.

- At a minimum, we look to cover all costs of administering the program (estimated at \$145,000) so as not to increase any further tax burden on the general taxpayer.
- Any additional income beyond that minimum generated by the fees would be to buffer against variable costs, unknown actual revenue generation, and to further long-term housing initiatives. We have looked at other communities that have enacted strong revenue generation from STRs to address housing issues. Burlington, for example, has a 9% local options tax that is added specifically to STRs. We acknowledge the calls for change to lessen the burden on owner occupied STR owners, but stress that an aversion to risk and the capacity to address long term housing issues are what need to be balanced out in those changes as the discussion goes forward.
- For a low-barrier option for those who wish to help offset their tax burden, we have expanded the definition of a STR to allow those who rent less than 14 days per year to not have to apply for a STR permit and would therefore have no fees.
- Anyone looking to rent out their unit for more than 14 days per calendar year is required to register for a permit and is considered by the state of Vermont as a business. For context, the revenue generated from STRs according to the Vermont Short Term Rental Alliance in Woodstock in 2022 was \$7.6 million. Woodstock received \$53,646 as our portion of the 1% options tax, the state received the rest.

- For all STRs, the maximum allowed times per rent per year goes away. Rural operators in R5 and Forestry districts already had unlimited rentals. This empowers STRs to generate additional income for their own needs, but also allows them to pay for fees for the administration of the ordinance.
- For STRs in the R5 and Forestry zones who do not get any added incentive to rent more, because they already can rent unlimited times per year, we proposed a waiver up to \$2,000 per year less a standard \$250 registration fee.
- The cost difference between non owner occupied and owner occupied should be based on fair and legal practices.

All these ideas were considered for our proposal. As with all public issues, we welcome the continued discourse to find a solution that will work for the community. Our hope is that during this discussion the importance of an enforceable ordinance that limits the loss of future long term housing will be at the forefront of any solution.

Why is the penalty lower than the registry fee?

The penalty fee is per offense while the registration fee is an annual payment. Each day counts as a new offense for the penalty fee, which includes advertising, which would cause repeat offenders to quickly surpass the annual registration fee amount, thus incentivizing them to apply for the registration.

Do you see any issue with STR owners being charged fees in both April and August?

Under the existing Town and Village Ordinances, all STRs are required to renew with the Fire Chief (\$200 in Village, \$75 in Town) by April 30 every year. We encourage the legislative bodies to examine alternatives or discounts for people that paid in April but the proposed ordinance does not currently address that the existing process and the proposed process are close in time.

If all STRs are eliminated, how much money will the town save?

The Planning Commission is not advising the elimination of short-term rentals.

Is There a Limit to The Number Of STRs That Can Be In An R5 Zone?

No (Technically 110 + the preexisting). There isn't currently a proposed limit on the number of STRs in any zone, nor is there one proposed in this ordinance. We believe that adding caps per zone in Woodstock adds a layer of complexity and potential unfairness to existing legal STRs that isn't necessary in our community. We recommended a simpler and more appropriate approach to limiting the negative impact of STRs by proposing a cap on the total number of annual permits issued.

Should there be separate regulations for R5 and the rest of the town that is more densely populated?

The Planning Commission is suggesting a uniform ordinance across the Town, Village (and all their respective zoning districts). Having a separate regulation that is divided into multiple subcategories, as we currently do in the R5, is the opposite of a unified approach.

How many R5 owner-occupied STRs are currently permitted and registered?

There are 5 owner-occupied preexisting rural STRs (R5 + Forestry) that do not have a permit under zoning and 10 non-owner-occupied preexisting rural STRs that do not have permit under zoning. These are the ones we know are operating. However, because a permit was not required until 2020, there are likely more, but they have not come forward.

What happens to preexisting rural operators who take a year off from operating?

In the proposed ordinance, pre-existing rural operators who terminate their legal non-conforming use will have to apply for a permit. Under the current regulations, they would be required to re-establish use after 24 months with a permit from the TDRB. (page 70, Town Zoning Regulations)

What happens to the preexisting rural operator waiver after the two years has passed?

While it was discussed as an option in our previous open Planning Commission meetings, our current proposed ordinance has no such sunset after two years and will remain indefinitely while the STR is in good standing.

Do any of the Selectboard or Trustees own an STR? Do any staff involved in managing the STR process own strs?

Before the April 9, 2024, Village Trustees meeting, no board member, planning commissioner nor staff has publicly disclosed owning a short-term rental. It is the prerogative of the appointed and elected officials to disclose and possibly recuse themselves of a discussion and/or vote where there is a real or perceived conflict of interest.

At the April 9, 2024 Village Trustees meeting, Brenda Blakeman stated for the record that she owned and operated two short-term rentals in Woodstock. Planning Commission Chair, Benjamin Pauly stated that he and Director of Planning & Zoning, Steven Bauer did not own or operate a short-term rental.

What is the legal justification for eliminating non-conforming strs?

(1) Zoning bylaws regulate the use of land. A municipal ordinance is more appropriate than a bylaw for regulating activities. Renting your residential home as an STR is an commercial activity within a residential use.

(2) The Planning Commission believes the non-conforming STRs to be inherently unfair and part of our intention in this review was to make it a fairer process.

Related answer from the existing STR Ordinance FAQ:

Enabled by Title 24: Chapter 117, zoning bylaws are the most common regulatory tool used by municipalities to manage land use and development. Generally, municipalities may regulate land development in conformance with its adopted municipal plan. Appeals of local zoning bylaw decisions are generally enforced by the Vermont Superior Court, Environmental Division.

Enabled by Title 24: Chapter 59, municipal ordinances carry the state's authority and have the same effect within the municipality's limits as a state statute. Once adopted, municipal ordinances become legally enforceable local laws. A municipal ordinance is designated either as a civil or criminal offense and may carry a fine or penalty of up to \$800. A civil ordinance is generally enforced by the Vermont Judicial Bureau, the court that has statewide jurisdiction over civil violations.

While 24 V.S.A. §2291(29) currently authorizes municipalities to regulate STRs by either municipal ordinance or bylaw, we find that it is most appropriate to regulate STRs by municipal ordinance for two main reasons.

First, an argument could be made (and it has been) that STRs are a residential activity. Therefore, any zoning district that permits residential uses must also permit STRs under the same review process. This inherently handcuffs the Town's ability to limit the rapid expansion of STRs into residential areas. While the proposed ordinance also allows STRs in every zoning district, including residential districts, it establishes a balanced regulatory limit to how much of our housing stock can be STRs.

Second, zoning bylaws provide a pathway for the perpetual continuation of uses that existed before the bylaw's adoption. As long as that use is never discontinued, abandoned, or expanded, the property owner can continue using their property in the same way even though it is now prohibited or regulated. These uses are known as "preexisting nonconforming uses" and are sometimes referred to as "grandfathered uses." While the Planning Commission empathizes with the operators that have never had to apply for a permit because of their "grandfathered" status, we also find it most fair to require all STRs to be registered. In response to concerns, the Planning Commission has also recommended that these operators be eligible for a fee waiver.

Does the proposed ordinance supersede the "the 1973 grandfather law"?

Yes. Preexisting non-conforming uses do not exist under municipal ordinances unless the legislative bodies expressly create them.

In 2019 there was an attempt to pass a village STR ordinance and a town STR ordinance. If i recall correctly, VLCT suggested to keep the town str regulations in the by-laws because the town did not have a charter. Has anything changed since then?

While the Town still doesn't have a charter, 24 V.S.A. 2291(29) expressly authorizes the adoption of an ordinance to regulate STRs. No charter is needed because it is authorized by statute.

If the Town and Village STR ordinances both pass, will the 2019 village STR ordinance be superseded, will the town of Woodstock, building inspection, code

enforcement, and fire ordinance (2021) be amended to remove town STR references, will the Town of Woodstock zoning regulations be amended to remove section 526 (short term rentals), and Village of Woodstock zoning regulations be amended to remove section 522 (short term rentals)?

Yes. The current part of the Ordinances that deal with STRs will be repealed and replaced with what is adopted. The zoning regulations would be amended to refer people to the STR Ordinance.

What happens if the Village ordinance passes and the town does not, or vice versa?

The Planning Commission's recommendation is a unified ordinance that applies to both. Our hope is that the Town and the Village both adopt the ordinance, as it is not intended to be adopted by one but not the other.

Has an analysis been made of how many of the current STRs can be turned into long term rentals?

No. We have seen municipalities that have enacted legislation to limit STRs see some of those units converted into long term housing. While some non-owner occupied STRs have indicated that they would sell their unit if they were not able to operate it as a STR, it is not possible to foresee what the future use of that unit would be if they were to do so. We feel that limiting the loss of future long-term housing and balancing the density of STRs through the way the registration cap functions are a more important metric of success in this ordinance. It is important to note that we refer to all long-term housing, not just rentals.

How will the proposed program to convert STRs to long term rentals be managed?

There are currently other local long term housing programs operating to look to for inspiration, such as the EDC's long term rental incentive program and the Woodstock Community Trust's Local Deeds program to help local workers afford homeownership. We believe that investing in long term housing is essential for our community and look forward to determining what this program could look like if there are funds available.

If Vermont's average is 3% STRs why is Woodstock 5-6%?

We recognize that Woodstock is not an average town in Vermont in terms of its STR landscape and that each municipality has their own unique set of circumstances that would weigh into what the appropriate level should be. We have more STRs than some areas due to our tourism based economy that can warrant a higher demand and price, thus making it an incentive to operate an STR.

Our current permitted STRs make up for 4% of our housing market. Our cap, that falls into the 5-6% range, allows for significant growth in the owner-occupied STRs, which was viewed as important to allow owners in long term housing to offset taxes.

Each municipality has its own set of circumstances. For context, Burlington has over 300 STRs, closer to 2% of the housing units. Stowe, on the other hand, has over 1000 STRs, which is over a quarter of its housing units.

Will chief David Green still be the enforcement officer?

Chief Green, along with the Municipal Manager, and Village Police Officers will continue to serve as issuing municipal officials (they can issue citations). Unless otherwise decided by the Trustees and Selectboard, the main enforcement officer (STR Officer) will be the Administrative Officer in the P&Z Department.

How will the Department identify STRs that do not advertise but have repeat customers and new clients by word of mouth?

While the software can't pick up word of mouth advertising, we feel that it is able to help us enforce and substantially monitor the vast majority of our STRs that are impacting our community. In addition to the managing software, we will have a complaint hotline, which will be monitored by Planning & Zoning staff. If a complaint is filed by a neighbor, the STR Officer will send a notice to the operator to remind them of our policy and the penalties.

Has the planning commission been coordinating with Bridgewater?

Not beyond what is required by law for notice. Each town has the authority to enact its own policies with regards to short-term rentals. Woodstock has no legal authority over Bridgewater's policies, though we can make and share suggestions. We also recognize that each town is unique and may need to address STRs differently according to their own circumstances.

Are non-owner-occupied apartments and houses being treated differently?

No. We have learned that there are many nuances to the many different types of STRs and how people operate them. We do not think adding more complexity to the ordinance by further differentiating types is warranted.