

1 | **CHAPTER 19**

2
3 | **ZONING ORDINANCE**

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5
6 | **SEC. 19-1-3. DEFINITIONS**

7
8 **Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as
9 permanent, seasonal, or temporary living quarters for only one (1) family at a time, and
10 containing cooking, sleeping, and toilet facilities. The term shall include mobile homes and
11 rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period
12 rented. Recreational vehicles are not residential dwelling units. **(Effective October 15, 2009)**

13
14 **Short Term Rental:** A dwelling that is available for rent for transient occupancy by guests for a
15 period of less than 30 days, excluding motels.

16
17 | **SEC. 19-6-3. RESIDENCE C DISTRICT (RC)**

18
19 | **A. Purpose**

20
21 The Residence C District includes lands that are within the built-up areas of Cape Elizabeth, are
22 seweraged or can be easily served by public sewer, are identified in the Comprehensive Plan as part
23 of the Town's growth areas, are not presently in agricultural or woodland uses, and are not
24 considered to be valuable, large-scale open space with valued scenery or wildlife habitat. The
25 purpose of the district is to provide for areas of compact development that can foster cohesive
26 neighborhoods that are close to community services.

27
28 | **B. Permitted Uses**

29
30 The following uses are permitted in the Residence C District:

31
32 | **1. *The following resource-related uses:***

- 33
34 a. Any use listed in Resource Protection 1-Critical Wetlands District, or in Resource
35 Protection 2-Wetland Protection District, or in Resource Protection 3-Floodplain
36 District, as shown on Table 19-6-9
- 37 b. Agriculture, provided that no animal or fowl shall be raised for commercial
38 purposes on any lot containing less than one hundred thousand (100,000) square
39 feet
- 40 c. Keeping of livestock, such as a horse, cow, pig, goat, sheep, or similar animal,
41 provided that such activity occurs only on a lot containing at least one hundred
42 thousand (100,000) square feet
- 43 d. Removal of topsoil, subject to the provisions of Sec. 19-8-5, Earth Materials
44 Removal Standards
- 45 e. Timber harvesting
- 46

1 **2. The following residential uses:**

- 2 a. Single family dwelling
3 b. Manufactured housing on an individual lot
4 c. Manufactured housing park, subject to the provisions of Sec. 19-7-7,
5 Manufactured Housing Parks
6 d. Multiplex housing
7 e. Eldercare facility, subject to the provisions of Sec. 19-7-6, Eldercare Facility
8 Standards
9 f. Rooming or boarding home
10 g. Short Term Rental

11
12 **3. The following nonresidential uses:**

- 13
14 a. Home day care
15 b. Farm and fish market, with a maximum floor area of two thousand (2,000) square
16 feet for retail sales of products
17 c. Boat repair facility, subject to the provisions of Sec. 19-8-9, Boat Repair Facility
18 Standards
19 d. Wind energy system (**Effective October 8, 2008**)
20 e. Bed and Breakfast, where the operator of the Bed and Breakfast owns the
21 structure and maintains it as his/her primary residence (**Effective March 9, 2009**)
22

23 **4. The following accessory uses:**

- 24
25 a. Accessory building, structure or use
26 b. Outside athletic facility accessory to permitted use
27 c. Home occupation
28 d. Homestay (**Effective March 9, 2009**)
29 e. Amateur or governmental wireless telecommunication facility antenna (**Effective**
30 **April 15, 2000**)
31 f. Amateur or governmental wireless telecommunication facility tower (**Effective**
32 **April 15, 2000**)
33 g. Commercial wireless telecommunication service antenna which is attached to an
34 alternative tower structure in a manner which conceals the presence of an antenna.
35 (**Effective April 15, 2000**)
36 h. Agriculture related use (**Effective June 10, 2010**)
37

38 **C. Conditional Uses**

39
40 The following uses may be permitted only upon approval by the Zoning Board as a conditional
41 use, in accordance with Sec. 19-5-5, Conditional Use Permits:
42

43 **1. The following resource-related uses:**

- 44
45 a. Extraction of sand, gravel, rock and similar earth materials, except topsoil (see
46 permitted uses), subject to the provisions of Sec. 19-8-5, Earth Materials Removal

Standards

2. The following nonresidential uses:

- a. Cemetery
- b. Day care facility
- c. Fraternal or social institution
- d. Institution of an educational, religious, or philanthropic nature, including school, hospital, church, municipal use, or similar facility
- e. Playground or park

3. The following accessory uses:

- a. Home business
- b. Accessory dwelling unit

D. Prohibited Uses

All uses not specifically allowed as permitted uses or conditional uses are prohibited within this district.

E. Standards

1. Performance Standards

- a. The standards of performance of Articles VII and VIII shall be observed.
- b. Standards relating to permitted and conditional uses in the Residence C District include:

- Sec. 19-7-5 Creation of an Accessory Dwelling Unit
- Sec. 19-7-6 Eldercare Facility Standards
- Sec. 19-7-7 Manufactured Housing Parks
- Sec. 19-8-5 Earth Materials Removal Standards
- Sec. 19-8-8 Home Day Care and Day Care Facility Standards
- Sec. 19-8-9 Boat Repair Facility Standards
- Sec. 19-8-14 Short Term Rental Standards

2. The following Space and Bulk Standards shall apply:

MINIMUM LOT AREA	
(1) Boat repair facility for commercial purposes	200,000 sq. ft. (4.6 acres)
(2) Multiplex housing	5 acres
(3) Eldercare facilities	5 acres

<i>(4) Wind energy systems</i>	20,000 sq. ft. (Effective October 8, 2008)
<i>(5) Others</i>	20,000 sq. ft.
MAXIMUM NUMBER OF DWELLING UNITS PER AREA	
<i>(1) Multiplex housing</i>	1 unit per 15,000 sq. ft. of net residential area
<i>(2) In subdivisions</i>	1 unit per 20,000 sq. ft. of net residential area
<i>(3) In subdivisions that conform to Sec. 19-7-2, Open Space Zoning</i>	1 unit per 15,000 sq. ft. of net residential area
<i>(4) A single-family home on a lot that is not part of a subdivision</i>	1 unit per 20,000 sq. ft. of gross lot area
<i>(5) In eldercare facilities</i>	1 unit per 2,500 sq. ft. or 1 bed per 2,100 sq. ft. of net residential area (Effective May 9, 2007)
<i>(6) Rooming or boarding home</i>	1 bed per 5,000 sq. ft. of gross lot area
<i>(7) Other housing</i>	1 unit per 20,000 sq. ft. of gross lot area
MAXIMUM NUMBER OF BED AND BREAKFAST ROOMS	
<i>Bed and Breakfast Guest Room</i>	1 room per 5,000 sq. ft. of gross lot area
MINIMUM STREET FRONTAGE	
<i>(1) Bed and Breakfast</i>	100 ft. on Shore Road or Route 77
<i>(2) All uses</i>	100 ft.
MINIMUM SETBACKS	
<i>(1) All uses unless otherwise specified</i>	
(a) Side yard setback	20 ft. The side yard setback may be reduced in accordance with Sec. 19-4-3.A.2, Developed Nonconforming Lots. (Effective August 11, 1999)
(b) Rear yard setback	20 ft. The rear yard setback may be reduced in accordance with Sec. 19-4-3.A.2, Developed Nonconforming Lots. (Effective August 11, 1999)

(c) Front yard setback	The front yard setbacks set forth below may be reduced, only on roads which are not classified arterial, to the average setback of the two principal structures fronting on the same road in closest proximity to the site of the proposed structure, but any structure must be at least 20 feet from the right-of-way.
- Arterial street	40 ft.
- Collector and rural connector streets	40 ft.
- Feeder street	30 ft.
- Local and private streets	20 ft.
(2) Multiplex housing and eldercare facilities	
(a) From property line	75 ft.
(3) Accessory structures with floor area not greater than 100 square feet and a height not greater than 8-1/2 feet from average grade	
(a) Side yard setback	10 ft.
(b) Rear yard setback	5 ft.
(4) Reserved (Effective June 10, 2010)	
(5) Antennas extending from 15' to 25' measured from the highest point of the alternative tower structure	
(a) Property line setback	125% of the distance from the ground to the top of the antenna (Effective April 15, 2000)
(6) Towers which are freestanding, and towers which are attached or braced against a structure and exceed 15' in height measured from the highest point of the roof of the structure	
(a) Property line setback	125% of the distance from the ground to the top of the antenna (Effective April 15, 2000)

<p>(b) Front yard setback</p>	<p>125% of the distance from the ground to the top of the antenna or the distance from the street right of way to the front of the existing structure plus 5', whichever is more (Effective April 15, 2000)</p>
<p>(7) Open Space Zoning Subdivisions (See Sec. 19-7-2)</p>	
<p>(a) Side yard setback</p>	<p>15 ft.</p>
<p>(b) Rear yard setback</p>	<p>15 ft.</p>
<p>(c) Front yard setback</p>	<p>20 ft.</p>
<p>(8) Deck with a height of less than ten (10) feet above average grade</p>	
<p>(a) Side yard setback</p>	<p>10 ft.</p>
<p>(b) Rear yard setback</p>	<p>10 ft.</p>
<p>(9) Accessory building having less than one hundred fifty (150) square feet of floor area</p>	
<p>(a) Side yard setback</p>	<p>10 ft.</p>
<p>(b) Rear yard setback</p>	<p>10 ft.</p>
<p>(10) Outdoor recreational facilities such as swimming pools, tennis courts, and basketball courts that are accessory to a single family residential use</p>	
<p>(a) Side yard setback</p>	<p>10 ft.</p>
<p>(b) Rear yard setback</p>	<p>10 ft.</p>
<p>(Effective December 10, 2003)</p>	
<p>(11) Wind energy system</p>	<p>110% of the distance from the ground to the center of the turbine (Effective October 8, 2008)</p>
<p>MAXIMUM TELECOMMUNICATION HEIGHT</p>	

<i>(1) Antenna attached to a structure</i>	25' measured from the highest point of the roof of the structure (Effective April 15, 2000)
<i>(2) Amateur or governmental tower attached or braced against a structure</i>	25' measured from the highest point of the roof of the structure (Effective April 15, 2000)
MAXIMUM WIND ENERGY SYSTEM HEIGHT (Effective October 8, 2008)	
<i>(1) All uses to center of turbine</i>	100'
MINIMUM LOT WIDTH (Effective August 11, 1999)	
<i>(1) All uses</i>	40 ft.
MAXIMUM BUILDING FOOTPRINT	
<i>(1) All uses</i>	None, except nonconforming lots shall comply with the building coverage standards contained in Sec. 19-4-3
MAXIMUM BUILDING HEIGHT	
<i>(1) All uses</i>	35 ft.

1
2 **F. Site Plan Review**

3
4 The following uses and activities shall be subject to site plan review by the Planning Board,
5 according to the terms of Article IX, Site Plan Review, prior to issuance of any building permit,
6 plumbing permit, or other permit:

- 7
8 1. Multiplex housing, eldercare facilities, and boarding care facilities
9 2. Nonresidential uses listed in Sec. 19-6-3.B.3, except home day cares, which shall not
10 require site plan review
11 3. Nonresidential uses listed in Sec. 19-6-3.C.2
12 4. Any other use or activity listed in Sec. 19-9-2, Applicability, as requiring site plan review
13

14 **ARTICLE VIII. PERFORMANCE STANDARDS**

15
16 **. 19-7-8. OFF-STREET PARKING (Effective May 12, 2002)**

17
18 **A. Applicability**

19
20 Off-street parking shall be provided for all new construction, expansions, and changes of use in
21 accordance with the requirements and standards found in this section.
22

23 **B. Minimum Requirements for Off-Street Parking**

24

1 Off-street parking shall be considered an accessory use when required or provided to serve any
2 legal use located in any zone except as set forth in the following sections. An off-street parking
3 space shall be a minimum of nine (9) feet wide by eighteen (18) feet long, may be open or
4 covered. The Planning Board may allow up to twenty percent (20%) of the parking requirement
5 to be met with “compact car” spaces that are a minimum of eight (8) feet wide by sixteen (16)
6 feet long provided that such spaces shall be clearly marked as “compact car parking.” Each
7 parking space must be sited to allow access and exit without obstruction. Handicapped parking
8 shall be provided in compliance with the Americans with Disabilities Act and applicable State
9 requirements. In order to determine compliance with this section, the owner or applicant shall
10 submit a plan showing the physical layout of all required off-street parking areas. Any change in
11 the evidence or conditions upon which the plan is approved shall nullify such approval.

- 12
- 13 **I.** Parking shall be provided on the lot occupied by the use for which the parking is
14 required, or on an adjacent lot owned or controlled by such use. In addition, uses located
15 within the Town Center, BA or BB District may provide all or part of the required off-
16 street parking through any of the following:
- 17
- 18 a. Private off-street parking located on another lot that is located within one mile of
19 the subject lot and that is controlled by long-term written lease or ownership by
20 the applicant.
- 21
- 22 b. Off-street parking shared with other uses (consistent with paragraph 2 below)
23 located within one mile of the subject lot, provided that the Planning Board finds
24 that there is adequate parking capacity to meet the parking requirements of all
25 uses sharing the parking due to variation in the time of parking demand and that
26 the shared parking is available to the applicant through a written lease or other
27 enforceable agreement.

28

29 Where parking is proposed elsewhere on an existing parking lot which has received Site Plan
30 approval, the Planning Board shall approve or deny the off site parking after considering the
31 adequacy of the parking and traffic impacts. Where parking is proposed elsewhere on an
32 existing parking lot which has not received Site Plan approval, the Planning Board shall approve
33 or deny the off site parking after reviewing the lot for compliance with the following Site Plan
34 Standards in Sec. 19-9-5: (B) Traffic Access and Parking, (M) Exterior Lighting, and (N)
35 Landscaping and Buffering.

- 36
- 37
- 38
- 39
- 40 **2.** Where multiple use of a lot occurs or where the use involves more than one activity (i.e.,
41 an ice cream shop that includes a gift shop), off-street parking shall be provided for each
42 use in accordance with this section. Where the applicant can demonstrate and document
43 nonconflicting periods of use, shared use of parking spaces may be permitted by the
44 Planning Board.
- 45
- 46 **3.** Travel and queuing aisles associated with off-street parking, drive-in facilities and motor

vehicle fuel pumps shall be provided and shall not interfere with the use of or be part of the required off-street parking.

Parking stalls and aisle layout shall conform to the following standards.

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90°	9'-0"		18'-0"	24'-0" two way
60°	8'-6"	10'-6"	18'-0"	16'-0" one way only
45°	8'-6"	12'-9"	17'-6"	12'-0" one way only
30°	8'-6"	17'-0"	17'-0"	12'-0" one way only

4. The following minimum number of spaces, rounded up to the nearest whole number, shall be provided and maintained for each use on a lot, including each use within all buildings. The Planning Board may reduce by up to thirty percent (30%) the required parking for the reuse of a building existing as of June 4, 1997. In granting such a reduction, the Planning Board must find that:

- a. the reduction will not create or aggravate parking problems in the neighborhood, and
- b. the required number of spaces cannot be reasonably accommodated on the lot.

The maximum number of employees scheduled during peak demand/shift shall be used in calculating the number of required parking spaces when employee is referenced in the list below. The floor area of the structure as defined in Sec. 19-1-3 shall be used in calculating the number of required parking spaces, unless otherwise noted.

a. Residential

- (1) Single Family Dwellings, 2 spaces per dwelling unit including manufactured housing
- (1a) Short Term Rental 1 space per 4 guests
- (2) Two-Family Dwellings 2 spaces per dwelling unit
- (3) Multiplex housing or with multifamily dwellings 1.5 spaces per dwelling unit one bedroom, 1.75

1	spaces for	unit with two
2	bedrooms, and 2	spaces per unit with three or
3		more bedrooms
4		
5		
6	(4) Home Businesses	2 spaces in addition to
7		required
8		parking for residence (This
9		requirement may be reduced by the
10		Zoning Board of Appeals.)
11		
12	(5) Eldercare facilities	1.25 spaces per unit or 1 space
13	per 4 beds plus 1 space	per employee
14		
15	b. Institutional	
16		
17	(1) Municipal Uses	1.25 spaces per employee plus 1
18	space per 150 sq. ft. of	public assembly and meeting
19		area
20		
21	(2) Places of Public Assembly,	1 space per 4 seats plus 1
22	space	
23	such as; Theaters/Cinemas/	per 2 employees
24	Auditoriums/Stadiums/	
25	Sports Arenas/Churches and	
26	Synagogues/Gymnasiums	
27		
28	(3) Schools:	
29		
30	Grades K-8	1 space per classroom plus 1 space
31		for each employee plus parking in
32		accordance with the places of public
33		assembly for the largest assembly
34		space
35		
36	Secondary	8 spaces per classroom plus parking
37		in accordance with the places of
38		public assembly for the largest
39		assembly space
40		
41	Post Secondary	1 space for each 2 students plus 1
42		space for each employee plus
43		parking in accordance with the
44		places of public assembly for the
45		largest assembly space
46		

1	Nursery Schools and	1 space per employee plus a
2	safe off-	
3	Day Care Facilities	street area for vehicle pickup and
4		drop-off of students/children
5		
6		
7	Schools not listed above:	1 space per each 2 students at capacity plus 1 space for
8		each employee plus parking in accordance with the places of public assembly for
9		the largest assembly space
10		
11	c. Commercial	
12		
13	(1) Retail sales	3 spaces per use or 3 spaces per
14	1,000 sq. ft. (or 1 space	per 333 sq. ft. or portions
15		thereof) plus 1 space per
16		employee, whichever is greater
17		
18	(2) Gas and/or Service	.25 space per fuel pump plus
19	1 space	
20	Station; Auto Repair Garage	per employee plus 4 spaces per
21	service bay	
22		
23	(For gas stations involving other uses [e.g., gas pumps with convenience stores],	
24	the minimum number of required parking spaces shall be the total of the	
25	requirements for each use, plus the standards listed above).	
26		
27	(3) Banks	4 spaces per use or 3 spaces per
28		1,000 sq.ft. (or 1 space per 333 sq.ft.
29		or portions thereof), whichever is
30		greater
31		
32	(4) Personal Services and	3 spaces per use or 4 spaces
33	Business Services	per 1,000 sq.ft. (or 1 space per 250
34		sq.ft. or portions thereof), whichever
35		is greater
36		
37	(5) Business and Professional	3 spaces per use or 4 spaces per
38	Offices (non-medical)	per 1,000 sq.ft. (or 1 space per 250
39		sq.ft. or portions thereof), whichever
40		is greater
41		
42	(6) Professional	5 spaces per 1,000 sq. ft. (or 1 space
43	Office (medical)	per 200 sq. ft. or portions thereof)
44		
45	(7) Restaurants/Eating Places	1 space per 4 patrons at capacity plus
46		1 space per employee

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2 (Measurement of standing and seating capacity shall be based upon the latest adopted
3 edition of the BOCA National Building Code and NFPA 101, whichever is more
4 stringent.)

- 5
6 (8) Motels, Hotels, Inns 1 space per guest room plus 1 space
7 per employee plus 4 spaces per 1,000
8 sq.ft. (or 1 space per 250 sq.ft. or
9 portions thereof) of public assembly
10 area
11
12 (9) Bed and Breakfasts
13 and Homestays
14 **(Effective March 9, 2009)** 2 spaces plus 1 space per
15 guest room
16
17 (10) Veterinary Clinics 4 spaces/doctor plus 1
18 space/other employee
19
20 (11) Farm and Fish Markets 3 spaces per use or 3 spaces per
21 1,000 sq. ft. (or 1 space per 333 sq. ft. or portions
22 thereof. **(Effective**
23 **June 10, 2010)**
24
25 d. Industrial 1 space per employee
26
27 e. Golf Courses 4 spaces per hole plus parking
28 for any assembly, restaurant,
29 or retail space in accordance with the appropriate
30 requirements
31
32 f. Other Uses As determined by the Planning
33 Board based upon the ITE Parking Generation
34 Manual or data of actual parking
35 demand of similar uses
36

37 **C. Off-Street Parking Design Standards**

38
39 The following design standards shall apply to all new and expanded off-street parking areas:

- 40
41 1. Parking areas for uses other than single and two-family dwellings shall be designed so
42 that vehicles will not back out into a street.
43
44 2. Parking areas shall not inhibit emergency vehicle access to any building or structure.
45
46 3. Parking areas shall be separated from the front of all buildings by a landscaped area at

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least five (5) feet wide where parking is allowed in the yard area.

- 4. Wheel stops/curbs shall be placed where needed to prevent encroachment into walkways, landscaped areas, circulation aisles, streets and structures.
- 5. Parking spaces and travel aisles shall be clearly delineated in parking lots.
- 6. All parking areas shall be designed to adequately control drainage. In furtherance of this standard, drainage calculations used shall reflect a paved condition and all parking areas shall be constructed with base material which can withstand normally expected vehicle loading and winter maintenance.
- 7. If parking spaces are provided for self-parking by employees or visitors or both, accessible spaces meeting ADA requirements shall be provided in each parking area in conformance with the following:

Total Parking in Lot	Required Minimum Number of Accessible Spaces
1	1
26	2
51	3
76	4
101	5
151	6
201	7
301	8
401	9
501	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000

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- 8. Parking facilities within the Town Center District shall comply with the Standards of Sec. 19-6-4.D.3.g., Landscaping and Site Development.

SEC. 19-8-14. SHORT TERM RENTAL STANDARDS

Prior to operating a dwelling as a Short Term Rental, a completed Short Term Rental registration form shall be submitted to the Code Enforcement Officer. The Short Term registration form shall include the following:

- 1. Location. The street address and map/lot number of the short-term rental shall be provided. If the short term rental is not located on a public road, the form

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1 shall include directions to the short-term rental from a public road.

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3 2. Contact Person. The name of the owner of the Short Term rental and contact
4 information, including address and telephone number shall be included on the
5 registration form. In addition, if someone other than the owner is acting as the
6 local contact person, contact information for that person should also be provided.
7 If the contact person changes seasonally, the registration form shall include the
8 time period and the contact person during the year.

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10 3. Availability. The registration form shall include when, during the calendar year,
11 the dwelling will be operated as a Short Term Rental.

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12 For Short Term Rentals operating on a lot that is less than 30,000 sq. ft., or where the
13 Short Term Rental property owner does not have their legal residence on a lot abutting
14 the Short Term Rental, the following additional information shall be provided on the
15 registration form:

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17 4. Sanitary waste disposal. The form shall include the total number of bedrooms
18 included in the short-term rental, any additional sleeping space, and the total
19 number of overnight guests that the short-term rental accommodates. If the
20 short-term rental is publicly advertised, the total number of overnight guests
21 shall not be less than advertised.

22
23 The short-term rental owner shall submit information demonstrating that
24 adequate sanitary waste disposal is available in compliance with the Town of
25 Cape Elizabeth Subsurface Wastewater Disposal Ordinance, as determined by
26 the Code Enforcement Officer.

27
28 5. Parking. The form shall include a depiction of how parking will be provided on
29 the same lot as the Short Term Rental to comply with the Off-Street Parking
30 Standards, Sec. 19-7-8.

31
32 6. Rental Agreement. The Short Term Rental Registration Form shall be submitted
33 with a copy of a Rental Agreement that shall be provided to all guest groups. At
34 a minimum, the rental agreement shall include the following:

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- 35
- 36 a. Contact person
- 37 b. Emergency responder contact information and building evacuation plan.
- 38 c. Maximum number of guests
- 39 d. Parking arrangements, including a prohibition against guests and visitors
40 parking in a manner that impedes access by emergency vehicles to the
41 Short Term rental or any other dwelling in the neighborhood.
- 42 e. Event rules, as determined by the Short-Term Rental Owner.
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7. Life safety codes/Issuance. The Short Term Rental registration form shall be reviewed by the Code Enforcement Officer for compliance with the above requirements and any applicable life safety codes. Approval by the Code Enforcement Officer shall be valid for one year.

8. Renewal. Prior to renewing a Short Term Rental registration for another year, the Code Enforcement Officer shall review his/her records and request a report from the Police Chief regarding any complaints filed regarding the Short Term Rental property. If complaints have been made, the Code Enforcement Officer shall determine if any changes to comply with the above standards may be made to address the complaints. The Code Enforcement Officer shall notify the Town Manager of any complaints that cannot be addressed under the above standards.

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