

City of Saco, ME
Tuesday, August 7, 2012

Chapter 173. SEASONAL PROPERTY RENTAL

[HISTORY: Adopted by the City Council of the City of Saco 4-5-1999; amended in its entirety 2-7-2000. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 73.

Fire prevention — See Ch. 102.

Licenses and registration — See Ch. 132.

§ 173-1. Purposes and findings.

- A. The City of Saco has been blessed with a beautiful beach and beachfront residential community. Running from Camp Ellis to the border of Old Orchard Beach at Kinney Shores, Saco's beachfront is an historic, vibrant and diverse community. The area, bounded by the Saco River, a wildlife refuge of national significance, a state park, as well as the Goosefare Brook estuary, is an ecological marvel. It is one of the most desirable places in the City to both live and visit. Many people visit summer after summer, enjoying the opportunity to live, even temporarily, in this wonderful beachfront community.
- B. Comprehensive zoning and wetlands rules protect this area by limiting growth and development. Presently this is the City's most restrictive zone, in part so that its beauty and unique residential atmosphere is adequately preserved. The City recognizes, however, that many properties in the area have a long history of being rented for the summer season. Moreover, many property owners in the beachfront area have come to depend on the supplemental income generated by these seasonal rentals. Thus while such rentals are beneficial to particular property owners, they are simultaneously a burden upon the residential character of the area and produce an impact on a sensitive environment.
- C. Of particular concern to the City is that seasonal rentals are occurring in properties which were designed and built as single-family homes not as transient rental units. Further, many of these properties were built years before life safety and building codes came into enactment. The City believes and has found that seasonal rentals, no matter where found, pose a substantial safety risk to our visitor-guests. No City official has ever inspected those properties for adequate ingress/egress, for fire extinguishers, for smoke detectors, for adequate electrical systems, etc. The City presently inspects every multiunit building, hotel, motel, bed-and-breakfast in the City but has never inspected seasonal rentals. The Council believes that the mere fact that properties in our community rented only for a short season does not mean that fire safety review and compliance is unnecessary. On the contrary, given the age and date of construction of many of these homes, inspection is of great import, and should begin as soon as possible.
- D. Finally, the Council has found that not only are there more seasonal rentals occurring than previously believed, but no limitations on occupancy are in place. In one recent case, the City learned of a single-family home being advertised as sleeping 14. Such overburdening of properties places lives in jeopardy and affects surrounding residences adversely. The Council believes such use of property, regardless of location within the City, poses a risk to our visitor-guests.

- E. Therefore, the Council has found and determined that the welfare of visitor-guests to our community requires the City license, review and inspect lawful nonconforming properties offered for seasonal rental. Therefore, pursuant to the City's home rule authority, 30-A.M.R.S.A. § 3001, as well its inherent powers to protect the health, safety and welfare of those within its borders, the City enacts the following ordinance provisions.

§ 173-2. Applicability.

- A. Those covered. Any person, entity, business, partnership, corporation, etc., which offers for lease or rents any single-family, two-family and multifamily dwelling units for periods of six days to four months in duration shall secure a seasonal rental license from the Code Enforcement Officer. This chapter applies to all properties, whether that portion of time is broken into a monthly, weekly or other rental period of time. Only single-family, two-family and multifamily dwelling units within the area east of Seaside Avenue and Camp Ellis Avenue and areas within 400 feet to the west of the center line of these streets may be rented or leased as a seasonal dwelling.
- B. Those excluded. Those motels, hotels and bed-and-breakfasts already regulated by other parts of the City's ordinances are exempt from the conditions of this chapter. Rental of dwelling units for longer than four months is not considered a seasonal rental and is not regulated by this chapter. Both the renting of dwelling units as part of a house swap, and the renting of a dwelling unit for caretaking purposes at a rent which is substantially below market rent are not considered a seasonal rental and are not regulated by this chapter.
- C. Daily rentals prohibited. Unless the subject property is permitted as a bed-and-breakfast or motel or hotel, no property owner may rent any seasonal property on a per-day basis. Such rental is a violation of this chapter and shall subject the violator to a fine of no less than \$100 per day nor more than \$1,000 per day for each violation. Rentals of dwelling units for periods shorter than six days are prohibited.

§ 173-3. Standards for issuance and renewal.

- A. Review by Code Enforcement Officer. The Code Enforcement Officer shall review all applications for seasonal rental licenses. When granting a license, the Code Enforcement Officer shall determine the occupancy level permitted in the dwelling unit and include it in the license. No license shall be granted by the Code Enforcement Officer until the owner-applicant has satisfied the following conditions:
- (1) All requests for information required by the Code Enforcement Officer have been completed.
 - (2) All personal property taxes are current and paid.
 - (3) All other City fees or charges such as sewer user fees, etc., are current and paid.
 - (4) The application is for a lawful use in the zone, including a lawful nonconforming use.
 - (5) A first-time applicant has satisfactorily complied with all Fire Code, Building Code and Life-Safety Code requirements required by the Fire Department and Code Enforcement Office, including Life Safety Code 101 and the BOCA Property Maintenance Code. Renewal applicants shall not need to meet this condition unless § 173-5C applies and it is a fifth-anniversary renewal.
 - (6) The applicant has not violated license conditions in the past without adequate cause or explanation.
 - (7) The City has received less than three documented complaints regarding the premises within the prior year.

- (8) The Assessor has inspected the premises and properly assessed the property as income-producing for personal property tax purposes.
- (9) Any dwelling unit rented as a seasonal dwelling shall be occupied by only one family and shall not be sublet or subrented in whole or in part to another party.
- (10) Properties approved by the City as seasonal dwellings shall not include facilities and accommodations that would serve to circumvent this ordinance by creating independent or semi-independent suites of rooms that might be rented separately. Such facilities and accommodations might include but are not limited to kitchen facilities or partial kitchen facilities, microwave ovens, hot plates or other cooking devices, multiple laundry facilities, additional cable television connections or independently metered utilities, additional sinks and other plumbing, additional entrances beyond those customary in a dwelling unit and entrances which are separate from common areas of the dwelling unit and allow a room or suite of rooms to be occupied separately from the unit as a whole.

B. Fee and license form. The fee for the first license shall be established by the City Council after a public hearing. Said fee is to recover the cost of review and inspection by the Fire Department and Code Enforcement Office. The fee each year thereafter shall be established by the City Council after a public hearing. The license shall bear the name, address and telephone number of the property owner, similar information for the owner's agent or representative (if any), the address of the property or properties covered, the permitted period of seasonal rentals and the maximum number of guests permitted to remain overnight in the subject premise(s). The license form shall be uniform among applicants and shall be determined by the Code Enforcement Officer.

[Amended 4-7-2003]

- C. Standards for denial. If the Code Enforcement Officer finds substantial and credible evidence that one or more of the above conditions (Subsection A above) have not been met by the applicant or have been violated, then the Code Enforcement Officer shall deny the applicant a license. However, the applicant may request a re-review and reinspection after an initial denial of license. If the applicant subsequently corrects, abates, meets or otherwise satisfies the above conditions, the Code Enforcement Officer shall then issue the applicant a license for seasonal rentals. If the City reinspects or reviews the applicant's facilities, an additional charge of \$50 shall be paid upon issuance of the license. Under all circumstances, the Code Enforcement Officer shall provide to the applicant all material supporting the decision to deny a license.
- D. Time for review. The Code Enforcement Officer shall make a determination under Subsection A of this section in a period of 21 days. Only if the Fire Department or Codes Officer is unable to complete their inspection within 21 days may the Code Enforcement Officer issue a conditional license.
- E. Rentals without a license. Any person, entity, business, partnership or corporation which leases or rents any property for any portion of a calendar year less than four months in duration, whether said period is broken into monthly, weekly or other rental periods, without a license shall be in violation of this chapter, punishable by a fine of not less than \$100 nor more than \$1,000 per day for each violation.
- F. Safety inspections. The City through its Fire Department and Code Enforcement Office shall inspect every application. The City shall assure compliance with those codes set forth below in Subsection G. If a property has one or more deficiencies, those shall be cited, and the owner given an adequate and defined period of time to correct or abate the defect. If the owner-applicant fails to correct or abate the defect, the property owner shall not lease or rent the property thereafter until compliance has been secured. The City shall charge a fee established by the City Council after a public hearing for the cost of reinspections conducted under this section.

[Amended 4-7-2003]

G. Incorporation by reference. This chapter incorporates by reference the following life-safety codes of the City already in force and effect and any successor to said codes:

- (1) Life Safety 101 (See Chapter 102, Article II).
- (2) BOCA Property Maintenance Code (see Chapter 73).

§ 173-4. Revocation or suspension of license.

A. Grounds. A license for seasonal rental may be suspended or revoked upon a determination of the existence of one or more of the following grounds, provided that there are serious and substantial incidents warranting suspension or revocation:

- (1) Knowingly making an incorrect or false statement of a material nature on the application form or failure to supply any additional documentation required or reasonably necessary to determine whether such license is issuable or failure to pay any fee required hereunder.
- (2) The license holder has caused or suffered more than two or more documented and serious breaches of the peace on the premises.
- (3) The premises presents a clear danger to the public.
- (4) The license holder has willfully violated a provision of this chapter or other ordinance of the City of Saco.
- (5) Personal property taxes, sewer user, access or hook-up fees are due and owing to the City, and are determined to be in arrears as of the date of the license request.
- (6) The license holder has repeatedly violated and/or failed to correct and comply with standards set forth in the City's Fire and Life Safety Codes and Ordinances as described in § 173-3F.
- (7) The licensee or the licensee's agent has permitted, caused or suffered more guests in the premises than permitted by the license on more than one occasions.
- (8) The license holder has allowed, suffered, permitted or encouraged an over occupancy of the property (occupancy greater than permitted by license) on more than two occasions.

B. Complaints. Any individual or City official can file and/or initiate a complaint against a license holder. All complaints received shall be promptly forwarded to the property owner at their address of record, and any response from said owner or their agent shall be kept and maintained by the Code Enforcement Officer for future consideration along with the underlying complaint when and if the owner seeks to renew their license.

C. Standards for suspension or revocation. If the Code Enforcement Officer finds substantial and credible evidence that one or more of the conditions described in § 173-4A have been met, then the Code Enforcement Officer shall notice the license holder of the problem and they shall have seven days to correct or abate the situation. The City shall reinspect the premises at the end of seven days. If the license holder has failed to correct or abate the problems cited by the City, then the Code Enforcement Officer shall suspend the license. The Code Enforcement Officer shall provide all materials supporting the decision to the aggrieved party.

§ 173-5. Term of license.

A. Expiration. All licenses shall expire on December 31 each year.

B. Renewals. License holders may renew their licenses each year but must reapply to the Code Enforcement Officer per § 173-3. The fee for a license renewal shall be \$10. The applicant seeking

renewal must meet all of the qualifying conditions set forth in § 173-3. In processing applications, the Code Enforcement Officer shall give precedence to license renewals over the issuance of new licenses.

- C. Five-year inspections. At five-year intervals from the fire/life safety inspection, the City shall conduct a follow-up fire/life safety inspection as described in § 173-3F. The fee for such reinspection shall be established by the City Council after a public hearing.

[Amended 4-7-2003]

§ 173-6. Appeals.

- A. Time period. An appeal to the City Council may be taken by any person aggrieved by the denial, suspension or revocation of a license by the Code Enforcement Officer by filing a notice of appeal within 30 days of the final decision. Every appeal should be in writing and shall state the basis for the appeal. The City Council shall hear the appeal within two weeks after the filing of the appeal and may affirm, reverse or modify the decision appealed from.
- B. Evidence. On appeal, the Council shall review the decision of the Code Enforcement Officer to determine whether the decision was based upon substantial evidence and in compliance with the standards of the chapter. The Council may take additional evidence with respect to such decision or action and, if additional testimony or evidence is taken, shall determine the appeal upon all of the evidence presented.
- C. Appeal from City Council. Any person aggrieved by the Council's decision on appeal may appeal to the Superior Court in accordance with the provisions of Maine Rule of Civil Procedure 80B.

§ 173-7. Assignment of licenses.

- A. Assignment. A license for seasonal rental may not be assigned, pledged, sold or otherwise transferred by the license holder to any other person, business or entity. The license belongs solely to the original applicant and shall remain in the applicant's name for the duration of the license.
- B. Violation of chapter. If any person, business or entity transfers or attempts to transfer their license, such act shall result in an immediate termination of the license. All subsequent rental after said termination shall be a violation of this ordinance, punishable by a fine of not less than \$100 nor more than \$1,000 per day for each violation.

§ 173-8. Display.

- A. Display. The license holder shall display at all times their license in a place and manner visible to those individuals renting, leasing or occupying the premises. A copy of the license shall be kept in a window visible from the street for inspection by the Codes Officer and the Assessor.
- B. Violation. The failure to display a license for seasonal rentals is a violation of this ordinance punishable by a fine of not less than \$100 nor more than \$1,000 per day for each violation.

§ 173-9. Enforcement.

- A. By summons. The City shall enforce this ordinance by civil citation and summons deliverable by the Saco Police Department or the Code Enforcement Officer.
- B. Fines. Any and all fines or penalties secured as a result of violations of this ordinance shall be payable to the City's general fund.

§ 173-10. Registration.

Those persons, businesses, corporations or entities who or which require a seasonal rental license pursuant to this chapter need not secure a business registration as required under Chapter 132 of this Code. A license issued pursuant to this chapter shall constitute registration as required by Chapter 132, and compliance with the terms of this chapter shall constitute compliance with the terms of Chapter 132.