

1 **Proposed Short Term Rental Regulations**
2 **Town of Cape Elizabeth Zoning Ordinance**

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

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8 **Homestay:** A use that is accessory and incidental to the primary use of a
9 dwelling as a residence and that (1) provides one or two furnished bedrooms for
10 rent to guests for 1 or more nights; (2) is operated by the ~~family~~ or person who
11 owns and resides (ing) permanently in the home and who is in the home
12 overnight during the guest occupancy; (3) may serve 1 or more meals to guests
13 only, and (4) provides all parking on-site. A maximum of one homestay is
14 allowed per multifamily building. (Effective March 9, 2009)

15
16 **Owner:** Means any person who alone or jointly or severally with others has legal
17 or equitable title to any premises.

18
19 **Owner-Occupied** means the owner of the property who resides in the short-term
20 rental property, or in the principal residential unit which is either located on the
21 same lot or immediately adjacent lot, and who identifies the same as his principal
22 residence.

23
24 **Principal residence:** means the address where at least one of the property
25 owners spends the majority of his or her non-working time; which is most clearly
26 the center of his or her domestic life; and which is identified on his or her
27 driver’s license or state tax returns as being his or her legal address.

28
29 **Short Term Rental:** The accessory and incidental use of an owner -
30 occupied dwelling, where the dwelling is the principal residence of the owner
31 and which is offered for rent for transient occupancy for a tenancy of less than 30
32 days, excluding motels, hotels and bed and breakfasts. (Effective December 14,
33 2012) .

34
35 **Short Term Rental Guest:** A visitor of a Short-Term Rental tenant who will not
36 be sleeping overnight on the property, provided persons on the property after
37 11:00 PM local time shall be deemed tenants and not Short-term Rental Guests
38 for the purposes of this Ordinance. (Effective December 14, 2012)

39
40 **Tenant:** An occupant of land or premises who occupies, uses, and enjoys real
41 property for a fixed time, usually through a lease arrangement with the property
42 owner or with the owner’s consent. When applied to a Short-Term Rental,

1 anyone sleeping overnight for compensation shall be considered a tenant.
2 (Effective December 14, 2012)

3
4 **Transient occupant:** means any person, guest, or invitee of such person who, in
5 exchange for compensation occupies or is in in actual or apparent control or
6 possession of a residential property for less than 30 days. It shall be a rebuttable
7 presumption that any person who holds themselves out as being an occupant or
8 a guest of a short-term rental is a transient occupant.
9

10
11 **SEC. 19-6-1. RESIDENCE A DISTRICT (RA)** [same for RB, RC, TC, BA districts]
12

13 **B. Permitted Uses**

14
15 3. The following nonresidential uses:

16
17 g. Short Term Rental. (Effective December 14, 2012) It shall be
18 unlawful to provide, rent, operate, or advertise transient occupancy
19 in a residential zone, except pursuant to the provisions of the short-
20 term rental provisions of this ordinance.
21

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

23 (Effective December 14, 2012)

24
25 **A. Purpose**

26
27 Cape Elizabeth residents prize the peace and quiet of their residential
28 neighborhoods. Some property owners have capitalized on the desirability of
29 their neighborhood by renting out their property, especially during the summer
30 months and holidays. Short term rentals can provide homeowners with an
31 opportunity to maintain their home ownership in difficult economic
32 circumstances. Neighborhood residents are concerned that non-owner
33 occupied ~~short-term~~ rentals of less than 30 days, constitute take on the
34 character of a business operating in a residential neighborhood. Non-owner-
35 occupied rentals of less than 30 days have created disproportionate impacts on
36 residential neighborhoods, related to their size, excessive occupancy, lack of
37 parking and other proper facilities, noise, and public safety concerns. The
38 presence of non-owner occupied short term rentals have decreased the supply of
39 available family housing, making it increasingly difficult to obtain housing. The
40 Council finds that non owner-occupied short-term rentals are businesses and not
41 accessory and incidental uses of principal residences. The purpose of this section
42 is to balance the desire of owner occupied property owners to rent their

1 properties to short term tenants and the desire of residents to preserve the
2 peaceful quiet and enjoyment of their residential neighborhoods.

3
4 **B. Applicability**

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6 A Short-Term Rental is permitted only after the issuance of a Short-Term Rental
7 permit. Notwithstanding the preceding sentence, a permit is not required for a
8 Short-Term Rental which, with any prior Short-Term Rental of the property, does
9 not exceed in the aggregate fourteen (14) days in any calendar year. For the
10 purpose of determining whether a permit is required, each rental of the property
11 shall be deemed for a period of not less than seven (7) days regardless if the
12 actual number of days the property is occupied is less than seven (7) days.
13 Further, not more than one Short Term Rental agreement shall be entered for any
14 given property for any consecutive seven-day period.

15
16 **C. Review Procedure**

- 17
18 1. The Code Enforcement Officer shall have the authority to issue a
19 Short-Term Rental permit.
20
21 2. The Code Enforcement Officer shall provide a Short-Term Rental
22 application to be completed by the applicant and submitted to the
23 Code Enforcement Officer accompanied by the Short-Term Rental
24 permit fee as established by the Town Council. The form shall
25 include a non-exclusive checklist of code requirements that the
26 property owner shall demonstrate compliance with.
27
28 3. The code Enforcement Officer shall determine if the form has been
29 properly completed before any permit is issued.
30
31 4. The first time that a Short-Term Rental permit is submitted for a
32 property, no permit shall be issued until the Code Enforcement
33 Officer has inspected the proposed Short-Term Rental property for
34 compliance with the Short-Term Rental Standards and compliance
35 with building code requirements. Thereafter, renewal of a Short-
36 Term Rental permit shall require inspection by the Code
37 enforcement Officer of the Short-Term Rental property no less than
38 once every five years. When the Code Enforcement Officer does
39 not conduct an annual inspection, the Short-Term Rental owner
40 shall certify that there have been no material changes since the last
41 inspection by the Code Enforcement Officer. Any third-party
42 inspection information submitted with the completed form shall

1 have been conducted within the twelve months prior to the permit
2 being issued.

3
4 5. The Code Enforcement Officer shall review the permit application
5 for compliance with the Short-Term Rental Standards.

6
7 6. If the Code Enforcement Officer determines that the proposed
8 Short-Term Rental application complies with the Short-Term Rental
9 Standards, a Short-Term Rental permit shall be issued. A permit
10 shall be valid for one (1) year from date of issuance. The permit
11 may be subject to suspension by the Code Enforcement Officer if
12 the Short-Term Rental property becomes non-compliant with the
13 Short-Term Rental Standards, and may be revoked as provided in
14 19-8-14.(F).

15
16 **D. Submission Requirements**

17
18 The Short-Term Rental permit application shall include the following
19 information:

20
21 1. Location. The street address and map/lot number of the Short-
22 Term Rental property. If the property is not located on a public
23 road, the form shall include directions to the property from a public
24 road.

25
26 2. Contact Person/Owner Responsibility. The name of the owner of
27 the Short-Term Rental property and contact information, including
28 address and telephone number. In addition, if someone other than
29 the owner is acting as the local contact person, contact information
30 for that person shall also be provided. If there will be different
31 contact persons for different time periods during the year, the form
32 shall include the applicable contact person for each time period.
33 Regardless of who enters the Short-Term Rental agreement, or who
34 may be designated as the owner's contact person, the property
35 owner shall be responsible for compliance with the Short-Term
36 Rental Ordinance provisions.

37
38 3. Availability. The registration form shall include when, during the
39 calendar year, the Short-Term Rental will be available for rental. If
40 these changes, the owner shall notify the Code Enforcement
41 Officer.

- 1 4. All information needed to demonstrate compliance with the
2 standards listed in Subsection E below.

3
4 **E. Standards**

5
6 The Code Enforcement Officer shall issue a Short-Term Rental permit upon the
7 applicant satisfying the above requirements if the following standards are met:

- 8
9 1. Code compliance. An applicant's property, without limitation,
10 comply with the following building code sections of the
11 International Residential Code ("IRC") and the International
12 Building Code ("IBC"):
13
14 a. IRC Section R 314, Smoke Alarms;
15 b. IRC Section R 315, Carbon Monoxide Alarms;
16 c. IBC Section 906, Portable Fire Extinguishers. The building
17 shall be considered to be an R-1 Occupancy (Boarding
18 House) for the purpose of determining the type and location
19 of portable fire extinguishers;
20 d. IBC Section 1006.2. 1006.3 and 1006.4. Means of Egress
21 Illumination.

22
23 The applicant shall provide floor plans of the dwelling unit that
24 shows the location of the alarms, fire extinguisher(s) and
25 emergency lighting.

- 26
27 2. Building evacuation plan. A building evacuation plan shall be
28 prominently posted in the Short-Term Rental property during the
29 rental period.

- 30
31 3. Sanitary waste disposal. The applicant shall submit information
32 demonstrating that adequate sanitary waste disposal is available in
33 compliance with the Town of Cape Elizabeth Subsurface
34 Wastewater Disposal Ordinance, as determined by the Code
35 Enforcement Officer, or that the property is served by public sewer.

36
37 The information shall include the total number of bedrooms
38 included in the property, any additional sleeping space, and the
39 total number of tenants that the property accommodates. The total
40 number of tenants used to determine adequacy of sanitary waste
41 disposal shall not be less than the total number of tenants that the
42 property is advertised to accommodate. For the purpose of

1 evaluating the adequacy of a subsurface disposal system, every two
2 tenants shall be equivalent to one bedroom.

3
4 4. Parking. The applicant shall include a depiction of how parking
5 will be provided on the same lot, and/or include a written
6 agreement for off-site parking at a specified location, to comply
7 with the Off-Street Parking Standards, Sec. 19-7-8. Garage parking
8 spaces not allowed for tenant use shall not be used to meet the
9 Short-Term Rental parking requirement. No bus shall be parked at
10 the Short-Term Rental property during any rental period.

11
12 5. Rental Agreement Addendum. The Short-Term Rental permit
13 application shall be submitted with an addendum to be attached to
14 Short Term Rental agreement between owner and tenant that shall
15 be provided to all tenants. The Town shall not be responsible for
16 enforcement of the rental agreement of addendum. The rental
17 agreement addendum shall include the following:

- 18
19 a. Contact person;
20 b. Emergency responder contact information;
21 c. Building evacuation plan;
22 d. Maximum number of tenants and guests;
23 e. Parking arrangements, including a prohibition of tenants
24 and guests parking in a manner that impedes access by
25 emergency vehicles to the property or any other dwelling in
26 the neighborhood;
27 f. Maximum number of tenants and guests allowed at the
28 property;
29 g. Good neighbor guidelines;
30 h. Copy of the Miscellaneous Offenses Ordinance.

31
32 6. Limit on rental intensity. If a Short-Term Rental property is
33 operated on a lot of 30,000 sq. ft. or less in size and property owner
34 is not either living on an abutting lot or in a separate dwelling in
35 the same lot, the Short-Term Rental permit shall not allow more
36 than two tenants per bedroom, shall not allow use of non-bedroom
37 areas for sleeping, and shall not allow occupancy by more than
38 eight tenants at any time. The number of short term Rental
39 guests shall be limited to eight at any time. On-site parking shall be
40 limited to four parking spaces.

41
42
43 **F. SUSPENSION AND REVOCATION OF PERMIT**

1
2 In addition to the provisions of Sec. 19-3-6. Violations, a permit for a Short-Term
3 Rental may be suspended or revoked if the Code Enforcement Officer determines
4 that one or more substantiated complaints regarding Short Term Rentals of a
5 property have been made in a three-year period.

- 6
7 1. Complaint. Any individual or town official may file and/or initiate
8 a complaint against a Short-Term Rental permit holder. If the
9 Police Department or the Code Enforcement Officer receives a
10 complaint, they shall visit the property. The Police Department
11 shall generate a report of the facts its officers have observed upon a
12 visit, and statements made to them regarding the Short-Term
13 Rental. The Police Department shall then forward the report to the
14 Code Enforcement Officer.

15
16 When the Code Enforcement Officer receives a report from the
17 Police Department, or the Code Enforcement Officer has responded
18 to a complaint or independently investigated, the Code
19 Enforcement Officer shall inspect the property and shall collect
20 information related to the complaint, including notifying the
21 property owner and requesting information regarding the
22 complaint. Within five days of receiving a Police Report or
23 complaint, the Code Enforcement Officer shall determine if the
24 complaint is substantiated. A complaint is substantiated when the
25 Code Enforcement Officer concludes that one or more violations of
26 the Short-Term Rental provisions occurred.

- 27
28 2. First Substantiated Complaint. Once the Code Enforcement Officer
29 has made a finding of a substantiated complaint, the Code
30 Enforcement Officer shall notify the property owner in writing.
31 The notification shall require the property owner to meet with the
32 Code Enforcement Officer within five (5) business days from the
33 date of the written notification, or such other time as is agreed
34 upon by the Code Enforcement Officer, to identify ways in which
35 the violation(s) will be corrected. The owner will agree to take
36 all necessary measures to correct the violation(s), which measures
37 shall be memorialized in a written agreement at the conclusion of
38 the meeting and shall be fully implemented within one (1) week of
39 said meeting unless another date is agreed to by the Code
40 Enforcement Officer. Failure of the property owner to enter into
41 such an agreement at the conclusion of the meeting will be deemed
42 a second violation of the Short-Term Rental provisions. In

1 addition, the Code Enforcement Officer may suspend the Short-
2 Term Rental permit for a term not to exceed thirty days.

- 3
4 3. Second Substantiated Complaint. Once the Code Enforcement
5 Office has made a finding of two (2) substantiated complaints, the
6 Code Enforcement Officer shall notify the property owner in
7 writing that the Short-Term Rental permit shall be suspended for a
8 period of not less than thirty days, nor more than one hundred
9 twenty days.

10
11 The notification shall require the property owner to meet with the
12 Code Enforcement Officer within five (5) business days from the
13 date of the written notification, or such other time as is agreed
14 upon by the Code Enforcement Officer, to identify ways in which
15 the violation(s) will be corrected. The owner will agree to take all
16 necessary measures to correct the violation(s), which measures
17 shall be memorialized in a written agreement at the conclusion of
18 the **meeting and shall be fully implemented within one (1) week**
19 **of said** meeting unless another date is agreed to by the Code
20 Enforcement Officer. Failure of the property owner to enter into
21 such an agreement at the conclusion of the meeting will be deemed
22 a violation of the Short-Term Rental provisions.

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24 4. Third Substantiated Complaint. Once the Code Enforcement
25 Officer has made a finding of three substantiated complaints, the
26 Code Enforcement Officer shall notify the property owner in
27 writing that the Short-Term Rental permit has been revoked for one
28 calendar year.

- 29
30 5. Appeal. An appeal to the zoning Board of Appeals as an
31 Administrative Appeal may be taken by any person aggrieved by a
32 determination of the Code Enforcement Officer pursuant to Section
33 19-5-2.(A).

- 34
35 6. Effective Date. ~~The Short-Term Rental provisions of the ordinance~~
36 ~~shall be fully effective as to all contracts for short Term Rentals~~
37 ~~executed on or after 30 days from date of enactment, and shall~~
38 ~~further apply to all contracts in effect on such date to the extent the~~
39 ~~application of these provisions would not result in a substantial~~
40 ~~impairment of such existing contracts.~~

1 Effective Date. This ordinance shall be effective on February 1, 2020.

2
3 Transition. If, on the day of the adoption of this chapter, a currently operating,
4 permitted, lawful short term rental has a pre- existing contract for a period of
5 time before January 1, 2021, the requirements of this amendment shall not apply.
6 To be eligible for this transition grace period, the requesting party must provide
7 documentation that the rental premises had a short- term rental permit from the
8 town and that the contract was entered into before the adoption of this
9 amendment. Such documentation shall be provided to the Code Enforcement
10 Officer with in 90 days of the adoption of this ordinance. Failure to provide such
11 documentation shall render such occupancy unlawful and in violation of this
12 chapter.

13
14 Violations and Penalties. A violation of any provision of this chapter may be
15 assessed a fine of up to \$2000 per violation. Each day is a separate violation.
16
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