

## ARTICLE 90

**Motion:** Move that the Town Code be amended by adding a new Chapter 142 as follows, and further to authorize the Town Clerk to make non-substantive, ministerial revisions to the numbering of this bylaw in order that it be in compliance with the numbering format of the Code of the Town of Nantucket; or to take any other action relative thereto.

### CHAPTER 142: SHORT-TERM RENTALS

#### § 142-1 PURPOSE.

The purposes of this Bylaw are to:

- Provide a process through which Nantucket can continue the historic tradition of a vibrant vacation rental market by owner-occupied homes such that they may be permitted and registered with the Town of Nantucket for lawful use as Short-Term Rentals (as defined below);
- Help ensure equity and sufficiency of housing stock for year-round residents;
- Protect the health and safety of renters and residents for those lawful Short-Term Rentals;
- Ensure that Short-Term Rentals will not be detrimental to the character and livability of the Island and the residential neighborhoods surrounding such Short-Term Rentals; and
- Ensure proper regulation of ~~exclusively~~ commercial uses of homes in Nantucket's residential areas.

#### § 142-2 DEFINITIONS.

*Short-Term Rental:* Any rental of a residential dwelling unit, or of a bedroom within a dwelling unit, in exchange for payment, as residential accommodations for a duration of less than thirty (30) consecutive days, but not a Transient Residential Facility.

*Short-Term Renter:* Any person or persons occupying a dwelling unit, or a bedroom within a dwelling unit, as a Short-Term Rental.

*Short-Term Rental Operator:* The person or persons offering a dwelling unit or bedroom for short-term rental with (if not the owner) the written permission of the owner, and the condominium association or homeowners association, where applicable.

*Resident Short-Term Rental:* The short-term rental of a dwelling unit, or of individual bedrooms within a dwelling unit, that is a **the primary** residence of, or accessory to the **primary** residence of, a Nantucket resident, which residency shall be determined by the Town using one or more of the following methods – proof of enrollment in the Nantucket residential exemption program, tenancy agreement along with photo ID, or an income tax return for the current year and a recent utility bill, both showing the current address of the ~~operator~~ **Operator** as the address of the Short-Term Rental.

#### § 142-3 REQUIREMENTS AND LIMITATIONS ON FREQUENCY AND USE.

- (a) Short-Term Rentals are permitted as an accessory use to a permitted principal residential use, subject to the following requirements:
1. No residential premises may be used as a Short-Term Rental except in compliance with this bylaw.
  2. The following residential housing units may not be used as short-term rentals: (i) Any residential property in violation of the State Sanitary Code, 105 CMR 410; and (ii) residential units designated as affordable or otherwise income-restricted, which are subject to affordability covenants or are otherwise subject to housing or rental assistance under local, state, or federal programs or law.
  3. ~~Resident Short-Term Rentals shall not exceed, in the aggregate, ninety (90) consecutive or nonconsecutive days per calendar year.~~ **There is no maximum number of rentals days for Resident Short-Term Rentals.**
  4. Other than Resident Short-Term Rentals, Short-Term Rentals shall not exceed, in the aggregate, forty-five (45) consecutive or nonconsecutive days per calendar year.

5. Short-Term Rental Operators shall offer all Short-Term Rentals, other than Resident Short-Term Rentals, to only one party of Short-Term Renters at a time, not rented as separate bedrooms, beds, or spaces to separate parties.
6. Occupancy within a Short-Term Rental shall be limited to 2 people per bedroom for the maximum number of bedrooms lawfully available at permitted pursuant to the Short-Term Rentals' pursuant to its current Title V certification.
7. A Short-Term Renter shall be limited to parking one (1) vehicle per Short-Term Rental.
8. ~~No~~ The duration of all Short-Term Rentals other than Resident Short-Term Rentals shall be for not a period of less than seven (7) consecutive days. Resident Short-Term Rentals shall not have any be exempt from the minimum stay duration, requirement set forth in this paragraph provided that such rental is for a single private room in a residence occupied by a Nantucket resident as defined in this Chapter.
9. Short-Term Rental Operators shall provide all Renters with contact information for the Short-Term Rental Operator, or when the operator is not present, the contact information for a locally available contact designated to respond to all emergencies and problems that may arise during the rental period, whether from renters, neighbors or municipal authorities. Short-Term Rental Operators shall also provide all Short-Term Renters with all applicable trash, noise, parking and other local regulations.

§ 142-4 REGULATIONS. The Board of Health shall have the authority to promulgate regulations to carry out and enforce the provisions of this Chapter 142 "Short-Term Rentals."

#### § 142-5 REGISTRATION, PERMITTING, INSPECTION AND FEES.

- (a) All Short-Term Rental Operators shall apply for a "Short-Term Rental Operator Permit" (the "Permit") with the Town's Board of Health prior to offering the Short-Term Rental use and occupancy.
- (b) The fees for such Permit shall be as follows:
  - a. Resident Short-Term Rentals - \$150 per year, exclusive of any other applicable local fees or costs; and
  - b. All other Short-Term Rentals - \$500 per year, exclusive of any other applicable local fees or costs.
- (c) Permit applicants must be current with all town taxes, water, and sewage charges, and shall not have any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, or stop work orders. If a violation or other order is issued to the Short-Term Rental Operator after a Permit is granted, the Town may suspend or revoke said Permit until the violation has been cured or otherwise resolved, subject to the requirements of Chapter 19, §§ 13 -18. Multiple violations by any one Short-Term Rental Operator may, at the Town's discretion, disqualify that Short-Term Rental Operator from obtaining a permit in the future. Short-Term Rental Operators shall comply with all applicable federal, state, and local laws and codes, including but not limited to the Fair Housing Act, G.L. c. 151B and local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings.
- (d) If a Permit is granted, the Short-Term Rental Operator shall register with the Town all such Short-Term Rentals, and secure a Certificate of Registration according to standards set forth by the Board of Health. Such registration shall include an attestation that the Permit-holder is in compliance with all applicable federal, state and local laws. The Board of Health shall not grant any Certificate of Registration unless the Permit-holder has (1) paid all associated permit fees; (2) provided contact information for person to address any issues at the Short-Term Rental within two (2) hours' notice; and (3) provided the Town with a Certificate of Insurance evidencing liability insurance coverage for the Short-Term Rental in an amount to be determined by regulation by the Board of Health.
- (e) At all times, the Short-Term Rental Operator shall maintain an up-to-date log of all occupants that occupy the Short-Term Rental. This log shall contain the name of at least one Short-Term Renter, the total number of guests for the stay, and dates of each rental period. The log shall be available for inspection by the Board of Health upon request, and kept accessible for a period of three (3) years.

(f) Permit-holders are subject to inspection of the Short-Term Rental by the Town upon reasonable notice via consent or administrative warrant, or without such notice in the event of imminent concern or threat to public health or safety.

(g) Permits are valid for one (1) year, and may be renewed at the Board of Health's discretion, provided that the Short-Term Rental Operator has complied with the provisions of this Chapter and any associated regulations during the preceding year ~~and the Building Department issues a new Certificate of Registration.~~

(h) Permits are granted to named Short-Term Rental Operators and do not run with the land. If the Short-Term Rental is sold or transferred out of ownership, a new Permit application needs to be filed before Short-Term Rentals can continue or resume.

(i) The Town, through its Town Manager, may procure services to assist in any aspect of administering this Bylaw.

#### § 142-6 ENFORCEMENT

All violations of this section may be penalized by a noncriminal disposition as provided for in G.L. c. 40, § 21D and imposing a fine of Three Hundred Dollars (\$300). Each day of violation shall be deemed a separate and distinct offense. The provisions of this section may also be enforced, if applicable, by the Town seeking an injunction from a court of competent jurisdiction prohibiting the offering of the Short-Term Rental. Nothing herein shall be construed to preclude the Town from seeking any additional penalties or taking any additional enforcement action as allowed for by law.

#### § 142-7 SEVERABILITY.

If any provision in this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

#### § 142-8 EFFECTIVE DATE.

The provisions of this Chapter 142 "Short-Term Rentals" shall take effect on October 1, 2021.