

Town of Kennebunkport
Board of Selectmen Workshop VIA Zoom
January 21, 2021
6:00 PM

MINUTES

Selectmen attending via Zoom: Allen Daggett, Patrick Briggs, Edward Hutchins
Sheila Matthews-Bull and D. Michael Weston.

Others attending via Zoom: Laurie Smith, Werner Gilliam and others

1. Call to Order.

Chairman Daggett called the meeting to order at 6:00 PM. He took **roll call** of
Selectmen present: Allen Daggett, Patrick Briggs, Edward Hutchins Sheila Matthews-
Bull and D. Michael Weston.

2. Discuss short term rental ordinance revisions.

Ms. Smith gave an overview of the most recent revisions to the short-term rental ordinance. The definition of accessory apartments was clarified. It was also clarified if a taxpayer sells their property before the end of the calendar year, the license will stay with the property until renewal time. The new owner will then apply for a license if they chose.

There was discussion regarding inspection requirements and how long they will have before they must be inspected by the Code Enforcement Office. It was agreed that it should be at least two years, if not more. Until a property is inspected, it will be up to the property owner to self-report.

Ms. Smith explained the transitional provisions for licensing of pre-existing short-term rentals. As the ordinance is drafted, 2022 will be used to capture all current short-term rentals. The following year (2023) will be the time to add new licenses once it is known how many there were in 2022. The cap will be decided at that time.

Discussion ensued regarding the length of time a property can go without a rental and stay on the list.

The formula for the number of licenses allocated was discussed. Percentage vs. a flat number was debated.

Ms. Smith outlined the next steps. The recommended revisions from this meeting will be incorporated into the draft ordinance. The revised document will be discussed at the first meeting in February (February 11, 2021).

3. Other Business.

No other business.

4. Adjournment.

Motion by Selectman Hutchins, seconded by Selectman Weston, to adjourn. **Roll Call Vote:** Briggs, Hutchins, Matthews-Bull, Weston and Daggett. **Voted:** 5-0.
Motion passed.

The meeting adjourned at 7:25 PM.

Submitted by,
Tracey O'Roak
Administrative Assistant

Kennebunkport Short-term Rental License/Ordinance

A. Purpose:

The purpose of this ordinance/license is to require the disclosure and licensing of short-term rentals operated within the Town of Kennebunkport, and to balance the desire of property owners to rent their properties to short-term tenants with the desire of residents to preserve the peaceful quiet and enjoyment of their residential neighborhoods. This Ordinance is intended to ensure that residential neighborhoods are not unduly impacted by the operation of short-term rentals within the Town, and to provide a licensing program that enables the Town to monitor and track the proliferation of short-term rentals within its borders.

~~Effective Date. [to be determined.] The Short term rental provisions shall be fully effective as to all contracts for short term rentals executed on or after 30 days from date of enactment, and shall further apply to all contracts in effect on such date to the extent the application of these provisions would not result in a substantial impairment of such existing contracts~~

B. Applicability:

1. Permitted Short-term Rentals. Legally existing residential dwelling units may be used as Short-term rentals upon the issuance of a Short-term rental license for the premises in accordance with the requirements of this ordinance.

2. Prohibited Short-term Rentals. No person may offer for rent, operate, or otherwise use any parcel in the Town of Kennebunkport for Short-term rentals if:

(a) Such person has not secured or maintained a valid Short-term rental license for the premises;

(b) The accommodations are an accessory apartment constructed or permitted after November 3, 2009, recreational vehicle, trailer or tent.

~~B. This ordinance shall apply to all legal residential dwelling units. Accessory apartments that have been constructed/permitted after November 3rd 2009 may not be used as Short term rentals.~~

C. Definitions:

Advertising: Any form of communication for marketing that is used to encourage, persuade or manipulate viewers, readers or listeners into contracting for goods and/or services as may be viewed through various media, including, but not limited to, newspapers, magazines, flyers, handbills, television commercials, radio, signage, direct mail, websites or text messages.

Dwelling unit: One or more rooms arranged for complete, independent housekeeping purposes with space for living and sleeping; space or facilities for eating or cooking; and provisions for sanitation. For purposes of this regulation Recreational vehicles are not considered dwelling units.

~~Family Member: Any individual who is related to the Short-term rental owner by blood or through marriage including, but not limited to, the Short-term rental owner's spouse, father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, cousin, nephew, niece, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.~~

Good Neighbor guidelines: A document prepared by the town that summarizes the general rules of conduct, consideration and respect, including, without limitation, provisions pertaining to the use and occupancy of a dwelling unit used or occupied as a short-term rental.

~~Goose Rocks Beach Neighborhood: (Insert Definition As depicted on Exhibit A).~~

Owner: A person who is the owner of record of real property as documented by deed or other document evidencing ownership recorded at the York County Registry of Deeds.

Seasonal rental accommodation complex: a lodging business located on one parcel of land that makes a room, a group of rooms, and/or cottages available for a tenancy of less than 30 days on a seasonal basis.

Short-term rental: The use, control, management or operation of a legally existing residential dwelling unit offered for rent for transient occupancy for dwelling, sleeping or lodging purposes by tenants short term rental guests for a tenancy of less than 30 consecutive days, for compensation directly or indirectly, excluding motels, hotels, bed and breakfasts, inns, seasonal rental accommodation complexes, and residential rental accommodations.

D. General Requirements:

1. License Required: No Short-term rental shall be advertised, rented, or operated without first obtaining a Short-term rental License. Failure to obtain or renew a license prior to offering, advertising, or renting the short-term rental shall require payment of double the short-term rental license fee. The second failure to obtain or renew a license (within a 5-year period) shall be prohibited from obtaining a license for one (1) year. A license application received more than 30 days after the license deadline shall be considered late. A short-term rental license shall be valid for the calendar year in which the license is issued. The property must remain in compliance with the short-term rental license for the calendar year in which the license is issued.

a. Short-term rental license renewal. Short-term rental licenses shall expire on December 31st of each calendar year, and Short-term rental license holders may renew such license by submitting a renewal application, on forms provided via a renewal process established by the Town. After the effective date of this ordinance, any duly licensed short-term rental may continue operating as long as their license is current and renewed on or before the annual renewal deadline

established by the Town. If the license is not renewed within the prescribed timeframe, the license expires and this protection clause no longer applies. Any renewal application received after December 31st the advertised deadline for submission of the previous license year shall be considered late and deemed a new application.

b. The Board of Selectmen shall establish fees for the licensure of Short-term rentals. Licensing fees for Short-term rentals shall be assessed based upon the following criteria:

i. Tier I: Short-term rentals with 0-3 bedrooms;

ii. Tier II: Short-term rentals with 4+ bedrooms.

2. Transferability: Short-term rental licenses shall not be transferable to another location, person, or entity, except that the property owner may transfer the license for a specific licensed premises to a spouse, child, parent, or, for estate planning purposes, to a trust in which the property owner serves as a trustee. are not transferable to a new owner, except that a Short-term rental license shall be transferable to a Family Member of the previous owner. Any change in ownership or change in the members/managers/officers of an owner shall require a new license, except when the Short-term rental property is transferred to a new owner who is a Family Member of the previous owner. Licenses are limited to the dwelling unit for which they are issued and shall not be transferable to a different dwelling unit.

3. Advertising: It shall be unlawful to advertise occupancy or use of a short-term rental that has not been licensed. For the purposes of this section, the term "advertise" shall mean any form of communication for marketing that is used to encourage, persuade or manipulate viewers, readers or listeners into contracting for goods and/or services as may be viewed through various media included, but not limited to newspapers, magazines, flyers, handbills, television commercials, radio, signage, direct mail, websites or text messages. The short-term rental advertising must be consistent with the terms of the short-term rental license, and all advertisements of the short-term rental must include the current short-term rental license number.

4. Registration record: The short-term rental owner must (a) maintain accurate, up-to-date records of all rental transactions involving the short-term rental, including the number of tenants and the length of their stays, and upcoming reservations; and (b) present said information to Town inspection officials upon request. Failure of the short-term rental owner to provide this information within 5 business days of a Town request for the same shall be considered a violation of this section.

5. Notice: The Short-term rental license holder must post in plain sight near the entrance to the Short-term rental a notice that identifies the Short-term rental license number, and the name,

address, phone number(s), and email address of the owner of the Short-term rental, and/or the owner's local contact person.

E. Review Procedure:

Issuance procedure:

1. Application submission: completeness. Short-term rental License applications shall be submitted to the Town Clerk ~~where it shall be endorsed with the date and time of receipt.~~ Applications for licenses for the upcoming calendar year may be submitted beginning in October of the previous license year. The Town Clerk, or the Town Clerk's designee, shall review all applications for completeness and accuracy and in the order that they were received.

~~2. The Town Clerk shall have the authority to issue a Short-term rental license.~~

~~32.~~ Application, License fee. The Town Clerk shall provide a Short-term rental application to be completed by the applicant and submitted to the Town Clerk accompanied by the Short-term rental license fee as established by the Board of Selectmen. The Short-term rental application form shall include a non-exclusive checklist of code requirements that the property owner shall demonstrate compliance with.

~~43.~~ Town clerk authority. The Town clerk shall have the authority to issue a Short-term rental license. The Town Clerk, or the Town Clerk's designee, shall determine if the ~~form application~~ has been properly completed before any license is issued.

~~54.~~ Inspection. ~~Except as provided in E(5) below, t~~ The first time that a Short-term rental application is submitted for a property, no license shall be issued until the Code Enforcement Officer or his/her designee has inspected the proposed Short-term rental property for compliance with the Short-term rental Standards and compliance with building code requirements.

~~When Following the initial inspection of the short-term rental, if~~ the Code Enforcement Officer ~~does has~~ not conducted an annual inspection ~~thereafter~~, the Short-term rental owner shall certify, upon request by the Town, that there have been no material changes since the last inspection by the Code Enforcement Officer.

5. Transitional Provisions for Licensing of Pre-Existing Short-Term Rentals. Persons or entities who operated a legally-existing residential dwelling unit as a Short-term rental and who received reservations for Shorter-term rentals at the same premises prior to the Effective Date of this Ordinance shall be required to obtain a Short-term rental license for said premises by submitting an application to the Town Clerk no later than [DATE], which application must contain an affidavit or other sworn statement by the Owner, along with documented evidence, certifying that the premises were previously used for short-term rental use by one or more tenants for a period of less than 30 consecutive days per tenancy and for at least fourteen (14) total days in a calendar year in any one of the following years: 2019, 2020, or 2021.

Upon review and approval of a timely application submitted for a license containing sufficient evidence of previous short-term rental use as required above, the Town Clerk shall issue a license for each such

premises, without the need for a prior inspection of said premises by the Code Enforcement Officer or designee as is otherwise required in section E(4).

6. **Issuance.** If the Town Clerk, or the Town Clerk's designee, in consultation with the Code Enforcement Officer, determines that the proposed Short-term rental application complies with the Short-term rental Standards, ~~a-The Town Clerk shall issue the applicant a~~ Short-term rental license ~~shall be issued in~~ accordance with the limits established in Section I below.

F. Submission Requirements:

The Short-term rental license application shall include the following information:

1. Location. The street address and map/ block/lot number of the Short-term rental property.
2. Contact Person/Owner Responsibility. The name of the owner of the Short-term rental property and contact information, including address and telephone number. In addition, if someone other than the owner is acting as the local contact person, contact information for that person shall also be provided. Regardless of who enters the Short-term rental agreement, or who may be designated as the owner's contact person, the property owner shall be responsible for compliance with the Short-term rental Ordinance provisions.
3. All information needed to demonstrate compliance with the standards listed below.

G. Standards:

The Town Clerk shall issue a Short-term rental license upon the applicant satisfying the above requirements if the following standards are met:

1. Code compliance. An applicant's property, without limitation, shall comply with the following building safety requirements code sections of the (International Residential Code, ("IRC,") and the International Building Code, ("IBC")):
 - a. IRC Section R 314, Smoke Alarms: A smoke alarm is required in each bedroom. A smoke alarm is also required outside of each bedroom and in the immediate vicinity. A smoke alarm is also required to be on each story of the dwelling, including basements and habitable attics. The alarms shall be interconnected as much as reasonably possible. (Reference IRC Section R314)
 - b. IRC Section R 315, Carbon Monoxide Alarms: If a house has an attached garage or a fuel fired appliance, a carbon monoxide alarm shall be installed outside each bedroom and 2 in the immediate vicinity. (Reference IRC Section R315)
 - c. IBC Section 906, Portable Fire Extinguishers: At least one portable fire extinguisher shall be mounted in a prominent location. One size/type 2/A is required or two size/type 1/A extinguishers. The building shall be an R-1 Occupancy (Boarding House) for the purpose of determining the type and location of portable fire extinguishers; IBC Section 1006.2. 1006.3 and 1006.4.

2. The applicant shall provide floor plans of the dwelling unit that shows the location of the alarms and fire extinguisher(s).

3. Building evacuation plan. A building evacuation plan shall be prominently posted in the Short-term rental property during the rental period.

4. Sanitary waste disposal. The applicant shall submit information demonstrating that adequate sanitary waste disposal is available in compliance with the Maine Subsurface Wastewater Disposal Rules, or that the property is served by public sewer. This shall include the total number of bedrooms included in the property, any additional sleeping space, and the total number of tenants that the property accommodates. The total number of tenants used to determine adequacy of sanitary waste disposal shall not be less than the total number of tenants that the property is advertised to accommodate. For the purpose of evaluating the adequacy of a subsurface disposal system, every two tenants shall be equivalent to one bedroom.

5. Parking. The applicant shall include a depiction designating parking spaces that will be provided for tenants and guests on the same lot where the Short-term rental is located. Guest parking at the Short-term rental shall occur in parking spaces designated by the applicant, and the number of guest vehicles allowed at the Short-term rental shall be limited to the number of on-site parking spaces designated by the applicant. Garage parking spaces not allowed for tenant use shall not be used to meet the Short-term rental parking requirement. Tenants and guests of Short-term rentals are prohibited from parking in a manner that impedes access by emergency vehicles to the property or any other dwelling in the neighborhood.

6. Good neighbor guidelines.

7. Limit on rental intensity.

The maximum tenant capacity of a short-term rental shall be limited to no more than 2 tenants per bedroom, plus 2 additional tenants total for the entire dwelling unit. By way of example, the maximum tenant capacity for a three-bedroom dwelling short-term rental is eight (8) tenants (i.e. 3 bedrooms multiplied by 2 tenants, plus an additional 2 tenants for a total of 8). ~~for no more than 1 additional sleeping space.~~

H. Suspension and Revocation of License:

A license for a Short-term rental may be conditioned, suspended or revoked by the Board of Selectmen after a public hearing if the Board of Selectmen determine that a violation of this ordinance, any applicable statute, ordinance, or regulation, or Short-term rental license certification, condition, or criteria has occurred.

1. Violations of this Ordinance. Violations of this ordinance include, but are not limited to, the following:

- a. Providing false or misleading information on an application, or renewal application, for a Short-term rental license;
- b. Failure to provide the registration records as provided in Section D(4) within 5 business days of a Town request for such records;
- c. Failure to comply with the parking provisions of Section G(5) of this Ordinance;
- d. Failure to comply with the rental intensity limitations of Section G(7) of this Ordinance;
- e. Violation of any Short-term rental license certification, condition, or criteria;
- F. Violation of any statute, ordinance, or regulation applicable to the Short-term rental property.

2. Complaints Concerning Short-term rentals. The Code Enforcement Officer shall establish and maintain a log of all complaints for each Short-term rental received and substantiated by the Town. The Code Enforcement Officer shall seek the correction of all substantiated complaints by the Short-term rental license holder.

3. Suspension or Revocation of a PermitLicense. When, in the judgement of the Code Enforcement Officer, the nature and/or number of complaints warrants further review of the Short-term rental license, he shall provide a report of the same to the Board of Selectmen for its consideration. The Board of Selectmen may condition, suspend, or revoke a Short-term rental license, following a public hearing, on the basis of the licensee's non-compliance with this ordinance, any applicable law, ordinance, or regulation, or Short-term rental license certification, condition, or criteria.

4. Appeal. Any person aggrieved by the decision of the Board of Selectmen to suspend or revoke a Short-term rental license may appeal the decision of the Board of Selectmen to Superior Court, pursuant to Maine Rule of Civil Procedure 80B, within thirty (30) days of the Board of Selectmen's decision.

I. Additional Regulations

~~The Board of Selectmen may adopt regulations implementing the provisions of this Ordinance.~~

II. Maximum Rate of Licenses Issued: Limitations on Annual Licenses for Short Term Rental Units:

The Town Clerk shall issue Short-term rental licenses on an annual basis. The total number of ~~annual~~ licenses shall be set each year by the Board of Selectmen ~~at their first meeting of the calendar year.~~ The total number of annual licenses set by the Board of Selectmen shall first go into effect on January 1, 2023.

1. Formula. The total number of licenses issued in each calendar year shall be set by the Board of Selectmen annually according to a formula based in part upon a percentage of the total number of residential dwelling units in the Town of Kennebunkport.

2. Goose Rocks Beach Neighborhood. Licensed Short-term rentals located in the Goose Rocks Beach Neighborhood [as depicted on the attached map] shall not be counted towards the total number of Short-term rental licenses to be set annually by the Board of Selectmen, and to be issued on an annual basis thereafter by the Town.

4. Effective Date. This Ordinance and all the licensing standards contained herein shall go into effect on January 1, 2022.

J. Additional Regulations

The Board of Selectmen may adopt regulations implementing the provisions of this Ordinance.

Exhibit A

