

**South Portland City Council**  
***Position Paper of the City Manager***

***Subject:***

**ORDINANCE #12-17/18 – Amending Chapter 14, “Licenses, Permits and Business Regulations Generally,” regarding Short Term Rentals. Amended and passed first reading passed on February 6, 2018. ROLL CALL VOTE. Passage requires majority vote.**

***Position:***

The City Council held four workshops on the issue of Short-Term Rentals (STRs) between October 2017 and January 2018. On February 6, 2018, the City Council passed the first reading of an amendment to Chapter 14 that creates a regulatory framework for STRs. At that meeting, two amendments were adopted and are summarized below:

1. STR operators whose property is ineligible to register as an STR under the new rules would be prohibited from taking any new reservations from February 6, 2018 onward, and could honor prior reservations only through September 15, 2018.
2. A Hosted Home Stay STR in a three- or four-dwelling unit building is eligible to register, in addition to one- and two-family dwelling units.
  - a. The owner of a three- and four-dwelling unit building is required to provide notice to new non-STR tenants that an STR exists in the building
  - b. Three- and four-dwelling unit buildings are required to be inspected
  - c. Only one STR, of any type, may be registered per property

A comprehensive description of the regulatory framework can be referenced in Table 14-805 of the ordinance. Council is now being asked to approve the second and final read of this ordinance amendment.

Assistant City Manager Josh Reny, Planning Director Tex Haeuser, Corporation Counsel Sally Daggett, and Deputy Fire Chief Mike Williams will be at the February 20 meeting to answer any questions Councilors may have.

***Requested Action:***

Council passage of second reading of Ordinance #12-17/18.

  
\_\_\_\_\_  
City Manager



CITY OF SOUTH PORTLAND

LINDA C. COHEN  
Mayor

SCOTT T. MORELLI  
City Manager

SALLY J. DAGGETT  
Jensen Baird Gardner & Henry

EMILY F. SCULLY  
City Clerk

**IN CITY COUNCIL**

**ORDINANCE #12-17/18  
(as amended at first reading on 2/6/18)**

THE COUNCIL of the City of South Portland hereby ordains that Chapter 14, "Licenses, Permits and Business Regulations Generally," of the "Code of Ordinances of the City of South Portland, Maine" be, and hereby is, amended as follows (additions are underlined; deletions are ~~struck out~~):

District One  
CLAUDE V.Z. MORGAN

District Two  
KATHERINE W. LEWIS

District Three  
EBEN ROSE

District Four  
LINDA C. COHEN

District Five  
ADRIAN T. DOWLING

At Large  
MAXINE BEECHER

At Large  
SUSAN HENDERSON

**Chapter 14**

**LICENSES, PERMITS AND BUSINESS REGULATIONS GENERALLY**

**ARTICLE I. IN GENERAL**

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**Sec. 14-3. License regulations; schedule.**

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**KEY TO SCHEDULE:**

CC	Denotes license granted by City Council
CLK	Denotes license granted by City Clerk
CMR	Code of Maine Rules
MRSA	Denotes Maine Revised Statutes Annotated, as may be amended from time to time
OY	Denotes one year from date of issuance
P	Denotes Permit
L	Denotes License
<u>R</u>	<u>Denotes Registration</u>
Police	Denotes review of application by Police Department required prior to issuance or renewal, unless otherwise noted
Fire	Denotes review of application by Fire Department required prior to issuance or renewal, unless otherwise noted
Health	Denotes review of application by Health Officer required prior to issuance or renewal, unless otherwise noted
CEO	Denotes review of application by Code Enforcement Department required prior to issuance or renewal, unless otherwise noted
Finance	Denotes review of application by Finance Director required prior to issuance or renewal, unless otherwise noted
Corp	Denotes review of application by Corporation Counsel required prior to issuance or renewal, unless otherwise noted

Water Denotes review of application by Water Resource Protection Department required prior to issuance or renewal, unless otherwise noted  
 PW Denotes review of application by Public Works Department required prior to issuance or renewal, unless otherwise noted  
 Parks Denotes review of application by Parks, Recreation & Waterfront Department required prior to issuance or renewal, unless otherwise noted

Business or Occupation	Reference	P/L/R	Granted by	Exp	Additional Review by
• • •	• • •	• • •	• • •	• • •	• • •
<u>Short-Term Residential Rental</u>					
<u>Hosted Home Stay</u>	Article XVII	R	CLK	OY	Fire for three- and four-family dwelling units
<u>Non-Hosted Home Stay</u>	Article XVII	R	CLK	OY	Fire, if requested by Fire Chief
• • •	• • •	• • •	• • •	• • •	• • •

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**Sec. 14-8. Standards for denial, suspension or revocation.**

(a) Generally applicable standards.

In addition to any other specific provision of this Code authorizing action, a license, ~~or permit,~~ or registration may be denied, suspended or revoked upon a determination of the existence of one or more of the following grounds:

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**Sec. 14-13. Revocation of license.**

A license, permit or registration (collectively “license” for purposes of this section) may be suspended or revoked by the licensing authority for any violation of these municipal ordinances, special terms attached to such license or as set forth in Section 14-8. A revocation of a license by the City Clerk may be appealed to the City Council. A revocation of a license by the City Clerk shall be in writing and shall include notification of the right to and procedure for appeal. The City Clerk may suspend a license issued by the City Council until a hearing for revocation is held by the City Council where suspension of the license is necessary to protect the health, safety or welfare of the public. Department heads are encouraged to report license compliance issues to the City Clerk as they arise, rather than waiting until license renewal. Prior to the City Clerk’s scheduling any suspension or revocation proceedings, the City Clerk may request that an appropriate department head or city official meet with the licensee to discuss license compliance issues; provided, however, that any delay in the conduct of suspension or revocation proceedings due to such a request shall not jeopardize the public health, safety or welfare. Any person aggrieved by a decision of the City Council hereunder may appeal to the Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

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## **ARTICLE XVII. SHORT-TERM RESIDENTIAL RENTALS**

### **Sec. 14-800. Purpose.**

The City Council hereby finds that unregulated short-term transient occupancy of dwelling units in residential neighborhoods presents a threat to the public welfare relating to compatibility with residential uses and preservation of the character of the neighborhoods in which they are located, and to the availability of housing stock in the City. The purposes of this Article are: (a) to balance the desire of property owners to rent their residential properties to short-term rental guests for compensation against the desire of residents to preserve the traditional peace and quiet of their residential neighborhoods; (b) to preserve and protect residential neighborhood character and livability from the nuisance impacts that are often associated with short-term rentals; (c) to prevent long-term rentals from being replaced with short-term rentals; and (d) to ensure the safety of occupants of short-term rentals.

### **Sec. 14-801. Definitions.**

As used in this Article, the following words and phrases shall have the meanings ascribed to them in this section.

Advertising means 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.

Authorized accessory dwelling unit means a residential living unit, subordinate to a one-family detached dwelling unit that has been approved by the Planning Board pursuant to the Sec. 27-1576 et seq. of the City's Zoning Ordinance, as may be amended, and that has a valid certificate of occupancy.

Apartment building means a building or portion thereof containing three or more dwelling units arranged, intended, or designed to be occupied by three (3) or more families living independently of each other in a dwelling unit.

Dwelling unit means 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.

Four-family dwelling unit means a building that consists solely of four dwelling units.

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

Hosted Home Stay means a dwelling unit that is the Owner's primary residence; is occupied, including overnight, by such Owner during the short-term rental period; and is used or occupied as a Hosted Home Stay as set forth in Table 14-805. In the case of a property comprised of a one-family dwelling unit and an authorized accessory dwelling unit, the unit is considered a Hosted Home Stay if the Owner is present in either unit on such property during the short-term rental period. In the case of a property comprised of a two-, three- or four-family dwelling unit in single ownership, the unit is considered a Hosted Home Stay if the Owner is present in one of the dwelling units on such property during the short-term rental period.

Non-Hosted Home Stay means a dwelling unit that may or may not be the Owner's primary residence and is used or occupied as a Non-Hosted Home Stay as set forth in Table 14-805.

One-family dwelling unit means a building that consists solely of one dwelling unit.

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

Primary residence means an Owner's primary place of residence, as defined by whether the Owner carries on basic living activities at the dwelling unit and whether such dwelling unit is the Owner's usual place of return. Reasonable documentation, such as Maine homestead exemption qualification, voter registration, government ID with address, motor vehicle registration, motor vehicle excise tax payment receipt, or other documents approved by the City demonstrating that the property is the Owner's legal residence and that it is such for 183 or more days of the calendar year, shall be indicia of primary residence.

Person means a natural person, partnership, association, company, corporation, limited liability company or organization or a member, manager, agent, owner, director, servant, officer or employee thereof.

Short-term rental means the use, control, management or operation of a dwelling unit or accessory dwelling unit, in whole or in part; for dwelling, sleeping or lodging purposes by short-term rental guests; for compensation, directly or indirectly.

Short-term rental guest means any person who rents a dwelling unit or accessory dwelling unit, in whole or in part, for less than 30 consecutive days.

Three-family dwelling unit means a building that consists solely of three dwelling units.

Two-family dwelling unit means a building that consists solely of two dwelling units.

**Sec. 14-802. Applicability.**

- (a) Subject to the requirements and restrictions of this Chapter, short-term rentals allowed as set forth in Table 14-805.
- (b) This Article does not apply to an establishment licensed as a lodging establishment under Article V of this Chapter.

**Sec. 14-803. Prohibited Activities.**

- (a) The short-term rental of property to short-term rental guests that is not in compliance with this Chapter is prohibited.
- (b) Providing false information with respect to a registration is prohibited.
- (c) No detached accessory building, vehicle (including a recreational vehicle or camper van), trailer, tent or mobile residential equipment (other than a mobile home) may be registered as a Hosted Home Stay or Non-Hosted Home Stay.
- (d) No dwelling unit (or authorized accessory dwelling unit) may be registered as a Hosted Home Stay unless the property has qualified as the Owner's homestead under the Maine Homestead Property Tax Exemption statute, 36 M.R.S. §§ 681-689, as may be amended from time to time.
- (e) Occupancy or use of a dwelling unit within an apartment building of five or more dwelling units for rentals of less than 30 consecutive days is prohibited.
- (f) Advertising any short-term rental without a City-issued registration number included in the advertisement is prohibited.
- (g) Notwithstanding any other ordinance provision to the contrary, signage identifying, advertising, providing way finding or otherwise related to use of the dwelling unit as a Hosted Home Stay or Non-Hosted Home Stay is prohibited, either on- or off-site.

- (h) Short-term rentals are prohibited in commercial or industrial buildings, unless a specific portion of the building is authorized per the Code Enforcement Office and the Fire Chief or his/her designee for use as a one- or two-family dwelling unit.
- (i) Short-term rental guests shall not sublease any portion of the short-term rental to another person during the rental period.
- (j) Parties, conferences, family reunions, weddings, fundraisers or similar gatherings that are reasonably foreseeable to involve an assemblage of vehicles or persons more than maximum allowable number of short-term guests are prohibited to be conducted by short-term rental guests during a short-term rental.
- (k) No food shall be prepared for, or served to, short-term rental guests by the Hosted-Home Stay or Non-Hosted Home Stay registrant or his/her/its agent that would require an eating establishment license under either State law or Article VI of this Chapter.

**Sec. 14-804. Registration Required for all Hosted-Home Stay and Non-Hosted Home Stay Rentals.**

Effective April 15, 2018, no person shall operate a Hosted Home Stay or Non-Hosted Home Stay without first registering the dwelling unit (or authorized accessory dwelling unit) with the City Clerk. Registration forms and pre-registration self-inspection checklists shall be available in the City Clerk's Office.

Non-refundable fees for a Hosted Home Stay or Non-Hosted Home Stay registration shall be as set forth in the Schedule of License, Permit, Inspection and Application Fees established by City Council order, and such fee must be submitted with the registration form at the time of registration or renewal.

A dwelling unit (or authorized accessory dwelling unit) shall not be considered registered until all information and fees are provided to the satisfaction of the City Clerk and a registration number has been assigned to the unit.

**Sec. 14-805. Operating Standards and Requirements.**

A Hosted Home Stay or Non-Hosted Home Stay short-term rental is allowed only if it conforms to each of the following operating standards and requirements set forth in this section.

- (a) Compliance with the requirements of Table 14-805 is required.

**Table 14-805**

<u>Type of Rental</u>	<u>Hosted Home Stay</u>	<u>Non-Hosted Home Stay</u>
<b><u>Type of Structure</u></b>	<u>One-family dwelling unit (including an associated authorized accessory dwelling unit) or a two-, three- or four-family dwelling unit</u>	<u>One-family dwelling unit without any associated authorized accessory dwelling unit</u>
<b><u>Amount of Dwelling Unit Rented</u></b>	<u>Includes the rental of an entire dwelling unit OR, if only part of the unit, includes at a minimum a sleeping room and access to a bathroom</u>	<u>Whole dwelling unit</u>
<b><u>Owner-Occupied (i.e., Owner's primary residence)?</u></b>	<u>Yes, at least one dwelling unit (or an associated authorized accessory dwelling unit) is the Owner's primary residence</u>	<u>Dwelling unit may or may not be Owner's primary residence</u>
<b><u>Sworn Statement of Owner regarding primary residence required?</u></b>	<u>Yes</u>	<u>No</u>
<b><u>Evidence of Owner qualification for Maine homestead exemption for property required?</u></b>	<u>Yes</u>	<u>No</u>
<b><u>Owner/Host Operations</u></b>	<u>If a single-family dwelling unit, Owner is present in the dwelling unit (or associated authorized accessory dwelling unit) during the short-term rental period; if a two-, three- or four-family dwelling unit, Owner is present in one of the dwelling units on such property during the short-term rental period</u>	<u>Dwelling unit may or may not be Owner's primary residence</u>
<b><u>Length of Guest Stay</u></b>	<u>Rental is on a temporary basis for periods of less than 30 consecutive days</u>	<u>Rental is on a temporary basis for periods of <i>at least 7 consecutive days</i> but less than 30 consecutive days; guests may stay for less than the minimum stay period <i>provided that</i> the rental unit remains vacant until the end of the minimum stay period (e.g., if guest stays for 4 nights, unit must remain unrented for the</u>

<u>Type of Rental</u>	<u>Hosted Home Stay</u>	<u>Non-Hosted Home Stay</u>
		3 subsequent nights)
<u>Cap on # of days unit is rented per year?</u>	<u>None</u>	<u>None</u>
<u>Occupancy limits</u>	<u>Maximum two guests and one child under the age of two allowed per occupancy</u>	<u>Maximum two guests and one child under the age of two per bedroom allowed per occupancy</u>
<u>Is registration per dwelling unit or per Owner?</u>	<u>Registration is per dwelling unit (or authorized accessory dwelling unit)</u>	<u>Registration is per dwelling unit</u>
<u>Reviewing Authority</u>	<u>City Clerk</u>	<u>City Clerk</u>
<u>Notice to Neighbors?</u>	<u>For three- and four-family dwelling units, at commencement of a new non-short-term rental tenancy, Owner must acquire written acknowledgement of notice provided to tenant(s) of Owner's intent to operate a short-term rental in the building during the tenancy</u>	<u>Upon issuance of new registration per Sec. 14-405(b)(6)</u>
<u>Notice to City Clerk if sale/transfer of property?</u>	<u>No</u>	<u>Yes</u>
<u>Inspection</u>	<p><u>For a single-family dwelling unit (or associated authorized accessory dwelling unit) or two-family dwelling unit, self-inspection upon registration and renewal; thereafter, at request of City inspection officials</u></p> <p><u>For a three- or four-family dwelling unit, inspection by Fire Chief or his/her designee of the entire building prior to initial registration and any renewal registration</u></p>	<u>If determined to be necessary by Fire Chief, inspection by Fire Chief or his/her designee prior to initial registration; thereafter, at request of City inspection officials</u>
<u>Locational limits</u>	<u>Allowed in all zoning districts</u>	<u>Prohibited in all residential zoning districts (at time of enactment of Ordinance #12-17/18, those districts are RF, AA, A, G, VR, RT, WR, A-1, G-1, G-2, G-3 and G-4)</u>

(b) In addition to the requirements of Table 14-805 and other applicable laws, ordinances or regulations, the following criteria apply:

1. Registration of each dwelling unit (or authorized accessory dwelling unit) to be used for short-term rental is required. A registration identification number will be given to each unit registered.
2. Only the Owner of the property can register the dwelling unit to be used for short-term rental.
3. The Owner must identify a registered agent or representative for emergency contact purposes, who may be the Owner. The emergency contact person must be able to respond within 60 minutes to complaints regarding the condition, safety or operation of the dwelling unit as a rental or the conduct of guests, and must be able to take such remedial action on behalf of the Owner, as otherwise allowed by law, to resolve such complaints.
4. At the time of registration, the Owner must provide a certificate of insurance that expressly acknowledges that the property may be used for short-term rental business activity and evidencing (a) property insurance and (b) general liability insurance appropriate to cover the rental use in the aggregate of not less than \$1 million or proof that the Owner conducts rental transactions through a hosting platform that provides equal or greater coverage. Any such hosting platform-provided insurance carrier shall defend and indemnify the Owner, as additional named insured, and any user in the building for any bodily injury and property damage arising from the rental. Once registered, the Owner shall maintain the required insurances, or such greater amount as otherwise required by law, throughout the term of the registration.
5. For Hosted Home Stay registrations, the registrant must provide evidence that the property has qualified as the Owner's homestead under the Maine Homestead Property Tax Exemption statute, 36 M.R.S. §§ 681-689, as may be amended from time to time. In addition, the registrant must sign a sworn statement identifying the property as his/her primary residence and provide reasonable documentation, such as Maine homestead exemption qualification, voter registration, government ID with address, motor vehicle registration, motor vehicle excise tax payment receipt, or other documents approved by the City demonstrating that the property is the Owner's legal residence and that it is such for 183 or more days of the calendar year.
6. For Hosted-Home Stay registration of a dwelling unit within a three- and four-family dwelling unit, at the commencement of a new non-short-term rental tenancy, the Owner must acquire written acknowledgement of

notice provided to tenant(s) of the Owner's intent to operate a short-term rental in the building during the non-short-term rental tenancy. For Non-Hosted Home Stay registrations, the City Clerk shall provide a one-time notification of the registration issuance to all owners and non-owner occupants, according to the most recent City assessment and voting records, of property located within five hundred (500) feet of the registered dwelling unit, which notice shall include the Owner's emergency contact person information.

7. The dwelling unit registration number must be displayed within the dwelling unit, in all advertising, and upon request by City officials.
8. As a condition of registration, the Owner must allow on-site inspections by City inspection officials. Failure of the registrant or his/her representative to allow a City inspection within 48 hours of a City request to conduct the same shall be considered a violation of this Article.
9. As a condition of registration, the registrant must (a) maintain accurate, up-to-date records of all rental transactions involving the dwelling unit, including the number of guests and the length of their stays, and upcoming reservations; and (b) present said information to City inspection officials upon request. Failure of the registrant or his/her representative to provide this information within 48 hours of a City request for the same shall be considered a violation of this Article.
10. Required Posting. As a condition of registration, the registrant must post in plain sight to visitors, inside the registered unit and near the entrance to the registered unit, a notice that identifies the name, address, e-mail address and telephone number of the Owner's emergency contact person, and the following disclaimer, as applicable:
  - a. Disclaimer for a registered unit within a single-family dwelling unit (or associated authorized accessory dwelling unit) or two-family dwelling unit:

The Owner of these accommodations [print registrant's name] has registered this unit, Registration No. \_\_\_\_\_, pursuant to the City of South Portland Code of Ordinances, Chapter 14, Article XVII. THE OWNER'S REGISTRATION OF THIS DWELLING UNIT DOES NOT CONSTITUTE A FINDING BY THE CITY OF SOUTH PORTLAND THAT THE PREMISES ARE IN COMPLIANCE WITH APPLICABLE BUILDING, LAND USE, FIRE PREVENTION, LIFE SAFETY OR OTHER APPLICABLE CODES OR REGULATIONS. NO INSPECTION FOR COMPLIANCE WITH SUCH REGULATIONS HAS BEEN CONDUCTED, AND NONE IS REQUIRED FOR THE OWNER TO REGISTER THE DWELLING UNIT OR TO ENGAGE IN SHORT-TERM RENTAL OF THIS DWELLING UNIT SO LONG AS THE OWNER'S USE OF THE PREMISES IS IN CONFORMANCE WITH AND DOES NOT EXCEED THE SCOPE OF THE REGISTRATION.

b. Disclaimer for a registered unit within a three- or four-family dwelling unit:

The Owner of these accommodations [print registrant's name] has registered this unit, Registration No. \_\_\_\_\_, pursuant to the City of South Portland Code of Ordinances, Chapter 14, Article XVII. THE OWNER'S REGISTRATION OF THIS DWELLING UNIT DOES NOT CONSTITUTE A FINDING BY THE CITY OF SOUTH PORTLAND THAT THE PREMISES ARE IN COMPLIANCE WITH APPLICABLE BUILDING, LAND USE OR OTHER APPLICABLE CODES OR REGULATIONS.

11. Occupancy limits. For Hosted Home Stay registrations, overnight short-term guest occupancy shall be limited to two guests and one child under the age of two. For Non-Hosted Home Stay registrations, overnight short-term guest occupancy shall be limited to two guests and one child under the age of two per bedroom. A floor plan and current photographs of each room of each unit to be registered must be submitted with the registration form.
12. Parking. The Owner must submit a sketch plan identifying all parking, including guest parking, as part of the registration process.
13. As a condition of registration, the registrant must agree to provide the Good Neighbor brochure and a statement of conditions that are applicable to the rental to each guest. The statement of conditions must include:
  - a. A maximum number of persons who may occupy the unit;
  - b. A description of the parking that is available for guests and the parking that is not available to guests;
  - c. An emergency contact person available to receive calls from the guest(s) at any time, day or night;
  - d. Emergency exit/building evacuation information;
  - e. Instructions for solid waste disposal and recycling;
  - f. An overview of regulations governing dogs on Willard Beach;
  - g. A statement that parties, conferences, family reunions, weddings, fundraisers or similar gatherings that are reasonably foreseeable to involve an assemblage of vehicles or persons more than maximum allowable number of short-term guests are prohibited to be conducted by short-term rental guests during a short-term rental; and
  - h. A statement that Good Neighbor conduct consistent with the Good Neighbor brochure is expected and includes limiting noise, parking with consideration for neighbors who live in the area, and keeping solid waste/recycling in appropriate bins.

14. Inspections.

- a. For all Hosted Home Stay registrations of a single-family dwelling unit (or associated authorized accessory dwelling unit) or a unit within a two-family dwelling unit, the Owner must submit a completed self-inspection checklist on a form provided by the City Clerk's Office. For all Hosted Home Stay registrations of a unit within a three- or four-family dwelling unit, an inspection by the Fire Chief or his/her designee of the entire building prior to initial registration and any renewal registration is required, and the Fire Chief or his/her designee must provide a positive recommendation, in writing to the City Clerk, that the dwelling unit complies with all applicable fire prevention and life safety requirements prior to the issuance of any registration number.
- b. For Non-Hosted Home Stay registrations, prior to the issuance of an initial registration for the dwelling unit, the Fire Chief or his/her designee may inspect the dwelling unit to ensure that all applicable fire prevention and life safety requirements are met and, if such inspection is conducted, must provide a positive recommendation, in writing to the City Clerk, that the dwelling unit complies with all applicable fire prevention and life safety requirements prior to the issuance of any registration number.

15. Failure of the registrant or his/her representative to respond to inquiries from the City within 48 hours shall be considered a violation of this Article.

16. Nothing contained in this Article shall supersede any condominium, homeowner or restrictive deed covenants that apply to the Hosted Home Stay or Non-Hosted Home Stay rental property.

17. Short-term rental registrations are limited to one registration per property.

**Sec. 14-806. Registration Expiration and Renewal.**

Hosted Home Stay and Non-Hosted Home Stay registrations are valid for 12 months from the date of issuance of the registration number unless sooner suspended or revoked and must be renewed on an annual basis.

**Sec. 14-807. Denial, Suspension or Revocation of Registration.**

(a) The City Clerk may decline to register any dwelling unit upon failure of the registrant to meet all of the requirements of this Chapter. Any appeal of a decision of the City Clerk to decline to register any dwelling unit under the

provisions of this Article shall be made to the City Council. The City Council shall conduct a *de novo* hearing in which it will hear evidence on the registration and make its own findings of fact and conclusions of law on the issue of whether the registration meets the requirements of this Article.

(b) Any suspension or revocation hearing shall be pursuant to Sec. 14-13 of this Chapter, with the City Clerk or his/her designee serving as the hearing officer.

(c) A registration may be revoked or suspended for violation of any of the provisions of this Chapter. If a violation is found to exist by the City Clerk, the City Clerk, in addition to the suspension or revocation of the then-current registration, may also prohibit the Owner not only from registering that unit under this Article, but also from registering any other dwelling unit under this Article, for 12 months following the current registration expiration date.

#### **Sec. 14-808. Transfer of Ownership.**

Registrations completed under this Article are not transferable to a new Owner. Any change in ownership or change in the members/managers/officers of an Owner shall require a new registration. Registrations are limited to the dwelling unit for which they are issued and shall not be transferable to a different dwelling unit.

A Non-Hosted Home Stay registrant must give written notice to the Code Enforcement Officer and the City Clerk no later than 10 days before the conveyance, transfer or any other disposition of the ownership of, or interest in, or control of the dwelling unit. The notice must include the name and address of the person succeeding to the ownership or control of the dwelling unit.

#### **Sec. 14-809. Enforcement.**

(a) Complaints regarding short-term rentals brought to the attention of any City Department shall be brought to the attention of the Code Enforcement Officer as soon as practicable. A person may also file a complaint with the Code Enforcement Officer. The Code Enforcement Officer shall establish and maintain a log of all complaints for each short-term rental complaint received and substantiated by the City. The Code Enforcement Office shall seek the voluntary correction of all substantiated complaints.

(b) When, in the judgment of the Code Enforcement Officer, the nature and/or number of complaints about a registered short-term rental warrants further review of the short-term rental, s/he shall provide a written report of the same to the City Clerk and request that a public hearing be conducted on whether to suspend or revoke the registration. Any suspension or revocation hearing shall be pursuant

to Sec. 14-13 of this Chapter, with the City Clerk or his/her designee serving as the hearing officer.

- (c) When, in the judgment of the Code Enforcement Officer, the nature and/or number of complaints about an unregistered short-term rental warrants further review of the short-term rental, s/he shall provide a written report of the same to the City Council for its consideration of any and all legal or equitable actions and proceedings that may be appropriate or necessary to enforce the provisions of this Chapter.
- (d) The City is committed to defending and enforcing this Article and such commitment may include, but is not limited to, retaining expert or specialized legal counsel to defend the City against challenges to this Article or the City's authority to enforce this Article.

#### **Sec. 14-810. Violations and Penalties.**

In the event the Owner or the Owner's guests violate the terms and conditions of the registration, the registration shall not be reissued, and the short-term rental shall cease for at least 12 months following its expiration date, unless good cause is shown that would prevent future violations, subject to the approval of the City Clerk.

Violations shall also be subject to fines as set forth in this Article. Each day of a violation shall constitute a separate violation. For the violation of operation of a Hosted Home Stay or Non-Hosted Home Stay short-term rental without a valid registration, the violator shall be penalized with a fine of \$1,000 per day for the first offense and an additional fine of \$1,500 per day for each additional offense, to be recovered upon complaint to Maine District or Superior Court in Portland, for use of the City. For any other violation of this Article, the violator shall be penalized with a fine of \$500 per day for each such violation, to be recovered upon complaint to Maine District or Superior Court in Portland, for use of the City.

Any such fine may be in addition to any suspension or revocation imposed in accordance with the provisions of Sec. 14-807 of this Article. In any court action, the City may seek injunctive relief in addition to penalties. The City shall be entitled to recover its costs of enforcement, including its reasonable attorney's fees.

#### **Sec. 14-811. Reports and Review.**

Commencing July 1, 2018 and until such time as the City Council by order authorizes such reporting to be reduced or eliminated, the City Clerk shall provide the City Council with quarterly reports summarizing the number of Hosted Home Stay and Non-Hosted Home Stay registrations completed in the prior quarter; the names of registrants; the location of the properties for which the registrations were completed in

the prior quarter by street address, map/lot number, zoning district, and neighborhood if located within the AA, A or G zoning district; and any written complaints received by the Code Enforcement Officer or the City Clerk about registrants or the registration process in the prior quarter.

**Sec. 14-812. Construction; Severability.**

This Article shall be liberally construed and applied to promote its underlying purposes as contained in Sec. 14-800 of this Article. The provisions of this Article are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

**Sec. 14-813. Other Laws.**

In the event of a conflict between the provisions of this Article and any applicable State or local law, ordinance or regulation, the more restrictive provision shall control. The issuance of any Hosted Home Stay or Non-Hosted Home Stay registration pursuant to this Article shall not relieve the Owner of the obligation to comply with all provisions of the Code of Ordinances or any other applicable laws or regulations pertaining to the use and occupancy of the property on which it is located.

**Sec. 14-814. Effective Date; Applicability Dates.**

This Article shall become effective pursuant to Section 225 of the City Charter. In order to allow time for residents and property owners to become familiar with the requirements of this Article, the prohibitions on certain types of short-term rentals, and the penalties for violations of this Article, the requirements of this Article shall be phased in as follows:

**Phase One:** Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, commencing on the enactment date of the amendments to this Chapter as evidenced by Ordinance #12-17/18, no new reservations for short-term rentals that are inconsistent with this Article shall be accepted by any person.

**Phase Two:** Commencing on April 15, 2018, the requirements of this Article regarding the registration and operation of a Hosted Home Stay and Non-Hosted Home Stay short-term rental shall apply.

**Phase Three:** Commencing on June 1, 2018, all provisions of this Article shall apply; provided, however, that an Owner who provides written evidence, reasonably satisfactory to the City Clerk or his/her designee, of a contract for a short-term rental -- other than a Hosted Home Stay rental or a Non-Hosted Home

Stay rental -- entered into prior to February 6, 2018 for a rental that is to occur prior to September 15, 2018 may honor that contract to the extent that the application of this Article would result in a substantial impairment of such existing contract.

Fiscal Note: Less than \$1,000

February 6, 2018