

RESOLUTION NO. 3322

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING THE CODE OF PAYSON, ARIZONA DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENTS FILED WITH THE TOWN CLERK AND ENTITLED "TITLE XI, CHAPTER 116 RELATING TO REGULATING SHORT-TERM RENTALS AND VACATION RENTALS."

BE IT RESOLVED by the Common Council of the Town of Payson, Arizona, as follows:

Section I. The certain document entitled "Title XI, Chapter 116: Regulating Short-term rentals and vacation rentals" attached hereto as Exhibit A, of which one paper copy and one electronic copy maintained in compliance with ARIZ. REV. STAT. § 44-7041 are on file in the office of the Town Clerk and open for public inspection during normal business hours, is hereby declared to be a public record, and said copies are ordered to remain on file with the Town Clerk.

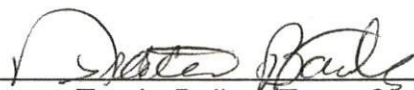
PASSED AND ADOPTED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PAYSON, ARIZONA this 12th day of April, 2023, by the following vote:

AYES 7 NOES 0 ABSTENTIONS 0 ABSENT 0

FOR THE TOWN OF PAYSON:

ATTESTED TO:


Chris Higgins, Mayor


Tracie Bailey, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:


Sheila DeSchaaf, Acting Town Manager


Pierce Coleman, PLLC Town Attorney

FIRST READING AND PUBLIC HEARING

March 22, 2023 F.2.B

SECOND READING AND PUBLIC HEARING

APR 12 2023 F.4.B

See Ord 951

Exhibit A
to
Resolution No. 3322

(Title XI, Chapter 116: Regulating Short-Term Rentals and Vacation Rentals)

(See Following Pages)

Section I. In General.

The Code of Payson, Arizona, Title XI, is hereby amended by adopting Chapter 116 Regulating Short-term rentals and vacation rentals to read as follows:

Chapter 116 Regulating Short-term rentals and vacation rentals

Sec. 116.01	Purpose.
Sec. 116.02	Definitions.
Sec. 116.03	License Required; Penalties.
Sec. 116.04	Emergency Point of Contact. Requirements: Penalties.
Sec. 116.05	Compliance with Law; Prohibited Uses.
Sec. 116.06	Neighbor Notification Required.
Sec. 116.07	Advertisement Requirements.
Sec. 116.08	Posting on the Property Required.
Sec. 116.09	Insurance Required.
Sec. 116.10	Background Checks Required.
Sec. 116.11	Standards and Operating Requirements; Health and Safety.
Sec. 116.12	License Suspensions.
Sec. 116.13	Enhanced Penalties.
Sec. 116.14	Appeals.
Sec. 116.15	Judicial Relief.
Sec. 116.16	Severability.

§ 116.01 Purpose.

This chapter is adopted to protect the peace, health, safety, and welfare of the Town's residents and visitors by enacting reasonable regulations that mitigate the harmful abuses common to the Short-Term Rental of residential property within the Town while preserving property Owners' rights to rent their property in a manner that does not disturb the peace or harm public health, public safety, or welfare of the general public. Such harmful abuses deplete law enforcement and public safety resources and can leave other areas of the Town with compromised levels of police protection so as to create a significant threat to the safety of both citizens and police officers alike. The inclusion of a specific regulation or reference to the Town Code in this chapter does not imply the exclusion of any other applicable law. It shall be unlawful to provide, offer or operate a Short-Term Rental or Vacation Rental within the corporate limits of the Town without first obtaining a License as provided in this chapter and without complying with any and all applicable laws, regulations, and this Code.

§ 116.02 Definitions.

In this chapter, unless the context or definitions in A.R.S. § 9-500.39 indicate otherwise, the following terms or phrases are defined as follows:

ADVERTISEMENT. Any method of soliciting the use of property for vacation rental purposes.

APPLICANT means the owner or owner's designee who applies with the Town for a license or renewal of a license.

DAYS shall mean calendar days unless stated otherwise.

DESIGNEE AND AGENT are interchangeable for purposes of this chapter and mean any person or persons with the charge, care, or control of any property, dwelling unit, or portion thereof. "Designee" includes the "emergency point of contact."

EMERGENCY POINT OF CONTACT. The owner or individual designated by the owner to: (i) serve as the local twenty-four (24) hour emergency point of contact for the vacation rental; and (ii) respond to complaints and emergencies relating to the vacation rental in a timely manner as required by this chapter.

NEIGHBOR NOTIFICATION. Written notice provided by the owner to each single-family residential property adjacent to the vacation rental property, directly across from the vacation rental property, and diagonally across the street of the vacation rental property that includes the valid license number issued by the Town, the physical address of the vacation rental, and the name, address, and twenty-four (24) hour telephone number of the emergency point of contact.

NONRESIDENTIAL USE. Any use that is not permitted in a residential zoning district pursuant to a Town zoning ordinance.

ONLINE LODGING MARKETPLACE has the same meaning as prescribed in A.R.S. § 42-5076.

OWNER. Any person who, alone or with others, has title or interest in a property, dwelling unit, or portion thereof, with or without accompanying actual possession thereof, and includes any person who as agent, executor, administrator, trustee, or guardian has charge, care, or control of any property, dwelling unit, or portion thereof.

LICENSE. An authorization by the Town to operate a vacation rental in accordance with this chapter.

PERSON. An individual, public entity, firm, corporation, partnership, limited liability company, trust, association, or any other business entity or juridical person, whether operating on a for-profit or nonprofit basis.

SHORT-TERM RENTAL AND VACATION RENTAL. Short-Term Rental and Vacation Rental are interchangeable for purposes of this chapter and mean any individually or collectively owned single-family or one-to-four-family house or dwelling unit, or any unit or group of units in a condominium or cooperative, that is also a transient public lodging establishment or owner-occupied residential home offered for transient use. "Vacation rental" does not include:

- (i) accommodations or property that are classified for property taxation under A.R.S. § 42-12001; or
- (ii) any unit that is used for any nonresidential use, including a special event that would otherwise require a license, retail, restaurant, banquet space, or other similar use.


TIMELY MANNER. Timely manner means responding to complaints and emergencies in person, by phone, or by email within the timeframe required by public safety personnel.

TRANSACTION PRIVILEGE TAX LICENSE. A license issued by the State of Arizona pursuant to A.R.S., Title 42.

TRANSIENT. Transient has the same meaning prescribed in A.R.S. § 42-5070.

§ 116.03 License Required; Penalties.

(A) *License required.* Prior to use of a property as a vacation rental, the owner shall obtain an annual vacation rental license from the Town. Renting, or offering for rent, a vacation rental without complying with the license requirement in this section is prohibited.

 (B) *License applications.* The owner of a proposed vacation rental shall submit to the Town a license application on a form furnished by the Town. The license application shall be signed by the applicant and shall contain the following minimum information, which shall be made publicly available:

- (1) The physical address of the residential property proposed to be used as a vacation rental.
- (2) The name, address, and telephone number of the owner for which the vacation rental registration certificate is to be issued. If the property owner is an entity, the legal name of the entity and its statutory agent.
- (3) The name, address, and telephone number of each designee of the owner, if any.
- (4) The full name, address, and twenty-four (24) hour telephone number of the individual who will serve as the emergency point of contact.
- (5) Proof of a valid transaction privilege tax license.
- (6) Acknowledgment by the owner of an agreement to comply with all applicable laws, regulations, and ordinances, including the requirement that the owner and each designee shall not be a registered sex offender, been convicted of any felony act that resulted in death or serious physical injury, or has been convicted of any felony use of a deadly weapon within the past five years.
- (7) Attestation of compliance with the notification required in this chapter.
- (8) Evidence of liability insurance appropriate to cover the vacation rental in the aggregate of at least \$500,000.00 or evidence that each vacation rental transaction will be provided through a platform that provides equal or greater primary liability insurance coverage for the vacation rental.
- (9) Evidence the vacation rental is registered with Gila County Assessor's Office in accordance with A.R.S. § 33-1902.
- (10) If the applicant is an individual, proof of lawful presence in the United States in accordance with A.R.S. §41-1080.

- (11) Evidence of commercial trash hauling services to the vacation rental physical address.

(C) *License fee.* Every application, including any renewal application, for a vacation rental license under this chapter shall be accompanied by a non-refundable fee established by Town Council resolution.

(D) *Issuance; reasons for denial.* The Town shall issue or deny the license within seven (7) business days after receipt of a complete application, except that the Town may deny issuance of a license for any of the following reasons:

- (1) The applicant failed to provide the information required under subsection B;
- (2) The applicant failed to pay the license fee required under subsection C;
- (3) The applicant provided false information;
- (4) The owner or designee of the owner: (i) is a registered sex offender; (ii) has been convicted of any felony act that resulted in death or serious physical injury; or (iii) has been convicted of any felony use of a deadly weapon within five (5) years of submitting the application; or
- (5) At the time of application, the owner has a suspended license for the same vacation rental or any of the following applies:
 - (a) One violation at the vacation rental that resulted in or constituted any of the offenses described in § 116.12; or
 - (b) Three violations of this chapter at the vacation rental within a twelve (12) month period, not including an aesthetic, solid waste disposal or vehicle parking violation that is not also a serious threat to public health and safety.

(E) *Notice of denial; appeal.* The Town Clerk shall give notice of the denial of an application to the applicant by emailing the notice to applicant at the address listed on the application. The notice of the denial shall inform the applicant of the right to appeal the denial as provided for in § 116.14.

(F) *Maintaining Accurate Information; Violations.* All applicants and persons holding licenses issued pursuant to this chapter shall give prior written notice to the Town Clerk of any change in information submitted in connection with an application for a license or

renewal of a license. The notice shall be provided to the Town Clerk not less than ten (10) days prior to the effective date of the change. A violation of this subsection is a civil offense.

(G) *Term of Payson License; Renewal application.* All licenses issued under this chapter shall be valid for a period of one (1) year from the date of their issuance, until suspended or revoked. Except where the Town has received a new application along with the requisite fees, it shall be unlawful for any person to operate a vacation rental after the expiration date recorded upon the face of the vacation rental license.

(H) *Operating Without a License; Penalties.* A vacation rental that fails to apply for a license or license within thirty (30) days of the license application being made available by the Town shall immediately cease operations. In addition to any other penalty pursuant to the Town Code, the Town may impose a civil penalty of up to \$1,000 per month against the owner if the owner or owner's designee fails to apply for license within thirty (30) days of receiving the written notice of violation from the Town. Representations or advertisements including online listings that reference the property, house or dwelling unit location within the Town is prima facie evidence that a vacation rental is operating in the Town.

(I) *Non-transferable.* No license shall be transferable either as to location or as to person.

(J) *Implementation.* The Town Manager or designee shall develop the necessary forms and/or database necessary to implement this chapter.

§ 116.04 Emergency Point of Contact Requirements; Penalties.

(A) *Emergency Responses; Violations.* When requested by a police officer, the owner/applicant or emergency point of contact whose name appears on the license application must be on the vacation rental premises, or be available over the phone or text, within 60 minutes of the request.

(B) *Non-emergency Responses; Violations.* The owner/applicant or emergency point of contact shall respond to all other complaints relating to the vacation rental in person, over the phone, by e-mail, or by text within four (4) hours of the request.

(C) *Maintaining Accurate Emergency Information.* All owners/applicants and persons holding licenses issued pursuant to this chapter shall give prior written notice to the Town Manager or designee of any change to the contact information provided to the Town for

the emergency point of contact. The notice shall be provided to the Town Clerk not less than ten (10) days prior to the effective date of the change.

(D) *Violations.* In addition to any other penalty pursuant to the Town Code, a violation of this Section shall be a civil offense.

(E) *Penalties.* In addition to any other penalty pursuant to the Town Code, an owner/applicant shall be subject to civil penalties of up to \$1,000 for if the owner/applicant or emergency point of contact fails to respond within the time frames as required under subsections (A) and (B). Before imposing the initial civil penalty for a first violation, the Town shall a written warning to the owner by emailing a notice of violation to the owner's email address that the owner/applicant provided to the Town. For any second or additional violation, the Town shall provide a notice of violation including the amount of the fine to the owner's email address that the owner/applicant provided to the Town. The notice of the violation shall inform the applicant of the right to appeal the denial as provided for in § 116.13. In addition to any other penalty pursuant to the Town Code, an owner/applicant is subject to civil penalties of up to \$1000 for every thirty (30) days the owner fails to provide notice to the Town as required under subsection (C). Before imposing the initial civil penalty, the Town shall provide thirty (30) days' notice to the owner by emailing a notice of violation to the owner's email address that owner/applicant provided to the Town. The notice of violation shall include the amount of the fine to be assessed. The notice of the violation shall inform the applicant of the right to appeal the denial as provided for in § 116.13. Notwithstanding the date of the notice of violation, the date for calculating the penalties shall be the first day the vacation rental is occupied following the owner's/applicant's failure to provide the notice to the Town regarding the change.

§ 116.05 Compliance with the Law; Prohibited Uses.

(A) A vacation rental shall comply with the federal, state, and local laws, including laws relating to public health and safety, sanitation, solid waste, hazardous waste, tax privilege licensing, property tax registration, traffic control, pollution control, noise, property maintenance, and nuisance abatement.

(B) No person or entity shall operate a vacation rental in violation of this chapter or other law. In addition, the use of a vacation rental property for any of the following uses or purposes is strictly prohibited:

- (1) Any nonresidential use;

- (2) Holding a special event that requires a permit or license pursuant to a Town ordinance or state law or rule;
- (3) Operating a retail business, restaurant, event center, banquet hall or similar use;
- (4) Housing sex offenders;
- (5) Operating or maintaining a sober living home;
- (6) Selling liquor, illegal drugs, or pornography;
- (7) Operating a nude or topless dancing business;
- (8) Obscenity;
- (9) Adult-oriented business; or
- (10) Any other use prohibited by A.R.S. § 9-500.39 or the Town code.

(C) A vacation rental lacking a valid transaction privilege tax license issued by the State of Arizona shall not be rented or offered for rent.

(D) No person or entity may receive payment or accept a fee, directly or indirectly, for facilitating the rental of a vacation rental operating in violation of this Code or other law.

(E) In addition to any other penalty pursuant to the Town Code, any person who causes, allows, facilitates, aides, or abets any violation of this chapter shall be subject to a civil offense.

(F) The failure of any designee to comply with this chapter shall not relieve the owner of liability under this chapter.

§ 116.06 Neighbor Notification Required.

(A) *Neighbor notification.* Prior to offering a vacation rental for rent for the first time, the owner or designee shall provide neighbor notification to each single-family residential

property adjacent to the vacation rental property, directly across from the vacation rental property, and diagonally across the street of the vacation rental property. The neighbor notification shall be provided in writing in the form required by the Town and shall include the following minimum information:

- (1) The license number issued by the Town;
- (2) The physical address of the vacation rental; and
- (3) The name, physical address, email address, and twenty-four (24) hour telephone number of the emergency point of contact.

(B) *Additional neighbor notification required.* Any change to the information provided under Subsection A shall require additional neighbor notification by the owner or designee not later than five (5) days prior to each change. The additional notification shall be provided in the manner required by Section A.

(C) *Attestation.* At the time of the application, the owner or designee shall provide to the Town an attestation of compliance with the neighbor notification required by this section.

(D) *Violations.* In addition to any other penalty pursuant to Town Code, a violation of this section shall be a civil offense.

§ 116.07 Advertisement Requirements.

(A) *Required Disclosure.* To protect the peace, health, safety, and general welfare of the Town's residents and visitors, the owner or owner's designee shall be responsible for displaying the license number issued by the Town on each advertisement for such vacation rental.

(B) In addition to the license number that must be included in the Short-Term Rental's listing, the Owner shall complete and prominently display the following statement in the Short-Term Rental's Online Lodging Marketplace or other listing:

The Owner of this property will provide you with pertinent safety information, explain your responsibilities under the Town of Payson Town Code, and expect you to certify your compliance therewith.

You must not use this property for any nonresidential or other prohibited activity or use, as defined in Town of Payson Town Code Section 116.05. Any renter who causes, licenses, facilitates, aides, or abets such prohibited use of this property shall be subject to a civil infraction carrying a mandatory penalty of a minimum of \$500.00, in addition to any other penalties which the Town may impose.

The use of this Short-Term Rental to house sex offenders is prohibited by State Law and by the Town of Payson Town Code. The Owner of this Short-Term Rental is required to perform a background check on you and your guests prior to your stay.

(C) *Violations.* In addition to any other penalty pursuant to the Town Code, a violation of this section shall be a civil offense. Each advertisement in violation of this section shall constitute a separate violation.

§ 116.08 Posting on the Property Required.

(A) *Posting at the Vacation Rental.* The owner of the vacation rental must display the name, phone number, and email address of the owner or designee, and emergency point of contact in a conspicuous place within fifteen (15) feet of the primary entrance of the vacation rental.

(B) *Booking Information.* To protect the peace, health, safety, and general welfare of the Town's residents and visitors, the owner of a Short-Term Rental shall (1) provide each booking guest with a statement of applicable Town rules and regulations, or direct each booking guest thereto, and inform the booking guest that rental of the unit constitutes an agreement to comply with such rules and regulations, and (2) display the License number issued by the Town on each advertisement for such Short-Term Rental.

(C) *Failure to Comply.* In addition to any other penalty pursuant to the Town Code, a violation of this section shall be a civil offense. Each day a vacation rental does not display the information required by this section shall constitute a separate violation.

§ 116.09 Insurance Required.

(A) *Required insurance.* Prior to offering or renting a vacation rental for rent for the first time, liability insurance appropriate to cover the vacation rental in the aggregate of at least \$500,000 shall be provided by the owner or the online marketplace platform.

(B) *Proof of insurance.* Proof of the required liability insurance coverage shall be provided to the Town at the time of the application.

(C) *Violation.* In addition to any other penalty pursuant to the Town Code, a violation of this section shall be a civil offense. Each day a vacation rental lacks the insurance required by this section shall constitute a separate violation.

§ 116.10 Background Checks Required.

(A) No sex offender shall be permitted to rent or occupy the vacation rental. Owners who allow a sex offender at the vacation rental shall be found in violation of this section.

(B) Within twenty-four (24) hours of every booking, a sex offender background check on each guest shall be conducted by the owner or by the online lodging marketplace on which the vacation rental is advertised. The owner shall demonstrate compliance with this requirement by retaining a full copy of each background check for a minimum of twelve (12) months after the booking date and providing the copy to the Town upon a request by a police officer.

(C) In addition to any other penalty pursuant to the Town Code, any person who violates this section shall be subject to a civil offense.

(D) The failure of an online lodging marketplace to conduct a background check shall not relieve the owner of liability under this section.

§ 116.11 Standards and Operating Requirements; Health and Safety.

(A) Standards and Operating Requirements.

- (1) An owner or owner's representative shall (a) affirmatively respond to complaints in person, over the phone, or by email, and (b) abate the incident from which the complaint arose in a timely manner regardless of when the owner receives notice of the complaint. If such a response is due within one hour under this chapter's definition of timely manner, the response is deemed necessary to protect the peace, health, safety, and welfare of the general public, and the owner or owner's representative shall so respond in person. If the response is due within 24 hours, the owner or the owner's representative shall respond either in person, by telephone, or by email. Failure of the owner or the owner's representative to respond to a complaint as provided herein is a violation of this chapter, and the owner shall be deemed responsible for such violation regardless of whether an owner's representative has been designated.
- (2) Prior to the commencement of the occupancy or during check-in, the owner shall explain and describe all rules and regulations applicable to the use of the property as a short-term rental including, but not limited to, parking restrictions, restrictions on noise and amplified sound, trash collection schedules, special event and nonresidential use restrictions, fire

evacuation routes, and any other information, as required by this Code, applicable to the short-term rental and the surrounding neighborhood. Prior to or upon the booking guest's arrival at the short-term rental, the owner shall provide the booking guest with a written copy of the statement of rules and regulations acknowledged by the booking guest at the time of booking as required by § 116.11(A)4. The owner shall keep a record of compliance with this section.

- (3) Trash and refuse shall not be left stored within public view, except in proper collection containers for the purpose of collection by the solid waste service provider. Containers shall not be placed for collection before 6:00 p.m. on the day preceding the date of collection, and after the containers are emptied, they shall be removed from the street and stored in a screened area by the end of the collection day.
- (4) The following notice must be completed in 14-point or larger bold font, on a laminated or otherwise similarly shielded paper, and prominently displayed on the inside of the front door and the primary door to the backyard or in a conspicuous location near each such door. The notice below shall also include information regarding the location of all fire extinguishers and Town of Payson parking and waste disposal regulations.

NOTICE

USE OF THIS PROPERTY FOR ANY OF THE FOLLOWING PURPOSES IS PROHIBITED; VIOLATORS MAY BE SUBJECT TO SUBSTANTIAL PENALTIES:

1. Housing sex offenders;
2. Operating or maintaining a sober living home;
3. Selling controlled substances, liquor, or pornography;
4. Obscenity, Nude or topless dancing, and other adult-oriented businesses, performances, parties, or activities in which value is given in exchange for an adult-oriented service;
5. Any uses prohibited under A.R.S. § 9-500.39, or federal, state, or local law; or
6. Any use that disturbs neighboring properties' peace and enjoyment including, but not limited to, excessive noise, impeding traffic, obstruction of public streets by crowds or vehicles, use or possession of illegal drugs, drinking in public areas, the service of alcohol to minors or consumption of alcohol by minors, fighting, disturbing the peace, and/or littering.

USE OF THIS PROPERTY FOR ANY OF THE FOLLOWING PURPOSES IS PROHIBITED; VIOLATORS MAY BE SUBJECT TO SUBSTANTIAL PENALTIES:

Use for any nonresidential use, including:

1. For a special event that would otherwise require a permit or license pursuant to Town ordinance or a state law or rule; or
2. Operating a retail business, restaurant, event center, banquet space, or similar use.

Your local contact person's name is _____ and can be reached by phone 24 hours a day, seven days a week, at _____.

(B) Health, Safety, and Sanitation. To protect the health, safety, and general welfare of all short-term rental occupants, short-term rentals must meet the minimum standards for habitable structures set forth in this Code and the Town's Zoning Ordinance and the following requirements. The Town may require inspection if it has a reason for concern that the short-term rental may not be compliant with the Town of Payson's fire, building, or zoning requirements.

- (1) Smoke and carbon monoxide (CO) detection and notification system. A working smoke alarm and carbon monoxide (CO) alarm system, which may require the installation and maintenance of several detection units, shall be present within the short-term rental and maintained annually as required under NFPA (National Fire Protection Association) 72. The owner
- (2) owner's representative shall keep and make available for inspection upon request by the Fire Marshal a record of all inspections and maintenance activities.
- (3) Fire extinguisher. A portable, multi-purpose fire extinguisher shall be installed, inspected, and maintained as required under NFPA 10 in any kitchen area and on each floor of a short-term rental and within twenty (20) feet of every outdoor fire feature, fire pit, patio heater, fireplace, or other areas with fire. The extinguisher(s) shall be installed on the wall in an open, common area or in an enclosed space with appropriate markings visibly showing the location of the fire extinguisher.
- (4) Fire Safety and Emergency Evacuation Map. The owner shall provide and prominently display a map of the short-term rental showing the following

information: safe routes of egress in the event of a fire or other emergency; the location of telephone(s) required under this chapter; the location of fire detection and suppression equipment; and any additional information relevant to such emergency preparedness measures. Such maps shall include the full property address, emergency information (911), and owner contact information.

- (5) Air Filters. As applicable, all HVAC filters in the short-term rental shall be changed every three (3) months or according to the manufacturer's instructions. The owner or owner's representative shall keep and make available for inspection upon request by the Town a record of all HVAC filter changes.
- (6) Cleaning. The owner shall have the short-term rental cleaned between bookings following CDC guidelines and using household disinfectant products recommended by the United States Environmental Protection Agency.
- (7) Pest Control. The owner shall ensure that the short-term rental receives regular (at least monthly) pest control treatments to keep the interior of all buildings and structures and exterior area of the premises free from infestation of insects, rodents, and other noxious pests where such infestation threatens the health, safety, or welfare of a person or persons.

§ 116.12 License Suspensions.

(A) *License suspensions.* The Town may initiate an administrative process to suspend a vacation rental license for a period of up to twelve (12) months for any of the following:

- (1) Three verified violations of this chapter within a twelve (12) month period, not including any such violation based on an aesthetic, solid waste disposal or vehicle parking violation that is not also a serious threat to public health and safety.
- (2) One verified violation that results in or constitutes any of the following:
 - (a) A felony offense committed at or in the vicinity of a vacation rental by the owner of the vacation rental or by the owner's designee;

- (b) A serious physical injury or wrongful death at or related to a vacation rental resulting from the knowing, intentional, or reckless conduct of the owner of the vacation rental or the owner's designee;
- (c) The owner of the vacation rental or the owner's designee knowingly or intentionally housing a sex offender, allowing offenses related to adult-oriented businesses, sexual offenses, or prostitution, or operating or maintaining a sober living home; or
- (d) The owner of the vacation rental or the owner's designee knowingly or intentionally allowing the use of a vacation rental for a special event that would otherwise require a permit or license pursuant to the Town code or a state law or rule or for a retail, restaurant, banquet space or other similar use.

(B) *Appeals.* A decision to suspend a license may be appealed by the owner as set forth in §116.14.

§ 116.13 Enhanced Penalties.

(A) The remedies in this chapter are cumulative and the Town may proceed under one or more such remedies.

(B) In addition to any other penalty pursuant to the Town Code, and notwithstanding any other law, the Town may impose a civil penalty of the following amounts against an owner if the owner causes, allows, facilitates, aides, or abets a verified violation of any provision of this chapter or fails to perform any act or duty required by this chapter, related to the same vacation rental property within the same twelve (12) month period:

- (1) Up to \$500 or up to an amount equal to one night's rent for the vacation rental as advertised, whichever is greater, for the first violation.
- (2) Up to \$1,000 or up to an amount equal to two nights' rent for the vacation rental as advertised, whichever is greater, for the second violation.

- (3) Up to \$3,500 or up to an amount equal to three nights' rent for the vacation rental as advertised, whichever is greater, for a third and any subsequent violation.

If multiple violations arise out of the same response to an incident at a vacation rental, those violations are considered one violation for the purpose of assessing civil penalties.

(C) In addition to any other penalty pursuant to the Code, any property that operates as a vacation rental and fails to apply for vacation rental license in accordance with this chapter within thirty (30) days of the application process being made available by the Town, must cease operations immediately. In addition to any fines imposed pursuant to this section, the Town may impose a civil penalty of up to one thousand dollars (\$1,000) per month against the owner, if the owner or owner's designee fails to apply within thirty (30) days of receiving written notice of the failure to comply with this chapter.

§ 116.14 Appeals.

(A) Any person aggrieved by any decision with respect to the denial of or a refusal to issue a vacation rental license, the suspension of a vacation rental license, or a penalty imposed pursuant to this chapter may appeal the decision by filing a written notice of appeal with the Town Clerk no later than thirty (30) days from the date of the decision letter. The notice of appeal shall be on a form approved by the Town.

(B) An appeal under this section does not operate as a stay of the license suspension.

(C) This section is not applicable to judicial actions brought pursuant to § 116.15 or to penalties including fines imposed by a court.

§ 116.15 Judicial relief.

(A) Notwithstanding § 116.12, any attempted or completed felony act, arising from the occupancy or use of a vacation rental that results in a death, or actual or attempted serious physical injury, shall be grounds for judicial relief in the form of a suspension of the property's use as a vacation rental for a period that shall not exceed twelve (12) months.

(B) The Town attorney may initiate proceedings in the Town court or other court of competent jurisdiction to enforce this Section.

§ 116.16 Severability.

In the event any section or provision of this chapter shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

Section II. Repeal of Conflicting Ordinance.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any part of the Code adopted herein by reference is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section IV. Providing for Penalties.

The penalties for violating this Ordinance shall be:

(A) The remedies in this chapter are cumulative and the Town may proceed under one or more such remedies.

(B) In addition to any other penalty pursuant to the Town Code, and notwithstanding any other law, the Town may impose a civil penalty of the following amounts against an owner if the owner causes, allows, facilitates, aides, or abets a verified violation of any provision of this chapter or fails to perform any act or duty required by this chapter, related to the same vacation rental property within the same twelve (12)-month period:

- (1) Up to \$500 or up to an amount equal to one night's rent for the vacation rental as advertised, whichever is greater, for the first violation.

- (2) Up to \$1,000 or up to an amount equal to two nights' rent for the vacation rental as advertised, whichever is greater, for the second violation.
- (3) Up to \$3,500 or up to an amount equal to three nights' rent for the vacation rental as advertised, whichever is greater, for a third and any subsequent violation.

If multiple violations arise out of the same response to an incident at a vacation rental, those violations are considered one violation for the purpose of assessing civil penalties.

- (C) In addition to any other penalty pursuant to the Code, any property that operates as a vacation rental and fails to apply for vacation rental license in accordance with this chapter within thirty (30) days of the application process being made available by the Town, must cease operations immediately. In addition to any fines imposed pursuant to this section, the Town may impose a civil penalty of up to one thousand dollars (\$1,000) per month against the owner, if the owner or owner's designee fails to apply within thirty (30) days of receiving written notice of the failure to comply with this chapter.