

# TOWN OF PORTSMOUTH, RI

## Ordinance # 2018 -04-09

### AN ORDINANCE AMENDING THE TOWN CODE OF THE TOWN OF PORTSMOUTH

#### PART II: GENERAL LEGISLATION

Be it ORDAINED by the Town Council of the Town of Portsmouth:

Section 1. The Town Code, Part II, General Legislation, is hereby amended by adding the following new chapter:

#### Chapter 314

#### SHORT-TERM RENTAL OF RESIDENTIAL DWELLINGS

##### 1. Findings.

A. The Constitution of the State of Rhode Island, Article XIII, Section 2, grants to the Town of Portsmouth the power to enact and amend local laws relating to its property, affairs and government as long as such local laws are consistent with the Constitution and laws enacted by the General Assembly. This delegation of power includes the police power to enact reasonable legislation to regulate and supervise rental dwellings in order to protect the public health, safety and welfare.

B. Residential rentals in Portsmouth, including short-term rentals in residential neighborhoods, have been the source of noise, congestion, pollution, and disorderly behavior involving tenants and other persons on and near the premises, as well as violations of town ordinances, including the zoning and noise ordinances and violations of various Rhode Island statutes.

C. These conditions have disturbed the peace of the neighborhoods in which they have occurred; they have violated the repose, comfort and quiet enjoyment of persons in their homes; they have produced unreasonable disturbances of the peace, and they are inconsistent with the public health and safety and general welfare of the people.

D. The Town of Portsmouth finds that, by application of the regulatory framework contained herein, the short-term rental of dwelling units can have a positive effect on the health, safety and welfare of the community by providing a flexible housing stock that allows travelers safe accommodations while contributing to the local economy and providing homeowners an opportunity to hold property in difficult economic circumstances or as an investment.

**2. Applicability.** The provisions of this ordinance shall apply to all rental dwelling units within the Town of Portsmouth except hotels, motels, community residences, and the rental of rooms in an owner-occupied dwelling unit.

**3. Definitions.** For the purpose of this ordinance, the following definitions shall apply:

“Bedroom” is defined as any room in a residential structure which is greater than seventy (70) square feet in area, which is susceptible to present or future use as a private sleeping area, which has at least one window and one interior method of entry and egress but excluding closets and bathrooms.

“Dwelling Unit” means a structure or portion thereof providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and containing a separate means of ingress and egress.

“Local Representative” means a person designated on a registration form filed under this chapter as the person authorized to receive any process, notice or demand required or permitted to be served upon the owner of the premises. A local representative may, but need not, also serve as property manager.

“Registrar” means the Portsmouth Town Clerk.

“Short-term rental” means the rental, lease or other contractual arrangement for the occupation of a dwelling unit by a tenant for residential and/or dwelling purposes, for any period of less than thirty-one (31) consecutive days.

**4. Registration and Inspection Required; Permit.**

A. All dwellings units which are let, leased, or otherwise occupied, in whole or in part, by a tenant for any period of less than thirty-one (31) consecutive days for residential and/or dwelling purposes, shall be registered by the record property owner thereof with the Registrar before any tenant occupies the premises.

B. At the time of registration, the dwelling unit shall be subject to inspection by the Building Official or his/her designee and the Fire Marshall. The purpose of the inspection is to determine the occupancy limit of the unit pursuant to section 8 of this chapter, to determine if smoke and CO2 detectors are installed in compliance with the State Fire Code for dwelling units and to determine the number of off-street and on-street parking spaces available. The Building Official or his/her designee shall issue a short-term rental permit stating the maximum occupancy for the dwelling unit.

**5. Registration Form.** The rental registration form shall indicate the tax assessor’s plat and lot number, address of the rental dwelling unit, the number of rental dwelling units therein, the name, permanent mailing address and telephone number of the record owner and of his or her registered agent, broker, agent, manager or other representative, and the usual period of occupancy by tenants (monthly, weekly or other). Copies of the registration form, with contact

information for the local representative will held on file by the Portsmouth Police and Fire Departments.

**6. Filing Date; Term.** On or before December 31 of each year, the record owner of the rental dwelling unit shall file the completed rental registration form with the Registrar, which registration shall be valid for a one-year period from January 1 to December 31 of the following year. If the property is registered during the calendar year, the registration shall be valid until December 31 of that same year.

**7. Registration Fee.** There shall be a registration fee of one hundred dollars (\$100.00) for each dwelling unit covered under the provisions of this ordinance.

**8. Occupancy Limits and Parking Requirements.**

A. The maximum occupancy for the dwelling unit shall be two persons per bedroom. The number of bedrooms shall not exceed the number of bedrooms supported by the design load of the property's septic system (Onsite Wastewater Treatment System, or "OWTS"). The owner shall provide records and/or information that the Building Official or his/her designee deems reasonably sufficient to determine the number of bedrooms for which the OWTS is rated. The maximum occupancy may be further limited by the requirements of division (B) below. For the purpose of establishing occupancy, a person is defined as an individual at least twelve (12) years of age.

B. One off-street parking space shall be provided on the same lot on which the short-term rental is located for each bedroom as determined by the Building Official. Each required parking space shall be not less than ten (10) feet in width and twenty (20) feet in length exclusive of drives and maneuvering space. Where the required number of off-street parking spaces cannot be provided on said lot, then legal on-street parking spaces along the frontage of said lot (one (1) space per twenty (20) feet of frontage) may be utilized to meet the parking requirement. Where the total number of parking spaces required by this section cannot be met, the permitted occupancy of the dwelling shall be reduced to conform to the available amount of off-street and on-street parking spaces.

**9. Owner's Obligations.**

A. All short-term rental agreements shall have as an attachment a copy of the applicable short-term rental registration and permit for the premises. The rental agreement shall state that the renter may be held legally responsible for any violations of law committed by the renter or by other occupants or guests while at the premises, including violations of the laws and ordinances pertaining to noise, disorderly conduct, disturbance of the peace, keeping dogs on a leash, parking, trash maintenance and disposal, and dwelling occupancy limits.

B. The owner and/or local representative shall obtain accurate and up-to-date information, including the names, home addresses and phone numbers of the renters, the date of the rental period and the model, year, color and vehicle registration of all motor vehicles registered to or used by such renters. The owner and/or local representative shall maintain this information throughout the term of the short-term rental agreement and for ninety (90) days

thereafter; and shall make this information available to Town officials who are lawfully investigating or prosecuting any offense reasonably believed to involve one or more of the renters. Failure of the record owner and/or local representative to maintain or provide this required information shall constitute a violation of this chapter.

**10. Posting of Notice by Owner.** The record owner shall post in plain view, in a conspicuous place within the rental dwelling unit, a notice containing the ordinances of the town with regard to the noise ordinance, dog leash law, dwelling occupancy limits, and any other pertinent ordinance or law which the Town Council may deem appropriate from time to time. Such notices shall be available at the office of the Registrar. The record owner or any person in control or possession of said rental dwelling unit subject to the provisions of this ordinance, shall cause a copy of the current short-term rental agreement with the printed names of all renters, and the registration form and permit required by this ordinance to be posted or affixed to the inside of the primary access door to said dwelling unit so as to allow the lease and registration form to be readily available for inspection by police, zoning, building, or minimum housing officials of the Town of Portsmouth.

**11. Local Representative.**

A. The record owner shall designate on the registration form an individual who permanently resides in Newport County, or a property manager with a physically staffed office within ten vehicular miles of Newport County, as the record owner's local representative, who shall be authorized to receive any process, notice or demand required or permitted to be served upon the owner of the premises. The record owner may be designated as the local representative, if he or she resides in Newport County.

B. The local representatives must be authorized by the record owner to respond to tenant and neighborhood questions or concerns. The local representative shall serve as the initial contact person if there are questions or complaints regarding the use of the dwelling for short term rentals. The local representative shall respond to those complaints to ensure that the use of the dwelling complies with the requirements of this chapter, as well as all other applicable town ordinances pertaining to parking, noise, disturbances, or nuisances, as well as state law pertaining to the consumption of alcohol and/or the use of illegal drugs.

C. The failure of the local representative to respond to Portsmouth Police Department inquiries more than twice during the term of the annual permit, shall be considered a violation of this chapter.

D. The record owner may change the designation of the local representative from time to time by filing an amended permit application including the name, address and telephone number the new local representative. Failure to notify the town of any change in the local representative shall constitute a violation of this chapter.

**12. Enforcement; Penalty for Violation; Revocation of Permit.**

A. Violations of this chapter shall be enforceable through issuance of a summons by any Zoning Enforcement official of the Town. Violations and citations shall be heard and adjudicated by the Portsmouth Municipal Court.

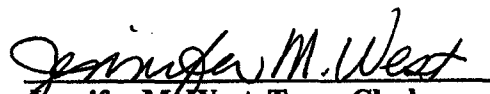
B. Any violation of the provisions of this ordinance shall be subject to a fine of not more than \$100 per day for a first violation, \$250 per day for a second violation, and \$500 per day for a third and each subsequent violation, and such fines may be imposed for each day the violation continues.

C. The Zoning Enforcement Official may revoke a short-term rental permit issued under this chapter if it is determined, by a violator's admission or a municipal court finding of a violation, that three (3) or more violations of this chapter have occurred for the same property within a twelve (12)-month period, and no new permit shall be issued to the property owner for the same property for a period of twelve (12) months following the revocation. Any revocation of a short-term rental permit may be appealed to the Zoning Board of Review as an administrative appeal pursuant to the provisions of Article XIV of the Portsmouth Zoning Ordinance.

**13. Implementation.** This ordinance shall take effect upon passage, provided however, that enforcement of violations shall be stayed until December 31, 2018.

Section 2. This Ordinance shall take effect upon passage.

**ADOPTED BY TOWN COUNCIL  
ACTION ON April 9, 2018**

  
Jennifer M. West, Town Clerk