

Chapter ____

VACATION RENTALS

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ARTICLE I. IN GENERAL

Sec. __-1. Findings of Council.

Council finds and hereby declares as follows:

(a) Vacation rentals benefit the public by expanding available lodging and benefit vacation home owners by providing revenue for maintenance upgrades and deferred costs.

(b) The Town has responded to numerous complaints associated with vacation rentals including, without limitation, excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, illegal parking, and excessive rubbish and refuse.

(c) The transitory nature of vacation rental tenants presents enforcement issues.

(d) Regulating vacation rentals through a local permitting process will mitigate these negative impacts on the public and the Town.

Sec. __-2. Intent.

To protect the general health, safety, welfare, and morals, the permitting requirements set forth herein are ordained for the privilege of engaging in vacation rentals.

Sec. __-3. Definitions; Exemptions

(a) The following definitions apply in this ordinance:

(i) "Parking space" – a parking space for a motor vehicle that is not located within a Town right-of-way and shall be no less than nine (9) feet in width and twenty (20) feet in length

(ii) "Residential property" – An apartment, studio, condominium, single family home, townhouse, cottage or other property devoted to residential use or occupancy by one or more persons for a definite or indefinite period.

(iii) "Vacation rental" – The rental of residential property for vacation, leisure, or recreation purposes for fewer than thirty (30) days by a person who has a permanent residence to which he/she intends to return.

(b) The provisions of this ordinance shall not apply to:

(i) Lodging provided by hotels, motels, tourist camps and other places regulated under Chapter 72 of the North Carolina General Statutes .

(ii) Rentals to persons having no other residence.

Sec. ___-4. Scope of Chapter.

Any property owner renting out their residential property as a vacation rental.

Sec. ___-5. Permit Required.

Any person intending to engage in a vacation rental shall, prior to engaging in any such rentals, file an application and obtain a permit from the Town Clerk.

ARTICLE II. APPLICATION

Sec. ___-6. Agency.

(a) A vacation home owner may authorize, in a signed and dated writing to be delivered together with the application, a person to act as his/her agent and file an application for a permit; provided that, however, the permit shall be issued in the name of the owner.

(b) Notwithstanding any authorized agency, the vacation home owner shall be responsible for complying with the provisions of this chapter such that the failure of an authorized agent to comply therewith shall be deemed to constitute non-compliance on the part of the vacation home owner.

Sec. ___-7. Application fee.

Payment of the application fee, as established by the Town, for a vacation rental permit shall be submitted to the Town Clerk together with the application.

Sec. ___-8. Application for permit.

An application for a permit shall contain the following:

(a) The name, mailing address, and telephone number of the vacation home owner applicant.

(b) The name, mailing address, physical address, and telephone number of the vacation home owner's authorized agent, if any, together with a written statement signed by the vacation home owner confirming the agent's authority and the agent's familiarity with the provisions of this Chapter.

(c) The physical address and Parcel ID number of the vacation home.

(d) The number of bedrooms and approximate square footage of the vacation home and the maximum number of overnight occupants the home will reasonably support.

(e) A signed statement by the owner that the vacation home is compliant with all applicable building, technical, and safety code requirements.

(f) A sketch plan showing the number and location of on-property parking spaces and stating the maximum number of vehicles allowed for overnight occupants.

(g) A statement as to whether the vacation home has a hot tub or spa on the premises.

(h) A copy of the owner's most recent room occupancy tax return.

(i) A signed certification by the applicant that: 1) the contents of the application are accurate and truthful; 2) the provisions of this chapter shall be complied with; 3) a copy of the permit, and the permit conditions set forth below, shall be posted in a conspicuous place within the vacation home; and 4) that the owner of the vacation home consents to and authorizes the Town's code and law enforcement officers to enter onto to the premises and into the vacation home for the purpose of investigating and reviewing complaints of alleged non-compliance with the provisions set forth herein.

ARTICLE III. PERMIT CONDITIONS

Sec. ___-9. Permit Conditions.

All permits issued under this chapter are expressly subject to the following conditions:

(a) Vacation home owners and their agents shall expressly provide in their rental agreements that the maximum number of overnight occupants in a vacation home shall be limited to the maximum number of overnight occupants set forth in the permit, said number not to exceed two (2) adult persons per bedroom plus four (4) additional adult persons per residence; provided that, however, a studio rental shall be limited to a maximum of four (4) adults. For purposes of this section, minors under eighteen (18) years of age shall not be counted as adults.

(b) Vacation home owners and their agents shall expressly provide in their rental agreements that a vacation home shall not be used by tenants to engage in commercial activities including, without limitation, weddings, receptions, and large parties.

(c) Vacation home owners and their agents shall expressly provide in their rental agreements that tenants shall not violate federal, state, or local laws, ordinances, rules, or regulations; engage in disorderly or illegal conduct; engage in activities or conduct creating or resulting in unreasonable noise, disturbances, and public nuisances; allow an unreasonable amount of garbage, refuse, and rubbish to accumulate on the property; illegally park vehicles in conjunction with their use of the vacation home; and overcrowd the vacation home premises.

(d) Vacation home owners and their agents shall expressly provide in the rental agreements that a material breach of the express provisions required under sub-sections (a)-(c) above shall result in a termination of the rental agreement.

(e) Vacation home owners and their agents shall take reasonable steps to ensure the tenants' compliance with the express provisions required under subsections (a)-(c) above. As used herein, the term "reasonable steps" shall be construed to include, without limitation, the following: 1) posting a copy of the vacation home rental permit and these permit conditions in a conspicuous place within the vacation home; 2) promptly contacting tenants when notified of violations of the permit conditions and requesting the tenants to cease and desist from such violations; 3) contacting law enforcement when a reasonable person would deem the assistance of law enforcement to be necessary under conditions then prevailing on the premises; and 4) when applicable and reasonable, commencing expedited eviction procedures against the tenants as provided for in Article 4 of Chapter 42A, *Vacation Rental Act*, of the North Carolina General Statutes.

ARTICLE IV. REMEDIES

Sec. __-10. Civil Penalties.

(a) A violation of this chapter shall not constitute a misdemeanor or infraction but shall instead subject the permit holder to a notice of violation or, thereafter, a civil penalty in the nature of a debt as follows:

(1) For the first (1st) violation within any twelve (12) month period, a warning notice of violation;

(2) For a second (2nd) violation within any twelve (12) month period, a civil penalty up to \$250.00 shall be imposed;

(3) For a third (3rd) violation within any twelve (12) month period, a civil penalty up to \$500.00 shall be imposed;

(4) For a fourth (4th) violation within any twelve (12) month period, a civil penalty up to \$1000.00 shall be imposed; and

(5) For a fifth (5th) violation within any twelve (12) month period, the permit shall be revoked.

(b) Upon the issuance of a citation imposing a civil penalty, the alleged violator may, within seventy-two (72) hours following the issuance, pay the amount of the civil penalty in person or by mail at the Town Hall.

(c) The Town Attorney is hereby authorized to file lawsuits on behalf of the Town to collect any unpaid civil penalties and the finance officer is hereby authorized to verify the complaints in any such lawsuits.

(d) Notwithstanding the provisions set forth above in this section, this Chapter may be enforced through equitable remedies issued by a court of competent jurisdiction.

Sec. __-11. Administrative Hearing.

At any time prior to the expiration of the period specified for paying the civil penalty, or within seventy-two (72) hours after a permit has been revoked, the alleged violator may request a hearing before the Town Hearing Officer or his/her designee. The request for a hearing shall be in writing and timely filed in the office of the Town Clerk. The Hearing Officer or designee shall fix a time for the hearing during which the alleged violator shall be given the opportunity to present evidence to refute the findings supporting the civil penalty/revocation. Upon the completion of the hearing, the Hearing Officer or designee shall consider the evidence taken and shall either affirm or nullify, in a written decision, the civil penalty/revocation.