

# DRAFT POTENTIAL ARTICLES TO PROTECT HOUSING STOCK

**General Bylaw Amendment – Prohibitions Related To Short-Term Rental Of Residential Properties.** To see if the Town will vote to amend the Truro General By-Laws, Chapter II, Licensing and Permits by deleting Section 1 in its entirety and replacing it with the following:

## 1. Prohibitions Related to Short-Term Rental of Residential Properties.

1.1 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) Protect the time-honored tradition of home rentals in Truro and preserve economic opportunities through Short-Term Rentals for persons to keep their homes, now and into the future, so they may afford to live either full-time or part-time in Truro;
- (3) avoid adverse impacts on the local economy stemming from a loss of existing Short Term Rental revenue, including rooms excise tax revenue, and visitor spending.
- (4) prohibit additional corporate ownership and discourage investment-only ownership of residential properties for the exclusive purpose of operating them as Short-Term Rentals rather than housing for either full-time or part-time residences.
- (5) reduce the neighborhood churn caused by numerous turnovers of occupancy of Short-Term Rentals in residential neighborhoods.
- (6) limit the conversion of residential units to Short-Term Rentals which has had the deleterious effect of removing residential units from the available year-round rental housing stock.

## 1.2. Definitions.

For purposes of this Chapter, the following terms shall have the definitions 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.

“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”. The rental of a whole or a portion of a residential or secondary dwelling unit, in exchange for payment, as residential accommodations for not more than thirty consecutive days, excluding a Hotel, Motel, or Lodging House or Tourist Home for Transient Guests as defined in Massachusetts General Laws Chapter 64G

### 1.3 Prohibitions.

1.3.1. Registration Requirement. No dwelling unit or part thereof may be offered as a Short-Term Rental within the Town of Truro unless it is registered with the Board of Health and in compliance with regulations issued by the Board of Health and is registered with the Commonwealth of Massachusetts Department of Revenue in accordance with applicable laws.

#### 1.3.2. Intentionally Omitted

1.3.3. Corporate Ownership. 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.

1.3.4. Affordable Housing Dwelling Units. 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.

1.3.5. Time Share, Fractional and Interval Ownership Units. No Fractional Ownership, Interval or Time Share unit 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 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 in fractional or divided interests on the open market.

1.3.6. Protection for Existing Short-Term Rentals. Any person or other legal entity who holds a current Certificate of Registration on the effective date of this bylaw may continue to engage in Short-Term Rentals in accordance with the existing Certificate of Registration, until the dwelling unit is transferred or conveyed, or the certificate of registration is not renewed. If a property is bequeathed to a person or other beneficiary through a will, the new owner may continue to engage in Short-Term Rental activities in accordance with this section.

1.4. Regulations and Fees. The Select Board may promulgate regulations to carry out and enforce the provisions of this bylaw and to regulate long-term and long-term rentals, and may set fees for the issuance of Certificates of Registration for Short-Term Rentals.

### 1.5. Penalties and Enforcement.

1.5.1. Enforcement Options. 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.

1.5.2. Non-Criminal Disposition. 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, section 21D and the Town's non-criminal disposition by-law (Chapter 2). If non-criminal 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 one hundred dollars (\$100) for the first offense; two hundred dollars (\$200) for the second offense; and three hundred dollars (\$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.

1.5.3. Suspension of Certificate of Registration. If a notice of violation of this bylaw or any regulation promulgated hereunder or other order is issued to the Owner of a dwelling unit operated as a Short-Term Rental 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 Owner may, at the discretion of the Board of Health and after a hearing, disqualify that Owner from obtaining a Certificate of Registration for a period of up to three years.

1.5.4. Civil Penalty. 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.

1.6. 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 to take any other action relative thereto.

***General Bylaw Amendment – Prohibitions Related To Short-Term Rental Of Residential Properties – Additional Regulations***

To see if the Town will vote to amend the Truro General By-Laws, Chapter II, Licensing and Permits by adding a new Section 1.3.2 as follows:

1.3.2 Limitation on Number of Short-Term Rentals.

An Owner may register to operate only two dwelling units as Short-Term Rentals. If a person owns or is listed as a manager and/or is an agent for four or more dwelling units, that person must choose only three units to be registered as Short-Term Rentals. No person shall have more than three legal or equitable title or beneficial interest in dwelling units used for Short-Term Rentals except as provided for above. An Owner may hire a property management company to list and manage Short-Term Rentals, but the registration must be in the Owner's name.

**Zoning Bylaw Amendment - Ban on Fractional Ownership of Short-Term Rentals.**

To see if the Town will vote to amend the Truro Zoning By-Laws by adding a new Section \_\_\_\_\_, entitled: Time Share, Interval and Fractional Ownership Units, as set forth below:

**Time Share, Fractional and Interval Ownership Units:**

**1. Findings and Purpose.** The purpose of this section is to preserve and protect limited housing stock in the Town from the market pressures attendant to time share, interval and fractional ownership uses and to protect neighborhoods from the impacts of such uses.

- a. Fractional ownership, interval and time share units have similar character as commercial hotels, motels, lodges, and other commercial occupancy uses due to their transient nature and multiple short-term occupancies. Such commercial or quasi-commercial use is inappropriate in residential areas due to the increased traffic generation and multiple occupancies disturbing the peace and quiet of residential neighborhoods.
- b. The needs of transient occupants are averse to the interests sought to be protected and preserved in residential neighborhoods, because commercial uses for transient occupants may sacrifice other values critical to residential neighborhoods.
- c. The Town deems it necessary and appropriate to protect the existence of year-round residences and the quiet and peace of the Town by preventing unwarranted commercialization from encroaching therein, including commercialization caused by the misuse of single-family residences.

**2. Definition.**

- a. Time Share, Interval or Fractional Ownership Unit. Any Dwelling Unit which is owned by a limited liability company, corporation, partnership, or other joint ownership structure in which unrelated persons or entities own, sell, purchase or otherwise for consideration create or acquire any divided property interest including co-ownership or fractional or divided estates, shares, leaseholds, or memberships which are subject to, or subsequently bound by any agreement limiting the right or functional ability of interest holders or their designees to occupy or use the property to their respective interests or any other agreement which limits interest holders' or their designees' use of the property to fractional reservations through stay limitations of any duration. Such use is established by any of the following elements:
  1. co-ownership or fractional or divided estates, shares, leaseholds, or memberships which are openly advertised, marketed, or offered for sale and sold individually at separate times.
  2. centralized or professional management.
  3. reservation systems.
  4. maximum or minimum day limits on each interest holder's occupancy or use of the property; or

5. management agreements or fees reflective of interval use or ownership, irrespective of whether the agreement may be cancelled individually or by any party.

### **3. Prohibition of fractional ownership, interval, and time share units.**

The use of any dwelling unit in the Town as a fractional ownership, interval or time share unit is prohibited in all zoning districts.

- a. Exceptions.
  1. This section shall not be deemed to preclude 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.
  2. This section shall not apply to 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 in fractional or divided interests on the open market.

### **4. Severability.**

If any section, subsection, sentence, clause or phrase of this section is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this section.

Or to take any other action relative thereto.