

SUNAPEE SELECTBOARD
MEETING AGENDA
6:30PM Town Office Meeting Room
Monday, May 15, 2023

Join us on Zoom: <https://us06web.zoom.us/j/86066395397>

1. REVIEW OF ITEMS FOR SIGNATURE:

- **CZC's:**
Parcel ID: 0112-0001-0000, 453 Jobs Creek Rd, John F. Robb
- **SIGN PERMITS:**
Parcel ID: 0132-0001-0000, 23 Edgemont Road, Town of Sunapee
- **SIGN PERMIT (Denied):**
Parcel ID: 0104-0070-0000, 1281 NH-11, Big Leap LLC/Jake's Market
- **LAND USE CHANGE:**
Parcel ID: 0110-0003-0000 407 Jobs Creek Road, C Lazy U Farm
- **EDERLY EXEMPTION (Qualified):**
Parcel ID: 0119-0038-0000 39 Upper Skijor Steppe, Margery Bradie
- **EDERLY EXEMPTION (Not Qualified):**
Parcel ID: 0131-0019-0000 7 North Road, Wilfred & Mary Gonyo
- **VETERAN'S TAX CREDIT:**
Parcel ID: 0235-0039-0000 57 Turtleback Road, James Jaworski
Parcel ID: 0136-0002-0000 161 Burkehaven Hill Road, Gregory D Shughart
Parcel ID: 0133-0106-0000 29 Maple Street, Deborah Thompson

2. APPOINTMENTS:

- 7:00PM – Public Hearing – Acceptance of a Proposed Donation from the Sunapee Fire Association – Fire Boat
- 7:05PM – Steve Bourque – Recreation Department Update
- 7:20PM – Approve Highway Department to collaborate with Oak Ledge
- 7:25PM – Annie Montgomery & Chris Lockwood – Office Space Proposal

3. PUBLIC COMMENTS:

- Old Business to address:

4. SELECTMEN ACTION:

- Review and Sign – Safe Streets and Roads for All Grant Program – Sullivan County, NH – Planning and Demonstration Grant Application
- Use of Facilities – After the Fact – Norm Dalton – Burkehaven Boathouse Parking Lot – May 5 – May 8 – Burkehaven Boathouse Parking Lot
- Use of Facilities – Sunapee PTO – Veterans Field – June 4 – 11:00 AM – 4:00 PM
- Use of Facilities – American Legion Post #25 – Harbor – May 25 – 8:00AM – 10:00 AM

5. TOWN MANAGER REPORTS:

- Conway Case
- Short-term Rental Registration Process
- Old Business:
 - Dewey Woods
 - Investment Policy
 - RFP Update

6. CHAIRMAN'S REPORT:

7. UPCOMING MEETINGS:

05/18-7:00PM- Abbott Library Trustees Meeting

05/18-7:00PM- Planning Board Workshop

05/25-5:30PM- Water & Sewer Commissioners Meeting

NONPUBLIC: The Board of Selectmen may enter a nonpublic session, if so voted, to discuss items listed under RSA 91-A:3, II

NOTICE OF PUBLIC HEARING

Town of Sunapee, NH
The Selectboard of the Town of Sunapee
Public Hearing on Monday, May 15, 2023,
at 7:00PM in the
Town Office Meeting Room,
23 Edgemont Road, Sunapee NH.

Acceptance of a Proposed Donation from the Sunapee Fire Association. Pursuant to RSA 31:95-e, the meeting will be held to hear public comment on the acceptance of the Fire Boat from the Sunapee Fire Association, having an approximate worth of \$215,000.00. Any persons wishing to be heard on this matter are invited to attend the hearing and make their opinions known.

ZODIAC
MILPRO

FOR THOSE WHO WORK ON THE WATER.





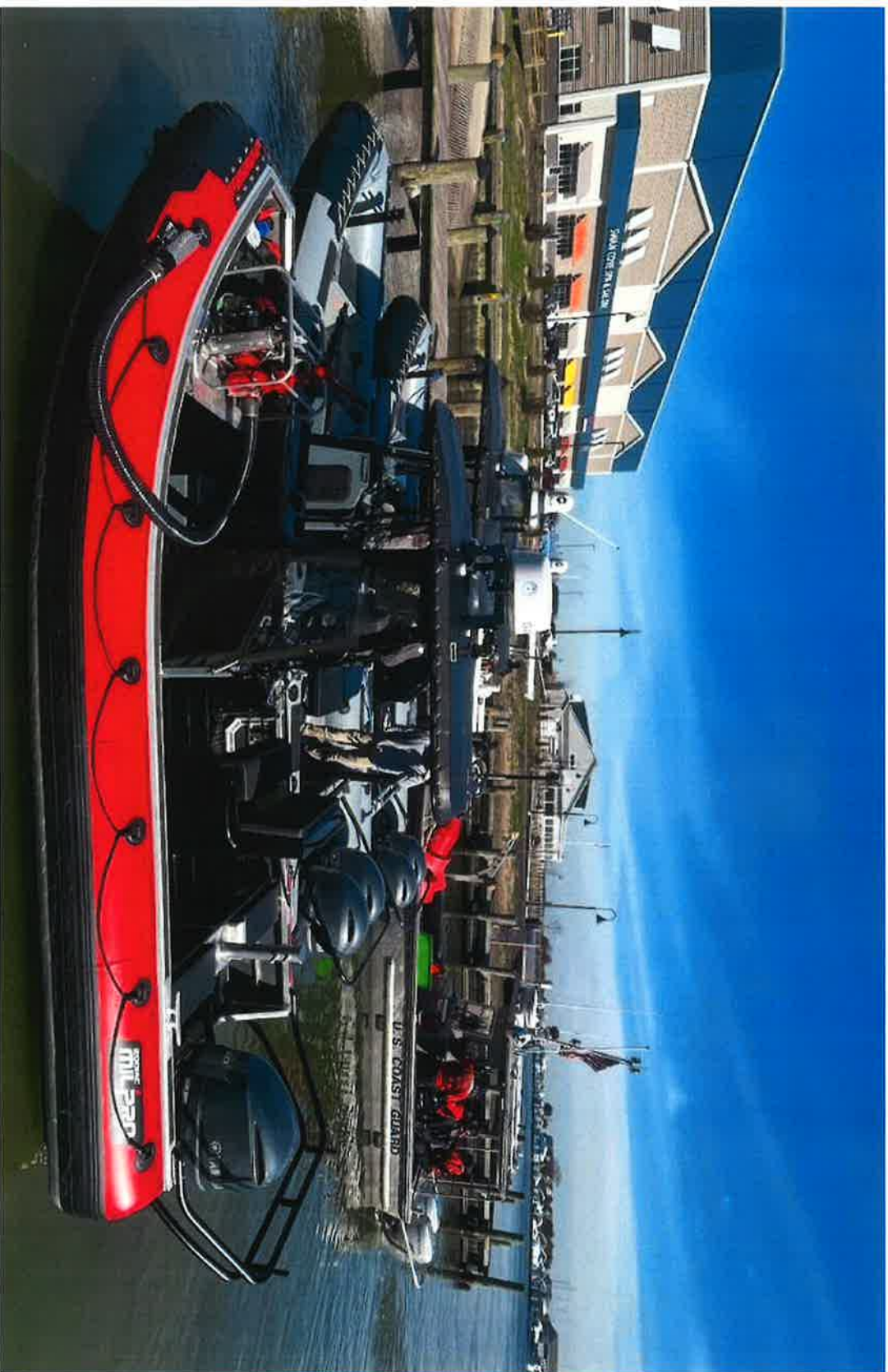
FOR THOSE WHO WORK ON THE WATER.

SRA 650 Sunapee Fire Department



ZODIAC MILPRO

FOR THOSE WHO WORK ON THE WATER.











SUNAPEE



FIRE DEPT

(EZLOADER)

SUNAPEE FIRE

FIRE



GARMIN

FIRE DEPT

(EZLOADER)

SUNAPEE, NH
FIREFIGHTERS DAY
ANTIQUE FIRE APPARATUS EXHIBIT
SATURDAY JULY 14, 2007
SUNAPEE, NH
9:00AM TO 4:00PM

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SUNAPEE

FIRE DEPT

EZLOADER

FIREFIGHTERS DAY

FIREFIGHTERS DAY

Anne Montgomery & Chris Lockwood
337 Lake Avenue
Sunapee, NH 03782
May 12, 2023

Selectboard
Town of Sunapee
23 Edgemont Road
Sunapee, NH 03782

Dear members of the Board:

RE: Opportunity to address the Town's physical space needs and create a more convenient village center for Sunapee residents

As a follow-up to the brief discussion presented by Board Chair Carol Wallace at your April 17 meeting, we appreciate the opportunity to present this proposal in further detail for your consideration.

Concept

The overall concept is to create a more convenient village center for residents of Sunapee to access and conduct town business. In addition, this proposal would enable the Town to address its challenging physical space needs and create efficiencies by locating Town facilities in closer proximity.

Key components

- This opportunity arises as a result of the market availability of the real estate complex at 8 Soonipi Circle (see attached picture). This property is close to the Town's Safety Services building, the library, the three schools, and the access road to the Highway Department and transfer station. The buildings on this property contain over 14,000 square feet of space. The current configuration of 8 Soonipi Circle is leased office space on the ground floor

and seven townhouse apartment units. This 1.94 acre property has ample parking.

- It is our understanding that the current Town Office { 2812 square feet} is overcrowded and severely inadequate in meeting the Town's functional needs. The complex at 8 Soonipi Circle could be repurposed to meet the Town's physical space needs and, in all likelihood, still continue to contain some rental apartments to provide revenue to offset some of the debt service payments associated with acquisition of the property.
- Financing – It would be important to obtain an appraisal to determine a fair market price for 8 Soonipi Circle and to prepare a financing plan. Key elements could include:
 - Sale of the current Town Office
 - Income from some of townhouse residential units not needed for Town use.
- Physical space analysis – A more thorough analysis should be prepared to document the Town's current and anticipated physical space needs. This analysis could then be used to identify the suitability of the 8 Soonipi Circle complex and modifications that might be needed. This analysis would also assist in confirming the number of rental units that might remain to offset debt service payments.

Time is of the essence

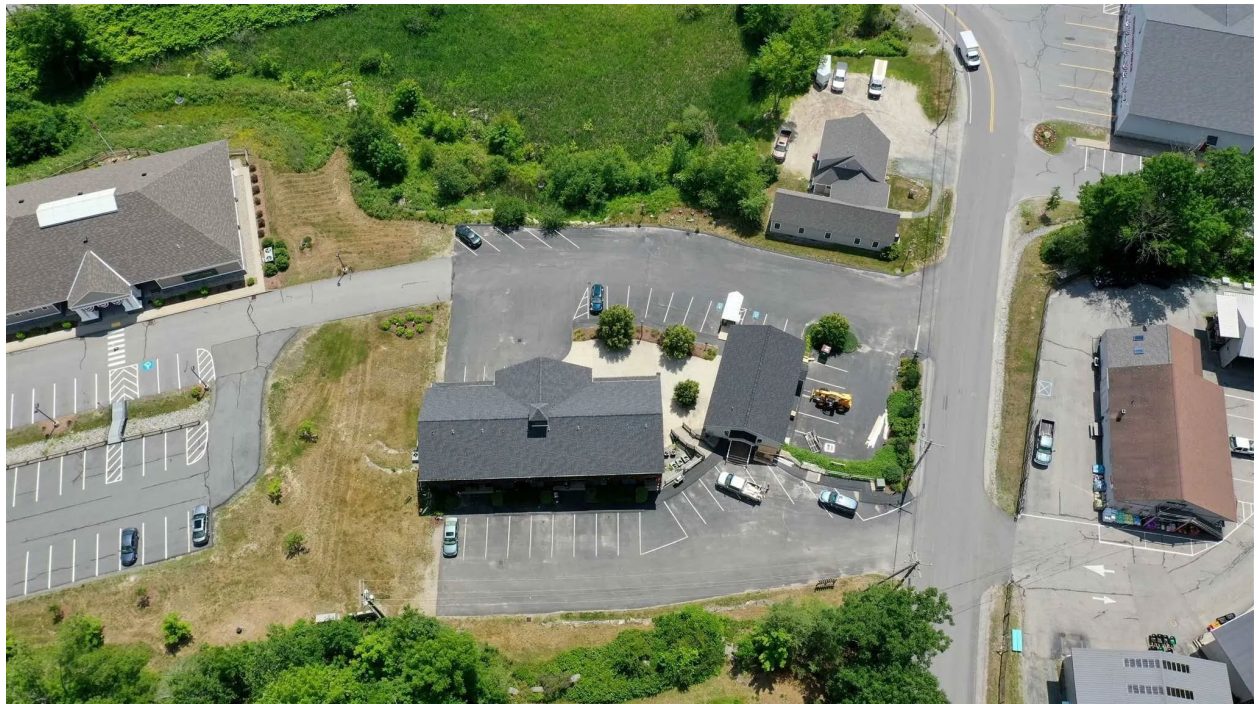
The availability of the 8 Soonipi Circle property is a unique opportunity. Time is of the essence. Clearly it will be important to undertake the physical space analysis, property appraisal, and financing plan noted above. We are prepared to assist in these efforts (both financially and through volunteer efforts). To move forward, however, it would be essential for the Town to take the necessary steps (e.g., contingency offer, right of first refusal, etc.) to preserve its options.

We look forward to discussing this proposal with you and appreciate your serious consideration.

Respectfully,

Anne Montgomery

Christopher Lockwood



APPLICATION FOR USE OF TOWN OF SUNAPEE FACILITIES

Area (Circle One): BenMere/Bandstand – Coffin Park - Dewey Beach - Georges Mills Harbor –
Safety Services Building--Sunapee Harbor-Tilton Park

Name of Organization:

NORM DALTON

This Organization is: Non-Profit – Political – Private (N/A for profit companies)

NORM DALTON

Name of Duly Authorized:

Mailing Address:

230 BURKEHAUEN HILL RD
SUNAPEE NH 03782

Daytime Phone:

603-748-4493

Evening Phone:

I/We hereby apply for permission to use the above circled Town facility on:

Event Date:

5/5 - 5/8

Time: From:

FR. P.M.

To:

MON A.M.

Please describe the complete details of the event: (If advertising please include ad or flyer)

*include a list of outside vendors that will be part of your event.

UNLOAD MOVING POD

DROP OFF FRIDAY P.M.

PICK UP MONDAY A.M.

I/We acknowledge understanding the following restrictions:

- (1) If this event will likely bring more than 50 people or 20 cars to the area, the applicant must first submit this application to the Chief of Police. The Chief of Police may require the applicant to hire police officer(s) for crowd or traffic control.
- (2) I/We agree to abide by the Town of Sunapee's Recreation Area Ordinance, which controls conduct and uses of this area.
- (3) The applicant shall indemnify and hold the Town of Sunapee, its employees, agents, and representatives harmless from any and all suits, actions, claims, in equity or at law, for damages asserted by any attendees at such function, or other third parties, resulting from the use of the premises, or from

the food and beverages served at the above-described function. In addition, in the event that the town is required to respond to any claims of any nature arising in connection with the function or the applicant's use of the premises, the applicant agrees to pay to the Town all costs, fees, charges and attorney's fees which may be incurred by the Town concerning such claims.

I/We plan on 3 # of people and 0 # of vehicles attending our event.

Signature of Responsible Individual  Date 5/4

Approved by Chief of Police _____ Date _____
0 # of Officer(s) will be assigned to event at applicant's expense.

Approved by Recreation Director (if applicable) _____ Date _____

Approved by Fire Chief (if applicable) _____ Date _____

Approved by Highway Director (if applicable) _____ Date _____

Signature of Approving/Denying Authority (Chairman of the Board of Selectmen) _____ Date _____

Insurance: At least ten (10) days prior to such scheduled function, the applicant shall furnish to the Office of the Sunapee Board of Selectmen written confirmation that the applicant has secured adequate liability insurance covering the event in an amount not less than \$300,000.

***Suggested \$50 contribution for non-residents**

**NO ALCOHOL ALLOWED ON TOWN PROPERTIES WITHOUT A
ALCOHOLIC CONSUMPTION ON TOWN PROPERTY PERMIT**

APPLICATION FOR USE OF TOWN OF SUNAPEE FACILITIES

Area (Circle One): BenMere/Bandstand – Coffin Park - Dewey Beach - Georges Mills Harbor –
Safety Services Building--Sunapee Harbor-Tilton Park Veterans Field

Name of Organization:

Sunapee PTO

This Organization is: Non-Profit – Political –Private (N/A for profit companies)

Renée Clark

Name of Duly Authorized:

Mailing Address: 22 School St.
Sunapee, NH

Daytime Phone: 603-252-7769 Evening Phone: Same

I/We hereby apply for permission to use the above circled Town facility on:

Event Date: June 4, 2023 Time: From: 11:00 am To: 4:00 pm

Please describe the complete details of the event: (If advertising please include ad or flyer)

*include a list of outside vendors that will be part of your event.

2nd Annual Bill Royce Memorial Fun Day/ relay
games, kick ball, ice cream, relay races). SPRO
has insurance certificate for event

I/We acknowledge understanding the following restrictions:

- (1) If this event will likely bring more than 50 people or 20 cars to the area, the applicant must first submit this application to the Chief of Police. The Chief of Police may require the applicant to hire police officer(s) for crowd or traffic control.
- (2) I/We agree to abide by the Town of Sunapee's Recreation Area Ordinance, which controls conduct and uses of this area.
- (3) The applicant shall indemnify and hold the Town of Sunapee, its employees, agents, and representatives harmless from any and all suits, actions, claims, in equity or at law, for damages asserted by any attendees at such function, or other third parties, resulting from the use of the premises, or from

the food and beverages served at the above-described function. In addition, in the event that the town is required to respond to any claims of any nature arising in connection with the function or the applicant's use of the premises, the applicant agrees to pay to the Town all costs, fees, charges and attorney's fees which may be incurred by the Town concerning such claims.

I/We plan on < 50 # of people and < 20 # of vehicles attending our event.

Signature of Responsible Individual

Renie A. R.

Date

5/12/23

Approved by Chief of Police

Date

of Officer(s) will be assigned to event at applicant's expense.

Approved by Recreation Director (if applicable)

Date

Approved by Fire Chief (if applicable)

Date

Approved by Highway Director (if applicable)

Date

Signature of Approving/Denying Authority (Chairman of the Board of Selectmen)

Date

Insurance: At least ten (10) days prior to such scheduled function, the applicant shall furnish to the Office of the Sunapee Board of Selectmen written confirmation that the applicant has secured adequate liability insurance covering the event in an amount not less than \$300,000.

***Suggested \$50 contribution for non-residents**

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USDOT FY24 Safe Streets and Roads for All (SS4A) Grant Program

Program Background

- The 2021 Bipartisan Infrastructure Law established the SS4A discretionary grant program with \$1 billion in annual funding between FY22 and FY26. This program aligns with Vision Zero, a strategy to eliminate all traffic fatalities and injuries while increasing equitable mobility.
- SS4A provides local governments with funding for planning, infrastructure, behavioral, and operational initiatives to prevent death and serious injury on roads for all roadway users (motorists, pedestrians, bicyclists, commercial vehicle operators, etc.).
- This program has two sequential funding pathways – Planning and Demonstration Grants and Implementation Grants. Most applicants must pursue Planning and Demonstration funding before being eligible for Implementation funding.

Planning and Demonstration Grants

- Planning and Demonstration Grants provide funding to either develop a Safe Streets Action Plan or enhance/update an existing action plan. Action Plans are the foundation of the SS4A grant program. Once a locality completes and establishes an Action Plan, it can apply for Implementation funding.
- An Action Plan outlines a holistic, well-defined strategy to prevent roadway fatalities and serious injuries within a locality. Key components of Action Plans include:
 - Public commitment and goal setting for eliminating roadway fatalities and serious injuries;
 - Robust community engagement and collaboration with the public and relevant stakeholders;
 - Safety analysis of existing conditions and historical trends involving fatalities across the jurisdiction;
 - Identification of a comprehensive set of projects and strategies – shaped by data, best practices, stakeholder input, and equity considerations – to address the safety problems identified in the Action Plan.
- In FY23, the minimum Planning and Demonstration award is expected to be \$100,000.

Implementation Grants

- Implementation Grants fund projects and strategies identified in an *existing and established* Action Plan that address roadway safety problems. Implementation projects may include infrastructure, behavioral, and operational safety activities.
- In FY23, the Implementation Grant award range is expected to be \$2.5 million to \$25 million.

Project Examples

- Action Plans: [City of Eugene, OR](#); [City of Harrisburg, PA](#)
- Implementation Projects: [McKenzie County, ND](#); [Modoc County, CA](#); [City of Vineland, NJ](#); [City of Missoula, MT](#).

Resolution Committing Sullivan County to Vision Zero for SS4A Action Plan Grants

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF SULLIVAN COUNTY, NEW HAMPSHIRE, ADOPTING A GOAL TO REDUCE TRAFFIC RELATED-FATALITIES AND SERIOUS INJURIES AND SUPPORTING A VISION ZERO POLICY IN THE COUNTY.

WHEREAS, tragically, approximately 4 people are killed in traffic-related accidents every year in Sullivan County; and

WHEREAS, economically underserved communities face a disproportionate risk of serious injuries and fatalities in connection with traffic-related accidents; and

WHEREAS, fatalities and serious injuries caused by traffic-related accidents are devastating and a serious public safety issue that necessitates public action; and

WHEREAS, Sullivan County recognizes that traffic-related fatalities and serious injuries are preventable and not inevitable, and commits to working collaboratively with a diverse group of stakeholders in the County to identify and implement evidence-based projects and programs that reduce the potential for serious traffic-related injuries and fatalities in our community.

THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF SULLIVAN COUNTY, THAT:

SECTION 1. The above recitals are true, correct, and adopted hereby as findings, purpose, and intent of the Board of Commissioners.

SECTION 2. The Board of Commissioners of Sullivan County supports the development of a Comprehensive Safety Action Plan, a holistic, well-defined, and evidence-based strategy to prevent roadway fatalities and serious injuries in the County.

SECTION 3. Sullivan County pledges to the goal of “Vision Zero,” which commits to working towards the goal of zero deaths in the County.

NOTICE: This opinion is subject to motions for rehearing under Rule 22 as well as formal revision before publication in the New Hampshire Reports. Readers are requested to notify the Reporter, Supreme Court of New Hampshire, One Charles Doe Drive, Concord, New Hampshire 03301, of any editorial errors in order that corrections may be made before the opinion goes to press. Errors may be reported by email at the following address: reporter@courts.state.nh.us. Opinions are available on the Internet by 9:00 a.m. on the morning of their release. The direct address of the court's home page is: <https://www.courts.nh.gov/our-courts/supreme-court>.

THE SUPREME COURT OF NEW HAMPSHIRE

Carroll
No. 2022-0098

TOWN OF CONWAY

v.

SCOTT KUDRICK

Argued: November 15, 2022
Opinion Issued: May 2, 2023

Upton & Hatfield, LLP, of Portsmouth (Russell F. Hilliard on the brief and orally), and Hastings Law Office, P.A., of Fryeburg, Maine (Jason B. Dennis on the brief), for the plaintiff.

Devine Millimet & Branch, P.A., of Manchester (Matthew R. Johnson and Solal Wanstock on the brief, and Matthew R. Johnson orally), for the defendant.

New Hampshire Municipal Association, of Concord (Stephen C. Buckley on the joint brief), and Black Lion Services, PLLC, of East Kingston (Timothy J. Corwin on the joint brief), for New Hampshire Municipal Association and New Hampshire Planners Association, as amici curiae.

Robinson & Cole LLP, of Boston, Massachusetts (Danielle Andrews Long and Timothy C. Twardowski on the brief), for New Hampshire Association of Realtors, as amicus curiae.

DONOVAN, J. The plaintiff, the Town of Conway (Town), appeals a decision of the Superior Court (Ignatius, J.) granting the motion of the defendant, Scott Kudrick, for judgment on the pleadings. The court ruled that the Conway Zoning Ordinance (2013) (hereinafter, “CZO”) permits a non-owner-occupied short-term rental (STR) in the Town’s residential districts because such use of a property falls within the CZO’s definition of a “residential/dwelling unit.” The Town argues that the court erroneously interpreted the CZO to allow non-owner-occupied STRs in residential districts. We conclude that the trial court correctly interpreted the CZO and hold that the CZO permits non-owner-occupied STRs in the Town’s residential districts.

I. Facts

The following facts are agreed upon by the parties or are otherwise supported by the record. The defendant owns several properties in the Town. He does not occupy these properties but, rather, rents them on a short-term basis for as brief a period as a single night through online platforms such as Airbnb. The defendant’s properties are located in the Town’s residential districts. The parties do not dispute that each property contains provisions for living, sleeping, eating, cooking, and sanitation.

In 1980, the Town adopted the CZO, which was last amended in 2013. Both parties agree that “[o]ver the years, numerous properties within the Town have been rented for holiday and vacation purposes by the owners to third parties.” The Town alleges, however, that the recent proliferation of STRs, which it attributes, in part, to platforms like Airbnb, has negatively impacted residential neighborhoods where many rentals are located. To address these concerns, the Town established a committee in 2019 that recommended amendments to the CZO which were intended to address STRs. At the annual town meeting in 2021, voters rejected the proposed amendments. The Town thereafter notified the owners and operators of STRs in residential districts that, in its view, “such activity is not permitted by the CZO, and should be terminated.”

In June 2021, the Town sought a declaratory judgment ruling in superior court that the CZO prohibits STRs in residential districts that are not owner-occupied. The defendant moved for judgment on the pleadings. In response, the Town filed a cross-motion for judgment on the pleadings. In November

2021, the court held a hearing and granted the defendant's motion. This appeal followed.

II. Analysis

This appeal presents a single issue: whether the CZO permits non-owner-occupied STRs in residential districts. Resolving this issue, in turn, requires that we interpret the CZO and determine whether a non-occupying-owner's sole use of a property as a STR falls within the CZO's definition of a "residential/dwelling unit." See CZO § 190-31 (capitalization of definition terms omitted throughout opinion). The interpretation of an ordinance presents a question of law, and requires us to determine the intent of the enacting body. *Working Stiff Partners v. City of Portsmouth*, 172 N.H. 611, 615 (2019). We use the traditional rules of statutory construction when interpreting zoning ordinances. *Id.* We construe the words and phrases of an ordinance according to the common and approved usage of the language, but when the ordinance defines the terms in issue, those definitions will govern. *Id.* at 615-16. Furthermore, we determine the meaning of a zoning ordinance from its construction as a whole, not by construing isolated words or phrases. *Id.* at 616. When the language of an ordinance is plain and unambiguous, we need not look beyond the ordinance itself for further indications of legislative intent. *Id.*

We begin our analysis by setting forth the relevant provisions of the CZO. The CZO defines a "residential/dwelling unit" as "[a] single unit providing complete and independent living facilities for one or more persons living as a household, including provisions for living, sleeping, eating, cooking, and sanitation." CZO § 190-31 (emphasis added). Notably, the CZO does not define "living as a household" or "household." See *id.* The CZO also defines several other types of accommodations, including lodging houses, boardinghouses, tourist homes, and rooming houses. *Id.* It defines an "owner-occupied lodging house and/or owner-occupied boardinghouse" as:

Any place consisting of a room or group of rooms located on one premises where regular, nontransient-type accommodations for sleeping or living purposes, together with meals, are offered for compensation, provided that the same is occupied and operated conjunctively by the owner, an individual person or persons, and shall not have more than four double-occupancy sleeping units.

Id. The CZO provides a similar definition for an "owner-occupied tourist home and/or owner-occupied rooming house":

Any place consisting of a room or a group of rooms located on one premises where transient or semi-transient accommodations for sleeping or living purposes are offered for compensation, provided that the same is occupied and operated conjunctively by the owner, an individual person or persons, and shall not have more than four double-occupancy sleeping units.

Id.

The CZO is a permissive ordinance, meaning “if a use is not identified as a permitted use or a use permitted by special exception in a zoning district, then the use is not permitted in that zoning district.” CZO § 190-5. The CZO zones districts for either residential or commercial uses. CZO § 190 Attachment 2. There are four different types of residential districts, all of which permit residential units without an express owner-occupancy requirement. CZO § 190-31; CZO § 190 Attachment 2:4. In contrast, lodging houses, boardinghouses, tourist homes, and rooming houses are only permitted in residential districts if they are owner-occupied. CZO § 190 Attachment 2:2-5. As a result, a non-owner-occupied STR must satisfy the definition of “residential/dwelling unit” to be permitted in a residential zone.

Generally, the first step in determining how to apply a permissive ordinance is to look at the list of primary uses permitted in a given district established by the ordinance. Working Stiff Partners, 172 N.H. at 616. Although both parties agree with this premise, they disagree with how it affects the permissibility of STRs in residential districts. The Town argues that nothing in the CZO permits non-owner-occupied STRs in residential districts. The defendant counters that STRs fall within the definition of a “residential/dwelling unit” and are therefore permitted in residential districts. We agree with the defendant and conclude that the plain meaning of “residential/dwelling unit” as defined in the CZO includes non-owner-occupied properties used as STRs.

In its order, the trial court focused on whether the defendant’s properties qualified as “residential/dwelling unit[s]” under the CZO’s definition. Given that the Town did not dispute that the defendant’s properties include “provisions for living, sleeping, eating, cooking, and sanitation,” CZO § 190-31, the court concluded that “[t]o resolve the parties’ dispute, the court must determine the meaning of the phrase ‘living as a household.’” Because the CZO does not define the phrase “living as a household,” the court considered dictionary definitions of the phrase and concluded that “living as a household” means “the state of living in a social unit or group of people together in the same dwelling place.” Relying upon case law from other jurisdictions, the trial court further concluded that the phrase “living as a household” as used in the CZO “does not relate to who is using the property or for how long they choose to do so, but rather requires the nature of the use to be residential and not

commercial.” Applying this definition of “living as a household,” the trial court ruled that the defendant’s properties fell within the CZO’s definition of “residential/dwelling unit.”

The trial court also addressed Working Stiff Partners v. City of Portsmouth, 172 N.H. at 614-15, where we considered a similar issue pertaining to STRs in Portsmouth. The court explained that the Portsmouth Zoning Ordinance’s (PZO) definition of “dwelling unit” expressly excluded “transient occupancies” but also failed to define “transient occupancies” or “transient.” See id. at 617, 620. In quoting Working Stiff Partners, the trial court noted that we looked to dictionary definitions of “transient” and concluded that the “definitions suggest that short or brief stays at the property constitute ‘transient occupancies,’ and further suggest that, insofar as the plaintiff is using the property for rentals as short as one day, the plaintiff is not using the property as a ‘dwelling unit.’” Id. at 617 (quotations omitted). The trial court distinguished the case at hand from Working Stiff Partners because the CZO defines the term “transient accommodations” and the CZO’s definition of “residential/dwelling unit” does not expressly exclude transient stays. Recognizing the divergent results between this case and Working Stiff Partners, the court acknowledged that until legislative bodies specifically address short-term rentals, “the Court will make decisions based on the language of the ordinances in effect, even if the results vary from one municipality to the next.”

On appeal, given that the Town does not dispute that the defendant’s properties are single units that include “provisions for living, sleeping, eating, cooking, and sanitation,” we agree with the trial court that the dispute rests on whether guests of the defendant’s STRs are “living as a household.” See CZO § 190-31. The Town disagrees with the trial court’s definition of “living as a household” and argues that the phrase “demands a level of stability in the occupancy of a residential unit that is not satisfied by merely being alive in the same place and sharing a meal.” (Capitalization, bolding, and underlining omitted.) The defendant counters that “living as a household” contains no temporal requirement that would exclude STRs.

We conclude that the dictionary definitions that define “living as a household” do not clarify whether the phrase, in and of itself, demands a sense of stability or requires a durational component. The CZO defines neither the phrase “living as a household” nor the words “living” or “household.” See CZO § 190-31. Accordingly, we look to the common usage of the terms to discern their meaning, using the edition of the dictionary published at the time when the ordinance was adopted for guidance. Working Stiff Partners, 172 N.H. at 617 (“When a term is not defined in a statute or ordinance, we look to its common usage, using the dictionary for guidance.”). Webster’s Third New International Dictionary (unabridged ed. 1976) (hereinafter, “Webster’s”) provides a myriad of definitions for the terms “living” and “household” — some

of which support the Town's interpretation that the phrase imparts a sense of stability, and others that support an interpretation that the phrase imposes no such requirement. Accordingly, the meaning of the phrase "living as a household," when considered in isolation, is ambiguous with regard to whether it demands stability or a durational component.

When considering the meaning of the phrase "living as a household" within the context of the entire definition of "residential/dwelling unit," however, we conclude that the phrase refers to a group of individuals who live together under the same roof, regardless of duration. See Working Stiff Partners, 172 N.H. at 616 ("[W]e determine the meaning of a zoning ordinance from its construction as a whole, not by construing isolated words or phrases."). In contrast to the ordinance considered in Working Stiff Partners, the CZO's definition of "residential/dwelling unit" does not expressly exclude transient occupancies or impose any durational requirement. See CZO § 190-31; Working Stiff Partners, 172 N.H. at 617 (stating that the PZO's definition of "dwelling unit" provides that "[t]his use shall not be deemed to include such transient occupancies as hotels, motels, rooming or boarding houses" (quotation omitted)). Therefore, we decline to read such an exclusion or requirement into the ordinance. See Blagbrough Family Realty Trust v. A&T Forest Prods., 155 N.H. 29, 41 (2007) ("Moreover, we will not guess what the drafters of the ordinance might have intended, or add words that they did not see fit to include.").

The Town counters that this interpretation renders the phrase "living as a household" superfluous because, if "the term means nothing more than a single unit where one or more persons are alive under the same roof (with a kitchen), then there would be no reason to include the words 'living as a household.'" We disagree. In the CZO's definition of "residential/dwelling unit," the phrase "including provisions for living, sleeping, eating, cooking, and sanitation" modifies "complete and independent living facilities." CZO § 190-31. In turn, the phrase "for one or more persons living as a household" explains that the property must be used for residential purposes. Id. (emphasis added); see Schack v. Property Owners Ass'n, 555 S.W.3d 339, 349-50 (Tex. App. 2018) (equating the word "living" in the phrase "living as a household unit" to the phrase "residential purposes").¹ Although "provisions for living, sleeping, eating, cooking, and sanitation" describe the type of

¹ The Town argues that the trial court erred in relying on Schack v. Property Owners Association of Sunset Bay because the court in Schack interpreted a restrictive covenant rather than a zoning ordinance. Such cases, however, provide guidance when interpreting certain words and phrases and determining whether STRs constitute a residential use. See Heef Realty v. Cedarburg Bd. of Appeals, 861 N.W.2d 797, 802 (Wis. Ct. App. 2015) (relying on a case that interprets a restrictive covenant when determining whether a STR conforms to the requirements of a zoning ordinance).

facilities that a “residential/dwelling unit” must provide, “living as a household” describes how the property must be used. See CZO § 190-31.²

The Town also contends that looking at the CZO as a whole suggests that a “residential/dwelling unit” is not intended for short-term use. The Town points out that, in contrast to the definitions for lodging houses, boardinghouses, tourist homes, and rooming houses, which include versions of the term “transient accommodations,” the definition of “residential/dwelling unit” does not include the word “transient.” See CZO § 190-31. Therefore, argues the Town, if the legislative body intended a “residential/dwelling unit” to include transient use, it knew how to do so by using that word.

Even if we accept the Town’s argument that the term “transient” as used in the CZO refers, at least in part, to duration, we reject the premise that the term’s absence from the definition of “residential/dwelling unit” in effect prohibits any transient use of such property. Instead, we conclude that the fact that some definitions include the term “transient” but others do not demonstrates that the Town knew how to include durational requirements and specifically chose not to do so for a “residential/dwelling unit.” See Barry v. Town of Amherst, 121 N.H. 335, 339 (1981) (holding that the absence of language in one statutory provision that is present in another “is a strong indication that the legislature did not intend the same result, and we will not judicially supply this omission in the absence of a legislative intent to do so”).

Next, the Town argues that interpreting “residential/dwelling unit” to include STRs conflicts with the CZO’s purpose. See CZO § 190-3. The Town posits that the CZO achieves its stated purpose by dividing the Town into residential and commercial districts and that allowing STRs in which the owner’s use is primarily commercial into residential districts defeats this purpose. As discussed above, the phrase “living as a household,” CZO § 190-31, requires that the property be used for residential purposes. It is the occupants’ use of the property, however, not the owner’s, that dictates how the property is being used. See Wihbey v. Pine Orchard Ass’n Zoning Board of Appeals in Branford, NNICV206018965S, 2021 WL 5014096 at *9 (Conn. Super. Ct. Oct. 4, 2021); Santa Monica Beach Prop. Owners v. Acord, 219 So. 3d 111, 114-15 (Fla. Dist. Ct. App. 2017); Lowden v. Bosley, 909 A.2d 261, 267 (Md. 2006). Given that the occupants of the defendant’s properties exclusively engage in residential activities, permitting the defendant’s STRs in residential districts does not conflict with the purpose of the CZO. Moreover, the duration for which a property is used does not impact whether the property is used for residential purposes. See Santa Monica Beach Prop. Owners, 219 So. 3d at

² We agree with the Town that whether a property includes a kitchen does not, in and of itself, make the property residential. The presence of a kitchen merely demonstrates that the property includes provisions for cooking; it does not necessarily satisfy the other requirements of a “residential/dwelling unit.” See CZO § 190-31.

114-15 (concluding that the use of property as a STR did not violate a restrictive covenant’s requirement that the property only be used for residential purposes, and citing numerous other cases reaching similar conclusions); Lowden, 909 A.2d at 267 (“Residential use,’ without more, has been consistently interpreted as meaning that the use of the property is for living purposes, or a dwelling, or a place of abode The transitory or temporary nature of such use does not defeat the residential status.”).

Lastly, we decline to contemplate any policy considerations regarding the effect of STRs on the community when our task is to interpret the plain language of the Town’s ordinance. It is the role of the legislature and municipal authorities, not the courts, to consider any policy concerns related to STRs. Currently, many municipal ordinances do not clearly address STRs, and, as the trial court recognized, until they do, we “will make decisions based on the language of the ordinances in effect, even if the results vary from one municipality to the next.” See, e.g., In re Toor, 59 A.3d 722, 729-30 (Vt. 2012); Styller v. Zoning Bd. of Apps. of Lynnfield, 169 N.E.3d 160, 171 n.19 (Mass. 2021).

III. Conclusion

For the foregoing reasons, we affirm the trial court’s interpretation of the CZO and conclude that, because STRs fall within the definition of a “residential/dwelling unit,” the CZO permits non-owner-occupied STRs in residential districts.

Affirmed.

HICKS, J., concurred; HANTZ MARCONI, J., with whom MACDONALD, C.J., joined, specially concurred; BASSETT, J., dissented.

HANTZ MARCONI, J., with whom MACDONALD, C.J., joins, specially concurring. We join the majority’s opinion in full. We write separately to briefly address the dissent which fails to properly take into account the context in which our interpretation of “living as a household” occurs. See CZO § 190-31. We are tasked with interpreting a zoning ordinance that delimits the use that an owner can make of his or her property — a constitutionally protected right. See N.H. CONST., pt. I, art. 2. The police power to regulate land use not only curtails fundamental rights, but also imposes fines and criminal penalties for its violation. See RSA 676:17 (2016). For that reason, land use regulations require clarity to inform landowners of uses that are permitted and not permitted, just as criminal codes must adequately advise citizens of prohibited, criminalized conduct. Barton v. H.D. Riders Motorcycle Club, 131 N.H. 60, 64 (1988) (explaining that a municipal ordinance must be framed in terms

sufficiently clear that an average person after reading will understand when provisions are violated). We require no less clarity when addressing other fundamental rights. See, e.g., In re Doe, 123 N.H. 634, 641-43 (1983) (explaining that, in the context of the termination of parental rights, the statute must “not only give fair notice of what conduct is prohibited, but also provide an ascertainable standard by which it is applied to proscribe conduct”). Where, as here, there are many ways to define a household, it is imperative that we focus on the activities taking place on the land, rather than the identity of the individuals conducting them. Any ambiguity arising from language chosen for the regulation of land use should be resolved in favor of vindicating a landowner’s property rights. See In re Application of Lathrop P’Ship I, 121 A.3d 630, 642-43 (Vt. 2015) (explaining that “because zoning ordinances are in derogation of private property rights, they must be construed narrowly in favor of the property owner, and any ambiguity is resolved in favor of the landowner” (quotations and citation omitted)); 1 Sara C. Bronin & Dwight H. Merriam, Rathkopf’s The Law of Zoning and Planning § 5:13, at 5-30 to 5-34 (4th ed. 2017); see also Barton, 131 N.H. at 64 (“[T]he provision in question fails to meet the standard of clarity required of municipal ordinances . . .”).

The dissent also emphasizes not the use made of the property — residential, as opposed to commercial or retail — but rather the duration of that use. We, as opposed to the municipality, can no more add a durational requirement to a residential occupancy than we can to a restaurant or retail occupancy. A sandwich shop is used as a sandwich shop whether the shop is open seasonally, for a few hours a day, or for only several days a week. Similarly, a nail salon occupies space as a nail salon despite its hours of operation. Here, “living as a household” describes the type of activity in the home — personal residential activities — not the identity of the individuals or the schedule or duration of activities. See CZO § 190-31.

Lastly, the dissent disregards that this community exists in the heart of an area long used by vacationers, and has not amended its ordinance to clearly address STRs. Thus, the dissent’s skepticism that the “Conway voters” in 1980 would have intended that the ordinance permit STR uses in residential zones is belied by the area’s 40-year history and the record in this case. The defendant purchased his three properties in 2014 and 2018 and used them as STRs, without interference, until this recent enforcement action. On this record, it is evident that the voters of the Town were satisfied with their right to use their properties as vacation rentals.

BASSETT, J., dissenting. Because I believe that the court’s interpretation of “living as a household,” CZO § 190:31, is overly broad, I respectfully dissent. The phrase, “living as a household,” properly construed, incorporates both a relational and durational dimension that the court fails to

recognize. Accordingly, I conclude that the zoning ordinance does not permit non-owner-occupied STRs in residential districts.

In reaching its conclusion, the court consults the dictionary definitions in the 1976 edition of Webster's. After determining that it is unclear whether, standing alone, the phrase “living as a household” “demands a sense of stability or requires a durational component,” the court holds that “[w]hen considering the meaning of the phrase ‘living as a household’ within the context of the entire definition of ‘residential/dwelling unit’ . . . the phrase refers to a group of individuals who live together under the same roof, regardless of duration.” I disagree.

In so holding, the court fails to take into account the common thread running through the definitions of “household” and “live” that demands something more than the fleeting occupancy of space. I agree with the Town that the phrase “living as a household” “is not satisfied by merely being alive in the same place and sharing a meal.” (Capitalization and emphasis omitted.) Rather, the phrase incorporates a relational and durational component that the court’s construction disregards. Otherwise, every group of three or four persons dining together in a restaurant would be deemed to be “living as a household.” That is nonsensical.

Likewise, I agree with the Town that this court’s interpretation “renders the words ‘living as a household’ mere surplusage.” The Town aptly observes that this “conclusion is confirmed by removing the words ‘living as a household’ from the definition” of “residential/dwelling unit.” The Town notes “that the resulting definition of ‘residential/dwelling unit’ presents no practical difference” from how the court construes the phrase. In other words, the phrase “living as a household,” as interpreted by this court, adds nothing additional to the meaning of the definition. The court’s interpretation therefore violates a fundamental rule of statutory interpretation: “[t]he legislature is not presumed to waste words or enact redundant provisions and whenever possible, every word of a statute should be given effect.” Dietz v. Town of Tuftonboro, 171 N.H. 614, 619 (2019) (quotation omitted).

My interpretation of the phrase finds ample support in the dictionary and in common usage. See Working Stiff Partners v. City of Portsmouth, 172 N.H. 611, 617 (2019) (“When a term is not defined in a statute or ordinance, we look to its common usage, using the dictionary for guidance.”). Taken as a whole, the definitions in the 1976 edition of Webster's for “live,” “household,” and other related terms support the notion that a “household” requires more than mere temporary occupancy of space by a number of individuals at the same time. The dictionary definition for “household” is “those who dwell under the same roof and compose a family : a domestic establishment; *specif* : a social

unit comprised of those living together in the same dwelling place.” Webster’s Third New International Dictionary 1096 (unabridged ed. 1976). Webster’s also defines “live” as “to occupy a home : dwell, reside,” id. at 1323 (capitalization omitted), and in turn, defines “reside” as “to dwell permanently or continuously : have a settled abode for a time : have one’s residence or domicile,” id. at 1931.

Moreover, common sense and common usage support my interpretation of the phrase. Most people understand the term “household” to incorporate characteristics of permanency and connection that the court’s definition fails to apprehend. I find it hard to believe that the Conway voters who voted to adopt this ordinance in 1980 thought that the term “living as a household” would refer, for example, to a group of five individuals who were childhood friends and now live in cities across the country, and gather every few years to rent a house in Conway for a weekend. Vacationers who spend only a few days together and have their primary residences in separate locations outside of Conway do not enjoy the sense of permanency and stability that the phrase “living as a household” demands.

I am not alone in reaching this conclusion. Courts throughout the country have analyzed the same issue and concluded that the term “household” and similar phrases require some sort of permanency. It is not enough to merely be alive in the same place at the same time. See, e.g., Styller v. Zoning Bd. of Apps. of Lynnfield, 169 N.E.3d 160, 171 (Mass. 2021) (interpreting the ordinance’s definition of “family,” defined to include “[a]ny number of persons living and cooking together on the premises as a single housekeeping unit,” to incorporate a “concept of permanency” (quotation omitted) (emphasis added)); Slice of Life v. Zoning Hearing Board, 207 A.3d 886, 899 (Pa. 2019) (“This Court has adopted the common definition of single housekeeping unit, used by courts throughout the country, as requiring the person or persons residing in the home to function as a family and to be sufficiently stable and permanent and not purely transient.” (quotations omitted)); Rhode Island School of Design v. Begin, No. PC-2020-06584, 2021 WL 5492870, at *13-14 (R.I. Super. Ct. Nov. 12, 2021) (explaining that “[t]he term ‘household’ has been interpreted in several other contexts to require much more than merely being alive in the same place at the same time” and citing cases).

Because the definition of “living as a household” requires a degree of permanency and connection that the transient occupants of the defendant’s properties do not possess, those persons are not “living as a household.” Accordingly, I conclude that non-owner-occupied STRs do not fall within the definition of “residential/dwelling unit,” and therefore are not permitted in residential districts. See CZO § 190:31; CZO § 190 Attachment 2:4. I respectfully dissent.

[EXTERNAL]Re: [EXTERNAL]Add to Agenda for 5/15/23 BoS mtg?

Lisa Hoekstra <lisamhoeks@gmail.com>

Fri 5/5/2023 7:22 AM

To: Carol Wallace <cwallace@town.sunapee.nh.us>

Cc: Town Manager <manager@town.sunapee.nh.us>; Allyson Traeger <allyson@town.sunapee.nh.us>; Scott Hazelton <Scotth@town.sunapee.nh.us>; Peter Hoekstra <peterhoeks@gmail.com>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I already sent it to you, Shannon, and Scott on Tuesday at 2:53PM.

If you can't locate that email, I would be happy to send it again,

Lisa

On Fri, May 5, 2023 at 7:15 AM Carol Wallace <cwallace@town.sunapee.nh.us> wrote:

Lisa,

Please forward the Supreme Court ruling. I would rather read that as opposed to reading a translation by a STR group.

Thank you,

Carol

Get [Outlook for iOS](#)

From: Lisa Hoekstra <lisamhoeks@gmail.com>

Sent: Friday, May 5, 2023 4:45:00 AM

To: Town Manager <manager@town.sunapee.nh.us>; Carol Wallace <cwallace@town.sunapee.nh.us>; Allyson Traeger <allyson@town.sunapee.nh.us>; Scott Hazelton <Scotth@town.sunapee.nh.us>; Peter Hoekstra <peterhoeks@gmail.com>

Subject: [EXTERNAL]Add to Agenda for 5/15/23 BoS mtg?

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Morning:

We would like to request for these 2 items to be added to the 5/15/23 Selectboard agenda:

- 1) A discussion about the recent Supreme Court of NH decision from Conway v Kudrick and any implications / impact Sunapee sees on our STR plans going forward. (See below for "take away" points from MWVARVR).

2) A discussion about those STRs that met the "tourist home" criteria prior to the vote: in the permitted districts (basically all but RR and RL districts), owner-occupied x 120 days. There may not be a lot of these, but we do feel clarification and expectations need to be communicated as these are the only ones that truly could be considered "grandfathered". The pre-existing ones in the RR and RL districts are in the legacies / excused from Special Exception category. These distinctions need to be clearly communicated.

Below is the take-away statement from the Mt Washington Valley Association for Responsible Vacation Rentals, which was released following the SC decision. A tidy summary; esp. the second point about STRs being determined as residential usage, not commercial.

Supreme Court Verdict Summary

May 2, 2023

Here are three major take-aways from the ruling.

Towns can not regulate Residential use based on "Living as a Household".

When considering the meaning of the phrase "living as a household" within the context of the entire definition of "residential/dwelling unit," however, we conclude that the phrase refers to a group of individuals who live together under the same roof, regardless of duration.

Short Term Rentals are a Residential Use, not Commercial:

Given that the occupants of the defendant's properties exclusively engage in residential activities, permitting the defendant's STRs in residential districts does not conflict with the purpose of the CZO. Moreover, the duration for which a property is used does not impact whether the property is used for residential purposes.

A Town can not limit the duration of a legal use:

We, as opposed to the municipality, can no more add a durational requirement to a residential occupancy than we can to a restaurant or retail occupancy. A sandwich shop is used as a sandwich shop whether the shop is open seasonally, for a few hours a day, or for only several days a week. Similarly, a nail salon occupies space as a nail salon despite its hours of operation. Here, "living as a household" describes the type of activity in the home — personal residential activities — not the identity of the individuals or the schedule or duration of activities

Best Regards,
The Board Of Directors
Mount Washington Valley Association for Responsible Vacation Rentals

Confidentiality Notice: Privacy should not be assumed with emails associated with town business. Certain emails are public documents and may be subject to disclosure. This electronic message, and any attachments, may contain information that is confidential and/or legally privileged in accordance with NH RSA 91-A and other applicable laws or regulations. This email message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy/delete all copies of the original message.

[EXTERNAL]Follow on to my last email

Sally Harris <sally.h@verizon.net>

Thu 5/4/2023 5:46 PM

To: Town Manager <manager@town.sunapee.nh.us>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi again, Shannon,

Below is the note that I sent via the forms to all the Selectboard members tonight. It's included here so it can become part of the public record, in case that doesn't happen by virtue of the individual emails. Going back to my idea in the last email, maybe having a centralized Selectboard email utility could also capture the email being sent to be included in the public record.

Sally

Dear Selectboard Member:

I'm one of the majority of Sunapee voters who voted in favor of the new zoning ordinance regarding short term rentals. I've watched with dismay as the selectboard voted to essentially take all the teeth out of the ordinance. The townspeople voted for this ordinance for a reason. One of the rationale's appears to be that it is too much work to deal with all the existing (illegal) STRs in town. The chairs of Zoning and Planning Board have both spoken up to express their support for the intent of the new ordinance, in spite of the fact that most of the extra workload will fall on their boards.

The intent of the majority of Sunapee voters in supporting the ordinance was clearly to deal with the large number of STRs already operating in town, as well as future STRs. To grandfather all existing units really does seem to undermine the intent of the voters. I respectfully request that the Selectboard reconsider their vote and allow the spirit and intent of the ordinance to move forward.

Thank you for your consideration,
Sally Harris
45 West Shore Rd

[EXTERNAL]Communicating with town board members

Sally Harris <sally.h@verizon.net>

Thu 5/4/2023 5:29 PM

To: Town Manager <manager@town.sunapee.nh.us>

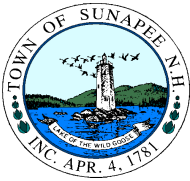
CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Shannon,

By way of feedback, it is very cumbersome to communicate to town board members the way things are currently set up on the website. I decided to write to all the selectboard members tonight (to express my concern about their decision about how to handle the STR ordinance). Because there are no email addresses provided and no way to send an email to the group as a whole, I was left with filling out a form for each board member. As I sent more of them, the Captchas became more and more time consuming and complex. The last one required me to fill out 3 sets of photo Captchas before it would submit the form. This is a real barrier to communication and a deterrent for townspeople who take the initiative to communicate with their elected officials.

I do realize there are issues with publishing email addresses on a website. But there really must be some way to enable communication with elected board members that doesn't squelch feedback. Maybe some kind of blind distribution list where I can fill out the form once and choose which board members to send it to, at which point it would forward to the selected members? Not sure what the options are technologically speaking. But the way it is today is really a barrier.

Thanks for listening!
Sally Harris



SHORT-TERM RENTAL REGISTRATION FORM

Town of Sunapee 23 Edgemont Road
Sunapee, New Hampshire 03782
Telephone (603) 763-2212 Ext.1023

Thank you for registering your short-term rental (STR) with the Town of Sunapee! Our goal is to support sensible and fair short-term rental regulations within our community. Through the GovOS platform, short-term rental owners can conveniently register their rental home. Once a property is registered, our town team will manage subsequent inspections, review registrations, and provide enforcement, ensuring that public health and safety continue to be prioritized.

Important Registration Requirements:

- All short-term rentals, regardless of zone, **MUST** comply with the terms and conditions of the Sunapee Selectboard's registration process.
- All property owner(s), or their designated agent(s), of short-term rental properties in the Town of Sunapee are required to register their short-term rental property at <https://sunapeenh.munirevs.com/>
- Definitions of a short-term rental are provided on page 13 of this registration form.
- The purpose of the registration process is for property owner(s), or their designated agent(s), to register their short-term rental properties that are currently operating, or that plan to operate, in the Town.
- After completing your registration online, the Planning, Zoning, and Compliance Department team will review it for completeness. Incomplete submissions will be denied. Should you have questions about how to complete the registration form, you may meet with office staff on Wednesday mornings from 10:00 AM-1:00 PM.
- The property owner(s) or their designated agent(s), shall not provide any false or misleading statements; shall meet all the standards listed on the registration form; shall acknowledge that the registration is valid for one year running from the date registration is granted, and shall acknowledge that registrations are not transferrable.
- The property owner(s) or their designated agent(s), acknowledge that this registration may be granted or denied based upon full compliance with the registration process set forth herein, and understand that a short-term rental must comply with all zoning regulations, other applicable local and state permit regulations, and the town's short-term rental ordinance requirements, if applicable.
- The registration process requires a Compliance Inspection by the Town of Sunapee's Code Compliance Officer or designated agent and a visual septic system inspection by the Town of Sunapee's Health Officer. Inspections will take approximately 1 hour each, and once they have been completed, a report of the inspections will be provided for inclusion with the registration form. Inspections will be valid for a period not to exceed three years. **Inspections will be scheduled online via <https://calendly.com/>.** Please start your registration process as soon as possible to ensure timely scheduling of inspections. The Code Compliance Officer will share the inspection report with you within five days of completing the inspection. If there are outstanding items to be addressed, you will not be able to rent your home until the issues have been appropriately remedied and acknowledged by the Code Compliance Officer.
- If modifications, including but not limited to the addition of bedrooms to the structure, are made to a STR prior to the existing inspections expiring, or if the STR changes hands from one owner to another, then a new set of inspections and registration shall be required.
- The Compliance Inspection and Short-term Rental Affidavit shall be completed by the property owner(s) or their designated agent(s).
- The Town of Sunapee Selectboard may deny, impose penalties, suspend or revoke any STR registrations if it is deemed that the owner/agent provided incomplete, false or misleading statements on the registration form, affidavit, or on the Life Safety Self Inspection report; violated any of the registration criteria on page two (2); violated any state or federal laws, statutes, town ordinances, rules or regulations pertaining to short-term rental; or the operation of the STR is a threat to the public health, safety or welfare of the town.

PARCEL I.D. & OWNER/AGENT INFORMATION

Section I: Parcel I.D & Owner/Agent Information

Parcel Map No. & Lot No.:	Parcel Zone:	Date of Registration:
NH Meals and Rooms License Number:	Property Owner(s) Telephone Number	
Full Name of the Property Owner(s):		
Property Owner(s) Mailing Address:		
Physical Address of STR:		
Number of Bedrooms to be Rented:	Maximum Number Occupants:	Number of Off-street Parking Spaces:
Year STR is Being Registered For:	Current Registration Number (if renewal):	
Full Name of Designated Agent(s) for Property Owner(s):		
Designated Agent(s) Business Address:		
Designated Agent(s) Telephone Number:	Designated Agent(s) Cell Phone Number:	
Name of Primary Point of Contact During Rental of STR:		
24-hour Cell Phone Number of Primary Point of Contact (Shall be onsite within three (3) hours of being notified of an incident at the STR):		

SHORT-TERM RENTAL REGISTRATION CRITERIA

Please initial each item listed below or put N/A if not applicable as your agreement to comply:

Section II: Requirements for STR Registration	Initials
The property owner(s) or their designated agent(s) understand that a Short-Term Rental Owner in Residence is a portion of a dwelling unit or second dwelling unit where transient accommodations are provided for any periods less than 30-days. The landowner must be in residence during the period of any rental.	
The property owner(s) or their designated agent(s) understand that a Short-Term Rental Owner Not in Residence – A one or two-family dwelling where transient accommodations are provided for any periods less than 30-days. The landowner does not need to be in residence. Short-term rentals of this type shall not include Hotels/Motels, Bed & Breakfasts, or Inns as these are separately defined	
The occupancy limit that a STR can be advertised for shall not exceed two (2) people per bedroom (as listed on the Town’s property card) plus one additional person per unit. At no time shall any STR exceed 16 people on the premises.	
The property owner(s) or their designated agent(s) shall not allow renters to exceed the occupancy limits of the STR that are provided on the registration form.	
The number of bedrooms used at a STR must conform to the permit requirements from either the State of New Hampshire Department of Environmental Services Water Division Subsurface Systems Bureau (for properties on private septic systems) or the Sunapee Water and Sewer Department (for properties on municipal sewer).	
All STR renters and their guest(s) shall conform to the Town of Sunapee Traffic and Parking Ordinances.	
Parking shall be limited to 1 vehicle per bedroom, and a parking plan shall be submitted for review and approval.	
The owner(s), or their designated agent(s), acknowledge that registration of their STR does not authorize incidental camping, sleeping in travel trailers, boats and/or other mobile enclosures that are on STR property.	
All trash shall be stored onsite in sealed trash receptacles screened from the public’s view that meet the building setbacks in the zoning district in which they are located. Trash shall be removed and disposed of in accordance with all local and state regulations, after each rental and not less than once per week	
The owner(s), designated agent(s), and guests shall comply with RSA 644:2, NH’s disorderly conduct law, and all other applicable Town Ordinances and State regulations.	
All renters, occupants, and their guests shall comply with the Town of Sunapee’s Noise Ordinance.	
The use of fireworks shall not be permitted at a STR. Should a renter refuse to comply with this regulation and a citation is issued, the Homeowner will be penalized.	
The owner(s), or their designated agent(s), shall serve as the primary point of contact for renters and shall receive and resolve complaints in a timely manner, but not longer than 3-hours after a complaint is received.	
The owner(s), or their designated agent(s), shall post a copy of their STR Registration inside the residence in a highly visible location, including occupancy limits, quiet hours based on the Town’s Noise Ordinance, and an evacuation diagram prepared on a copy of the Site Plan that shows all fire escapes, and all means of egress from the STR.	
The owner(s), or their designated agent(s), must obtain a seasonal permit for outdoor, wood fire pits from the Fire Chief. Each individual renter must seek a permit from the state at https://nh.burnsafeamerica.com/ . Fires are not allowed before 5PM.	
The owner(s), or their designated agent(s), understand that any and/or all signage that is posted/erected at the STR shall conform to the Town’s Zoning Ordinance.	
All police and fire emergencies shall be directed to 911. All other complaints should be sent to XXX">www.XXX>XXX to be recorded, filed with the STR registration, and copies sent to the STR owner and/or the designated agent(s).	

SHORT-TERM RENTAL REGISTRATION REQUIRED DOCUMENTS

Please initial each item listed below indicating that the required documents and fees are attached:

Section III: Registration and Supporting Documents provided by the applicant	Initials
A completed STR Registration Form with all required documents attached	
Payment of a \$350 Base fee plus applicable Inspection Fees of \$150	
A Parking Plan (See instructions on page X)	
Trash Disposal Plan (See instructions page X)	

Section IV: Registration and Supporting Documents provided by the Town (additional fees for inspections)	Initials
Town of Sunapee Compliance Inspection with Code Compliance Officer	
Septic system inspection with report from the Town Health Officer (Not applicable for STR's that are connected to the municipal sewer system)	
A copy of a NHDES approved plan for Residential Septic Disposal	

NOTE: The owner(s) or their designated agent(s) affirm, under penalty of perjury, that the information provided in this Short-term Rental Registration Form is true and correct to the best of his/her knowledge, that the photographs are a true and accurate depiction of current conditions of the rental unit, and that they agree to hold the Town of Sunapee harmless for any damages resulting from the registrars misrepresentations, intentional or otherwise. I/we have read and understand the Town of Sunapee Zoning Ordinance as it applies to the use of the property as a STR, and we understand that it doesn't relieve us from having to comply with any Local Ordinances, State of Federal Laws.

Section V: Penalties - Failure to comply with all terms of the registration process, an issued registration, and all applicable Town Ordinances will lead to the following sanctions as provided for in RSA 676:17. Violations will accumulate over a 12-month period from the date of the first offense.	Initials
First Offense: Fine of \$275.00 per day.	
Second and subsequent offenses: Fine of \$550.00 per day. Each day a violation continues shall be a separate offense.	
Third offense or subsequent offense: The selectboard is authorized to revoke the permit for the rest of the year or six (6) months, whichever is longer.	

AFFIDAVIT FOR PRE-EXISTING TRANSIENT OCCUPANCIES

Complete this affidavit and provide a copy of your short-term rental booking(s) to document that the property was in use as a short-term rental between January 1, 2022, to December 01, 2022. Please attach a report of your NH Room and Meals taxes demonstrating payment of taxes for 2022 for the listed property below.

Map No.:	Lot No.:	Parcel Zone:
Name of Owner:		
Address of STR:		

I certify under penalty of perjury, that the information provided above is true and correct to the best of my knowledge and belief.

Signature of Property Owner or Agent:	Date Signed:
Printed Name of Property Owner or Agent:	

Compliance Inspection Report



Property Address:

Inspector Name:

☐

Code Officer

☐

Other

Date of Inspection:

Type of Inspection:

☐

Initial

☐

Follow-Up

Owner(s) Name and Phone Number:

Tenant Name(s) and Phone Number(s):

Unit	Name/Phone Number(s)

Last Inspection Date:

1. Fire Safety

Smoke Alarms

Smoke alarms shall be in good working order. They shall be installed in all sleeping rooms, outside of each sleeping area, in the immediate vicinity of the sleeping rooms, on each level of the dwelling units including basements. In existing 1-2 family dwellings, approved smoke alarms powered by batteries shall be permitted.

Component		Answer			Violation	
		Y	N	N/A	Required Corrective Action	Deadline
1.1	Is there a working smoke alarm:					
	a. In all sleeping rooms?					
	b. Near each bedroom?					
	c. On each level of the dwelling unit, including basements?					

Carbon Monoxide Alarms

There must be a working carbon monoxide alarm (detector) in the immediate vicinity of each bedroom or room used for sleeping. CO alarms are also required in each sleeping room that has a fuel-fired appliance such as a gas-fired room heater, gas hot water heater, or fireplace/woodstove. NFPA 101-31.3.4.6

Component		Answer			Violation	
1.2		Y	N	N/A	Required Corrective Action	Deadline
	Is there a working carbon monoxide (CO) alarm:					
	a. In each room used for sleeping that contains a fuel-burning appliance?					
	b. Near each bedroom?					
	c. On each level of the dwelling unit, including basements, excluding attics and crawl spaces?					

Fire Extinguisher						
Component		Answer			Violation	
1.3		Y	N	N/A	Required Corrective Action	Deadline
	Is a functional fire extinguisher is visibly installed:					
	a. In every cooking area?					
	b. In close proximity to outdoor cooking equipment?					

Egress- Primary means of escape						
Each bedroom must have a window that can be opened without using tools or special knowledge. The opening of the window must be at least 20” wide and 24” high and provide an opening of 5 square feet. The bottom of the opening must be less than 44” above the floor. NFPA 101-24.2.2.1						
Component		Answer			Violation	
1.4		Y	N	N/A	Required Corrective Action	Deadline
	Does each bedroom have a window that can be easily opened and is large enough for emergency rescue or escape?					

Egress- Secondary means of escape						
Each dwelling unit must have access to at least 2 separate ways out of the building that are not located close together unless the unit has: a door opening to the outside at ground level, an enclosed stair used only by that unit opening to the outside at ground level, or access to an outside stair that serves no more than 2 units.						
Component		Answer			Violation	
1.5		Y	N	N/A	Required Corrective Action	Deadline
	Does each bedroom have a secondary means of escape?					

Street Address Marker						
All signage must comply with the Street Naming and Numbering Ordinance, including placement and visibility						
Component		Answer			Violation	
1.6		Y	N	N/A	Required Corrective Action	Deadline
	Is the house number posted in accordance with the Town ordinance?					

2. Guest Information

Emergency Contact Information						
Signage posted that contains the emergency contact information for guests, maximum number of guests, and copy of STR Permit.						
Component		Answer			Violation	
		Y	N	N/A	Required Corrective Action	Deadline
2.1	Are emergency contact numbers for owner(s) and STR policy posted?					

STR Orientation and Town Information for Guests						
An informational binder that contains the following: (a) Local hospital addresses and emergency contact numbers, (b) Noise Ordinance, (c) Fireworks Ordinance, (d) Town's non- emergency police phone number, (e) Maximum occupancy of the STR, (f) Emergency Evacuation Floor Plan Sketch, (g) Parking Ordinance (h) Parking Plan, (i) Transfer Recycling Ordinance and a Trash Disposal Plan, (j) Leash law, (k) Beach pass information						
Component		Answer			Violation	
		Y	N	N/A	Required Corrective Action	Deadline
2.2	Is a binder with all required information provided for guests?					

Additional Notes:						
Each household, in the Town of Sunapee, will be given one guest pass for use at Dewey Beach and the Sunapee Transfer Station. If the pass is lost, there is a \$100 replacement fee.						

SHORT-TERM RENTAL REGISTRATION TRASH DISPOSAL PLAN

Trash Disposal Plan:

- Provide sufficient trash receptacles to hold all trash generated and up to the time that the trash will be taken to the transfer station or removed by an independent vendor.
- Provide the town with trash removal plan and take it to the transfer station (**not left outside per the ordinance**).
- Provide transfer station practices to renters on the proper disposal of trash and recyclables, including the problems that poor trash storage practices may cause (e.g., bears!)

Emergency Evacuation Floor Plan Sketch

The purpose of the floor plan sketch is to accurately depict the following information:

- All bedroom locations.
- All exit routes from the home.

To Create a Floor Plan Sketch:

- If you have plans of your home, please use them, and add the required information.
- If you do not have plans, please create the sketch using the information that is depicted on your AVITAR Property Card which can be located on the box labeled “Parcel #: Sun-(your parcel number) when you’ve completed item number 5 of the site plan above.

DEFINITIONS

Short-Term Rental Owner in Residence – A portion of a dwelling unit or second dwelling unit where transient accommodations are provided for any periods less than 30-days. The landowner must be in residence during the period of any rental.

Short-Term Rental Owner Not in Residence – A one or two-family dwelling where transient accommodations are provided for any periods less than 30-days. The landowner does not need to be in residence. Short-term rentals of this type shall not include Hotels/Motels, Bed & Breakfasts, or Inns as these are separately defined.

Occupancy Limit – The occupancy limit refers to the number of persons that are permitted per bedroom in an STR.

Dwelling Unit – One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental, or lease, and physically separated from any other rooms or dwelling units which may be in the same structure. For the purpose of this definition, an independent housekeeping establishment includes the following minimum attributes: space devoted to kitchen facilities for the storage, preparation, and consumption of food (including counters, cabinets, appliances, and a sink for washing dishes), space for one or more bedrooms for sleeping, and a bathroom with a tub and/or shower. (A bar equipped with a bar-sink and an under-the-counter refrigerator shall not constitute kitchen facilities.

Dwelling, Single Family – A single residential building containing one dwelling unit designed for occupancy by not more than one family.

Dwelling, Two Family – A single residential building containing two dwelling units, designed for occupancy by not more than two families.

Short Term Rental Registration Form (STRRF) – Shall mean the Registration Form that for a short-term rental registration which shall be approved by the Selectboard.

Owner – Shall mean the recorded titled owner of the residence for which a short-term rental registration is sought or has been issued. The owner may be a person, or any form of business entity recognized by the State of New Hampshire that maintains a current registration with the NH Secretary of State's Office.

Designated Agent – Shall mean a person, or business designated by the owner to manage the property. An owner's agent shall be designated by the owner as a person who can be contacted by the Town, by Emergency Services, and can receive legal notices on the owner's behalf.

Complete STRRF – Shall mean a STRRF that has satisfied all the submittal requirements set forth herein and that otherwise complies with criteria required for issuance of a short-term rental registration.

Short Term Rental Registration – Shall mean a registration form that is issued by the Town of Sunapee thereby acknowledging that the owner or their designated agent has registered their short-term rental property in the Town of Sunapee.

Bed & Breakfast – Single-family dwelling in which between two (2) and six (6) rooms are used to provide transient sleeping accommodations, and the landowner is in residence during the operation of the bed & breakfast. Breakfast may be served to lodging guests only.

Inns – A single-family dwelling in which between two (2) and ten (10) are used to provide transient sleeping

accommodations. The landowner does not need to be in residence, but a duly designated operator must be on site during the operation of the inn. Inns may hold special functions such as weddings, meetings, or other gatherings. Meals may be served to lodging guests or guests at special functions.

Hotel & Motel – A commercial building or group of buildings providing sleeping accommodations for persons on a transient basis. A property will be considered a hotel/motel if it has three (3) or more units and does not meet the definition of a bed & breakfast or inn. Hotel/motel units may not be dwelling units per the definition in the Zoning Ordinance.

DRAFT

FIRE EXTINGUISHER

The minimum classification required is 2-A:10-B:C. Shall be annually inspected and certified by a NH licensed company. Shall be installed in accordance with NFPA 10.



**FIRE EXTINGUISHER
RECHARGE & INSPECTION
RECORD**

INSTRUCTIONS
Attach this tag to fire extinguisher. Recharging and inspection records are to be entered by inspectors.

CO2
Weigh and Inspect Monthly
Dry Chemical (Cartridge Type)
Weigh Cartridge Monthly
Check Chemical Every 6 Months
Dry Chemical (Stored Pressure Type)
Check Gauge for Proper Pressure
Pressurized Water
Check Gauge Pressure
Operating personnel should inspect extinguishers daily and report broken seals or defects immediately to Maintenance Dept.

RECHARGE RECORD			
DATE	BY	DATE	BY

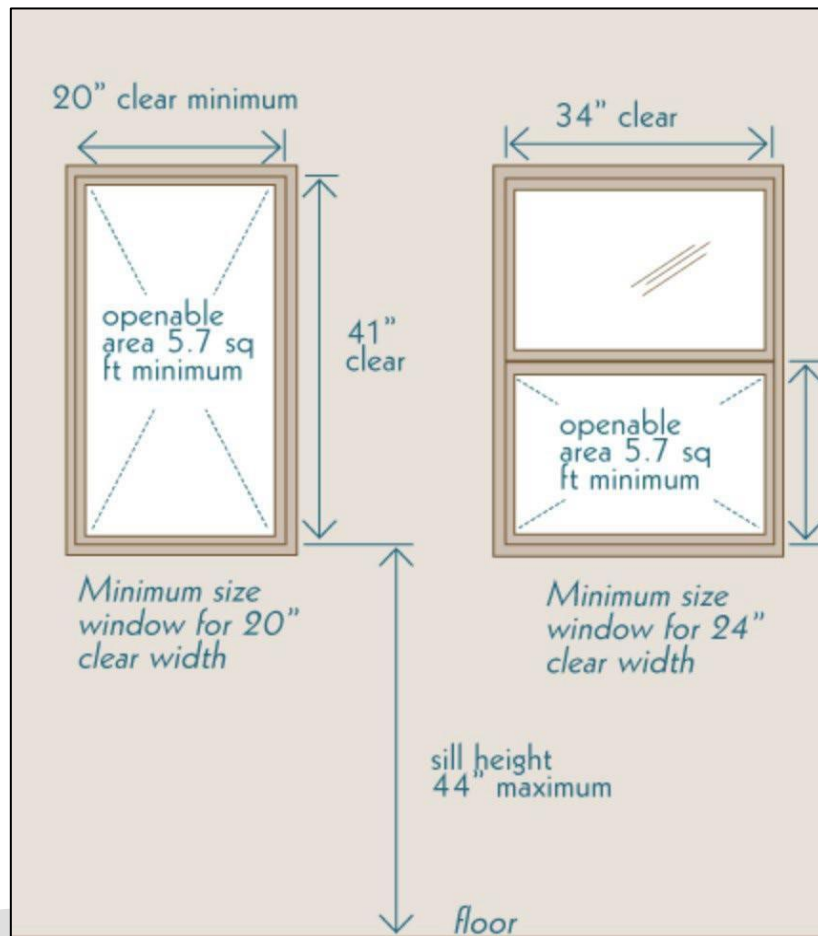
ULINE 5-15612 1-800-295-8210, uline.com

Inspect this extinguisher carefully before signing inspection record.

Do not break seal except in case of emergency or to recharge or inspect contents.

INSPECTION RECORD			
DATE	BY	DATE	BY

WINDOW EGRESS DIAGRAM



- The minimum net clear opening width shall be 20 inches.
- The minimum net clear opening height shall be 24 inches.
- Emergency escape and rescue openings shall have a minimum net clear opening of 5.7 sq ft.
- When openings are provided as means of escape and rescue, they shall have a sill height of not more than 44 inches above the floor.

FIRE PIT LOCATION DIAGRAM

