

THE TOWN OF KIAWAH ISLAND

ORDINANCE 2019-08

AN ORDINANCE REPEALING ARTICLE 15, GENERAL OFFENSES, CHAPTER 8, SHORT-TERM RENTAL PERMIT AND REGULATIONS OF THE KIAWAH ISLAND MUNICIPAL CODE; BY AMENDING ARTICLE 14, GENERAL REGULATIONS AND ADDING CHAPTER 5, SHORT-TERM RENTAL APPLICATION AND REGULATIONS

WHEREAS, owners of residential units within the Town may rent their dwelling units for periods of time less than 30 days conditioned on paying a short-term rental business license fee, being licensed to conduct business, and the payment or collection and remittance of applicable state, county and local accommodation taxes; and

WHEREAS, the Town Council believes that establishing specific regulations and licensing requirements for short-term rental units is necessary to protect the public health, safety, and welfare; and

WHEREAS, the Town Council established short-term rental license caps in the R-1 and specific areas of R-2 residential zones; and

WHEREAS, the Town Council concludes that specific regulation and licensing for short-term rentals will help balance the community's interest in attracting visitors while maintaining a high quality of life for full and part-time Town residents; and

WHEREAS, the Town Council wishes to amend the current sections relating to the regulation of residential property as short term rentals.

Section 1. Article 14 of the Kiawah Island Municipal Code is hereby amended by the addition of a new Chapter 5, Short-Term Rental Application and Regulations, to read as follows:

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE COUNCIL OF THE TOWN OF KIAWAH ISLAND, SOUTH CAROLINA, AND IT IS ORDAINED BY THE AUTHORITY OF SAID COUNCIL.

Section 1 Purpose

The purpose of this Ordinance is to repeal and replace Article 15, General Offenses, Chapter 8, Short Term Rental Permit and Regulations by amending Article 14, General Regulations and adding Chapter 5, Short-Term Rental Application and Regulations.

Section 2 **Ordinance**

The Town hereby repeals Article 15, General Offenses, Chapter 8, Short Term Rental Permit in its entirety, and amending Article 14, General Regulations and adding Chapter 5, Short-Term Rental Application and Regulations.

Article 14, General Regulations, Chapter 5, Short-Term Rental Application and Regulations, be, and the same is hereby created as follows in **“Attachment A.”**


Section 3 **Severability**

If any part of this Ordinance is held to be unconstitutional, it shall be construed to have been the legislative intent to pass said Ordinance without such unconstitutional provision, and the remainder of said Ordinance shall be deemed to be valid as if such portion had not been included. If said Ordinance, or any provisions thereof, is held to be inapplicable to any person, group of persons, property, kind property, circumstances or set of circumstances, such holding shall not affect the circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances


Section 4 **Effective Date and Duration**

This Ordinance shall be effective on January 1, 2020.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF KIAWAH ISLAND ON THIS 5th DAY OF NOVEMBER 2019.



Craig Weaver, Mayor



Petra S. Reynolds, Town Clerk

1st Reading: October 1, 2019

2nd Reading: November 5, 2019

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Chapter 5 Rental Applications and Regulations

The intent of these regulations is to promote public health, safety, and welfare and to discourage nuisance and behavioral issues associated with short-term rental properties in residential zoning districts, R-1, R-2, and R-3.

Sec. 14-501. – Definitions

The following words and phrases, as used in this Article, shall have the following meanings:

An authorized agent is an owner, the owner's agent, or the owner's designee who is normally available and authorized to respond to any issues arising from a short-term rental unit within two (2) hours and who is authorized to receive written notice on behalf of the owner.

CAPS is the maximum number of properties that may be licensed for short-term rental use, calculated as a percentage of total developed dwelling units and developable lots within each zoning district. Total properties are based on the records of the County Assessor's Office as of December 31 of each preceding year.

Destination or Private Vacation Clubs ("Destination Clubs") are classified as private and/or exclusive membership organizations or commercial businesses primarily engaged in providing short-term overnight accommodations and related services for its club members with non-ownership interest who seek alternative options to standard vacation home rentals. Destination Clubs typically own or lease properties from the owners on a long-term basis, provide those properties in a variety of locations to its members on a short-term basis, and model a membership access structure where its members purchase membership levels granting access to properties and personalized services. Properties offered by Destination Clubs to a member for less than thirty (30) days are considered STRs whether the Destination Club is an owner of record or a lessee. All references to

"owners" in this Chapter apply to Destination Clubs

Non-Conforming Use is a use which was lawfully established and maintained, but which does not comply with the use regulations applicable to new uses in the zoning district in which it is located; the use any of any land, building, or structure which does not conform with currently applicable use regulations, but which complied with use regulations in effect at the time the use was established.

Owner in the context of short-term rental means the record owner of the property or any person or entity that leases from the record owner of the property, who engages in the business of furnishing for lease or for rent, either directly or through a third-party entity, a *short-term rental unit* and who must be licensed both as a business and under this Chapter.

Provisional Lot License (PLL) is a license that provides the owner of a vacant developable lot (hereafter referred to as "lot") the right to obtain a STR License. The PLL is valid for 3 years from issuance and guarantees the owner the right to obtain a Rental Business License upon issuance of a Certificate of Occupancy (CO). In the event construction is in the process, but a CO has not been issued, the PLL holder may appeal the expiration of the PLL to the Town Treasurer for an extension of up to 120 days.

Short-term rental (STR) property means an accommodation, rented or leased for less than thirty (30) consecutive days, used in a manner consistent with the residential character of the dwelling, when the property on which the accommodation is located is assessed, for county property tax purposes, as residential property. **Exceptions:** Rental properties that are available for rent for a period not to exceed 14 calendar days in a calendar year are exempt from the provisions of this Ordinance. Hotels, motels, inns, and bed and breakfasts are not considered STRs.

Any property which is leased from its owner on a long-term lease basis (30 days or greater), then made available by the lessee for short term rental or occupancy to a different party shall be considered a short-term rental and both lessor and leasee are subject to this ordinance. Vacation time-sharing plans are not short-term rentals and are not allowed pursuant to Section 14-201 of this Code.

Sec. 14-502. – Rental Business License Application

The town shall not grant a rental business license for a STR until the following conditions are satisfied:

- (1) An Owner or the Authorized Agent on behalf of the owner is required to obtain an annual Class 7 Rental Business License from the Town for each STR property prior to advertising or renting.
- (2) A Rental Business License application shall be completed for each STR by the owner or its authorized agent. The signed Rental Business License application shall be a legal and binding agreement acknowledging that all town ordinances and rental regulations shall be adhered to for the duration of the Rental Business License. The Rental Business License application shall be submitted, and subject to review, annually.

An owner of a lot within the R1/R2* area (see Table 15-805.1) may apply for a Rental Business License. Upon receipt of a completed application, the Town will issue, based on the availability of such licenses, a PLL.

- (3) The annual application fee for the Rental Business License, including lot applicants, is \$500 for any property in the R1 or R2 zoning districts subject to caps; \$200 for all other properties. In the event a license is not granted due to licenses being capped, the application fee will be suspended until such time that the application is approved, and a license is awarded. A license is nontransferable between owners. A change in ownership of the STR property shall require the new owner or its authorized agent to apply for a new license for the dwelling unit or lot, subject to license availability. The previous owner is responsible for all charges prior to the change of ownership and is responsible for properly closing his/her license with the Town of Kiawah Island.
- (4) If the applicant is someone other than an owner, the applicant shall submit a copy of the owner's written authorization of the applicant's right to apply for the rental business license. Where the property is leased to the applicant, the applicant must attach a copy of the lease.

Sec. 14-503. – Permit and Operating Requirements

- (a) It shall be the sole responsibility of the STR owner directly or through his or her authorized agent to notify and educate the guests of all applicable STR rules and regulations, including all rules encompassed in Section 15-806.
- (b) No owner or his or her agent may advertise a STR property in any manner that would constitute a violation of this chapter. The property owner and his/her authorized agent shall be jointly responsible for the accuracy of advertising of all STR properties as required in 15-803(c).
- (c) The advertisement of any STR properties must include the rental business license number, the maximum number of vehicles permitted for overnight parking, number of approved bedrooms, and the maximum allowable occupancy
- (d) Prior to the issuance of a STR rental business license, all first-time STR's applying for a license or any property requesting a change in the number of bedrooms or a change in parking capacity are subject to and must pass a rental property inspection pursuant to Section 15-803 (e).
- (e) All rental properties shall remain compliant with the current edition of the International Property Maintenance Code (IPMC). All STR properties are subject at any time, with notice, to inspection for compliance to the IPMC and/or Town ordinances. Inspections will include, but not limited to:
 - (1) Smoke Alarms. Smoke alarms are required in each bedroom and the hall leading to the bedroom.
 - (2) Carbon monoxide detector.

- (3) Sprinkler System. If the residence has a fire sprinkler system, it shall be the owner's or their authorized agent responsibility to furnish documentation to the code enforcement officer that their sprinkler system received an annual inspection and is in proper working order.
- (4) Fire Extinguishers. A fire extinguisher meeting the requirements as a 1-A: 10-B:C shall be under the kitchen sink in all rental units.
- (5) Vehicle Parking Spaces. Verification of the number of vehicle parking spaces permitted on site as set forth in Sec. 15-806 (d).
- (6) Bedroom Count. Verification of the number of bedrooms within each rental unit as set forth in Sec. 15-806 (c).
- (7) Structural Elements. Decks, stairs, handrails, and guardrails including boardwalks.
- (8) Enclosed Trash Receptacles. Trash receptacles shall be enclosed in a garage or approved screened enclosure.
- (9) Posted Address and Contact Information and Rules and Regulations. Each rental unit shall furnish the property's address, and the owner's or authorized agent's contact information, including all other information required by Section 15-806, inside the unit in a visible place to occupants in the event an emergency.

Sec. 14-504. – Rental Business License

- (a) Article 4 – Finance and Taxation, Chapter 3. - Municipal Business Licenses, regulates all business licenses. The following additional regulations apply specifically to STR business license.
- (b) A short-term Rental Business License expires annually on December 31st. License holders must renew each calendar year and have until February 28th of the following year to renew their license without penalty. As of March 1st, if the holder of an expired license submits a renewal request, one of the following conditions shall apply:
 - 1) If the property is in an R1 or R2 zoning district, and the License Cap in Table 15-805.1 has not been reached, the license is renewable subject to a \$1000 late fee, plus all applicable fees.
 - 2) For properties in all other zones, the license is renewable subject to a \$1000 late fee, plus all applicable fees.
 - 3) If the property is in an R1 or R2 zoning district subject to caps, and the Town is unable to issue a STR business license solely due to the percentage Caps established herein, (see 15-805.1), a new application can still be filed, and the applicant will be placed on a waiting list. If a permit becomes available, the Town will notify the applicant who has been on the waiting list the longest and allow him/her 7 business days to provide the Town with any and all information necessary to ensure the application is current and otherwise complies with the ordinance. If the

applicant fails to respond and/or provide current information within 7 business days, the Town shall remove the applicant from the waiting list and repeat the process until a STR business license, or PLL, has been issued, or all of the applicants on the waiting list have been notified.

- 4) Late renewals (after the close of business on Feb 28th), are not permitted for non-conforming use properties previously holding a valid STR business license, including Destination or Vacation Clubs.
- (c) A license holder shall provide proof of accommodation tax payments for the previous year at the time of license renewal. Failure to pay all required accommodation taxes constitutes grounds to not renew a rental business license.
 - (d) All fees related to STR business licenses must be paid in full at the time of application. Upon the closing of the license, the licensee is responsible for notifying the Town and properly closing their account.

Sec. 14-505. – Short-term Rental Property Caps

Short term rental Caps are established in the R1 zoning district and identified R2 zoning districts (see Table 15-805.1 for details). The limitations and requirements of this section apply to short-term rental properties in the Town's R1 and R2* zoning districts.

- (1) License Caps. Licenses for rental properties shall be distributed on a first-come, first-serve basis. Active licenses expire annually on December 31 of each year. Applications received after February 28th are subject to late fees as defined in Sec. 15-804(b)(1)(2).
 - a. Properties holding a rental business license will have first preference to renew by February 28th to maintain their license, as long as the license is in good standing with the Town.
 - b. Available licenses are subject to the percentage of rental caps allowed within the zoning district, pursuant to Table 15-805.1, Rental Property Zoning Caps.
 - c. If a license cap is reached within the R1/R2* zoning district, the applicant will be placed on a waiting list until a license becomes available, consistent with provisions in Section 15-804 (b)(3).
 - d. STR or PLL licenses are not transferable. In the event of the transfer of property ownership, including the transfer of interests in corporations or partnerships that own a licensed property, the new owner may apply for a new STR or PLL license, subject to Section 15-802 and all other provisions of this ordinance. **Exception:** Intra-family transfers of property can include the transfer of a STR or PLL license.
 - e. A license may be subject to expiration or may not be renewed should an owner report <\$3,000 of annual rental revenue. In the event of annual revenue below \$3,000, an owner will need to demonstrate the short-term rental property was available and advertised for rental throughout the previous year.

- (2) In calculating the number of rental business licenses available in any calendar year, the calculation will be based on the percentages defined in Table 15-805.1

Table 15-805.1: Rental Property Zoning Caps			
Zoning District	R-1 and R-2*	All other R-2	R-3
Maximum % of STR properties allowed	20%	No Limit	No Limit
<p><i>Rental percentages are a ratio of rental licenses (including PLL's) to developed lots within the R1 zoning district, and the specific R2 zoned areas identified below. Developed lot numbers are defined from the County Assessors Office as of December 31 of the prior calendar year.</i></p> <p><i>*R-2 districts include: Indigo Park, Ocean Oaks, Ocean Park, and Silver Moss, Osprey Point (Club Cottage Lane, Marsh Cottage Lane, and Shell Creek Landing)</i></p>			

- (3) Destination Clubs and Private Vacation Clubs are not permitted by the Town's zoning regulations in Residential Zones R1, R2, and R3 unless the Destination Club complies with the following requirements:
- a. The Destination Club obtains a STR business license;
 - b. The Destination Club pays all required State Sales Tax (8%), State (2%), County (2%) and Local Accommodation (1%) Taxes on gross receipts collected from STR's;
 - c. The Destination Club complies with all other rules and regulations applicable to STR's;
 - d. The Destination Club provides no commercial services on the subject property; and
 - e. The owner of the property obtains a business license.

Any applicable properties in R1, R2, or R3 holding a valid STR business license as of the effective date of this ordinance shall be grandfathered and included in calculating the license cap, subject to the following conditions:

- a. Residential Business Licenses expire as of December 31st of each year. The license holder has until February 28th of the following year to renew. Failure to renew by the close of business on February 28th will result in the expiration of the license.
- b. No late renewals will be permitted for non-conforming use properties, including Destination Clubs and Vacation Clubs.

- c. All grandfathered properties shall remain subject to the requirements of this Chapter as STRs.
- d. Destination Clubs and Private Vacations Clubs are permitted in Zones R2/Commercial, R3/Commercial, RST-1, RST-2, RST-1/R3, R-2(DA), R-3(DA), and RST-2(DA) are subject to the approval of uses prescribed in the Zoning Ordinance and the requirements of this Chapter as STRs.

Sec. 14-506. - Notice of Rental Residence Rules and Regulations

- (a) The Town shall promulgate and distribute Rules and Regulations applicable to the rental of residential property to all property management companies and/or the owners. An owner or authorized agent shall furnish a copy of the rules and regulations to each rental guest. In addition, the owner (or authorized agent) shall post a copy of the rules and regulations in a visible location within each rental unit.

- (b) Local Contacts.

- (1) The owner (or authorized agent) who does not reside within the Charleston Metro Area must identify an individual or individuals to serve as local contacts and be authorized and able to respond to emergency conditions or complaints affecting the property and to inquiries from all entities having jurisdiction over the rental property.
- (2) The owner (or authorized agent) must have a 24-hour contact phone number posted in a visible location within each unit
- (3) A local contact designated under subsection (1) must be present within the Charleston Metro Area and be accessible and available to respond within two hours after being notified of an emergency by a guest of the short-term rental, or by a Town employee during any 24-hour period.
- (4) If there is a change to a local contact, the owner or authorized agent must provide updated or new information to the Town of Kiawah Island Business License Department in writing within three business days.

- (c) Maximum Occupancy.

The maximum occupancy for all short-term rental properties is two occupants per code-compliant bedroom. Two additional occupants are allowed per dwelling unit. *As an example, a four-bedroom rental property shall have a maximum of ten occupants.* Children under the age of 2 are not included in calculating maximum occupancy.

- (1) The number of bedrooms for purposes of determining occupancy shall be based on Charleston County Property Tax records. Should a rental business license applicant seek to claim more bedrooms than shown on Charleston County records, the owner or its agent shall contact the town code enforcement office for review and determination prior to renting the unit. Such review will consider the additional bedrooms per the building code requirements.

- (2) Temporary conversion of rooms such as dining rooms, living rooms, studies, etc., for use as bedrooms for rental purposes, is not permitted.
- (d) Parking and Driveways. The maximum number of vehicles permitted for overnight parking for each single-family dwelling unit shall be in accordance with the number of parking spaces as defined on the rental application.
- (1) Vehicles may only be parked on permanent paved or gravel parking surfaces, as approved by the Town or other entity having jurisdiction. Parking on grass or landscaped areas is prohibited at all times.
 - (2) Vehicles must be parked in a manner that permits the free passage of emergency vehicles. Overnight parking in driveways must allow emergency vehicles to within 25 feet of the residence.
 - (3) If a garage is utilized to determine allowable parking, access shall be provided at all times that the short-term rental is operational.
 - (4) Parking for villa units shall be in parking lots that are integral to the villa complex.
 - (5) Pickups greater than one-half ton, and cargo vans greater than 12 passengers, recreation vehicles (RVs), buses, trailers, boats, and other large vehicles are prohibited from parking overnight at residential dwellings. Vehicles shall not be used for sleeping or overnight accommodations.
 - (6) STR properties must comply with St. Johns Fire District requirements and applicable Architectural Review Board regulations for residential zoning districts (R-1, R-2, and R-3) which require that driveway clearance for fire trucks be a minimum of ten feet wide for straight drives and have a height clearance of 13.6 feet.
- (e) Trash Collection.
- (1) Rental dwelling units shall subscribe to back-door trash collection two times per week, including recycling service. Trash receptacles shall be stored in an enclosed garage or approved screened enclosure whereby the receptacles are not visible from the street.
 - (2) Villas shall use provided dumpsters for trash disposal. Dumpster pick-up service shall be sufficiently frequent to avoid trash overflow. Dumpsters shall be stored on an approved screened pad.
- (f) Bicycles, beach gear, and other personal articles shall not be visible from the street side or adjoining properties for all single-family dwellings and multi-family dwellings. These articles shall be placed in the appropriate storage location overnight and shall not be left in a driveway, yard, or parking lot. No articles of clothing, beach towels, or other items shall be draped over railings or deck chairs or be visible beyond property lines.
- (1) Villa complexes shall provide adequate bicycle racks for overnight bicycle storage. All other gear shall be stored indoors or in provided storage closets.

- (g) All exterior lighting shall comply with Article 16 – Beach Management, Chapter 1. - Beach Lighting, which regulates beach lighting to protect sea turtle hatchlings.

Sec. 14-507. - Violation of Rental Regulations

- (a) It shall be a violation of this chapter to:
- (1) Operate a rental property without complying with the requirements of this chapter and the Town code of ordinances;
 - (2) Make a misrepresentation on a short term rental business license application;
 - (3) Advertise, offer, or otherwise make available, a property as being available as a rental without first complying with the requirements of this chapter; excluding properties exempt from these provisions of the rental program not exceeding 14 calendar days on an annual basis;
 - (4) Expand the allowable occupancy or parking of a rental unit without obtaining a new license;
 - (5) Advertise a rental property as being available for more overnight occupants than have been permitted pursuant to this chapter;
 - (6) Advertise or rent separate guest houses or pool houses as an independent rental unit. Such units can be included under a rental business license issued to a single address, but it cannot be rented as a stand-alone unit;
 - (7) Rent out a portion only of the rental or individual rooms of a property, to include detached homes, villas, cottages, and any other property designation. No rental business license will be issued unless the subject property is to be rented in its entirety. Owners are permitted to lock off closets or bedrooms from guest access;
 - (8) Operate a commercial business in a STR property. Examples include, but are not limited to catering, telemarketing, or distribution of goods; and
 - (9) Prune or otherwise alter vegetation and dunes without the required permits from the Town or other applicable jurisdiction (Kiawah Island Community Association, or the Kiawah Island Architectural Review Board).

Sec. 14-508. – Liability

- (a) Any person violating any provision of this ordinance shall be subject to a fine of up to \$500 plus required statutory assessments or imprisonment for not more than 30 days, or both, upon conviction. Each day of violation shall be considered a separate offense. Punishment for the violation shall not relieve the offender of liability for delinquent taxes, penalties, and any other costs.

- (b) An owner may authorize an agent or property management firm to comply with the requirements of this ordinance on behalf of the owner. However, the owner shall not be relieved from any personal responsibility and personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and rental of the STR property, regardless of whether such noncompliance was committed by the owner's authorized agent, local contact person, renter or guest of the short-term rental.
- (c) A property management firm or authorized agent shall be jointly and severally liable for any violations occurring on any of its managed STRs in the Town.

Sec. 14-509. – Revocation or Suspension of a Short-term Rental Business License

In addition to applicable fines and penalties:

- (1) The failure of the rental business licensee to comply with any sections of this ordinance shall constitute grounds for the suspension or revocation of the license. Any action to suspend or revoke the license shall be conducted by the Treasurer or designee in accordance with Municipal Code, Chapter 3, Municipal Business License, Section 4-315.
- (2) Any property with three violations of this ordinance during any 12-month rolling period and found guilty by admissions or by the Municipal Judge will be considered cause for license revocation. The owner or agent may reapply for a new STR license no sooner than twelve months after revocation, subject to all provisions contained herein.

On receipt of notice of revocation or suspension, the owner (or authorized agent) shall immediately stop the operation of the short-term rental establishment. All advertisements for future short term rentals shall immediately cease. If such property is advertised or occupied by short term renters after the revocation or suspension of the STR license, fines shall be levied against the owner and agent.

Sec. 14-510. - Appeals to Town Council

- (a) A person aggrieved by the town's decision to revoke, suspend, or deny a rental business license may appeal the decision to the town council. The appeal must be filed in writing within 30 calendar days with the Town Clerk after the revocation, suspension, or denial and it shall set forth a concise statement of the reasons for the appeal. Timely filing of an appeal shall stay the revocation, suspension, or denial, pending a decision on the appeal by the Town Council.
- (b) The Town Council shall consider the appeal in an open hearing at a regular or special meeting within 30 calendar days after receipt of a request unless otherwise agreed to, in writing, by the town and the aggrieved party.