

FAQs REGARDING ORDINANCE 2020-14 (VERSION 2)

TO AMEND THE SEABROOK ISLAND TOWN CODE TO ESTABLISH REQUIREMENTS FOR THE OPERATION OF SHORT-TERM RENTALS WITHIN THE TOWN OF SEABROOK ISLAND

PENDING BEFORE SI TOWN COUNCIL

VERSION 2 REFLECTS “AMENDMENT IN THE NATURE OF A SUBSTITUTE” ADOPTED BY COUNCIL ON NOVEMBER 17, 2020

What is the general purpose of the proposed STR ordinance?

While recognizing the economic importance of STRs to the island and also maintaining the ability of property owners to rent their properties, the proposed ordinance is intended to offer basic safety protections for rental guests, minimize adverse impacts on neighboring properties and the public, supplement SIPOA and regime rules, and bring Seabrook Island in line with “best practices” in STR ordinances already enacted and successful in neighboring communities.

Where I can find a copy of the Ordinance 2020-14?

The proposed ordinance is posted on the Town’s website. (townofseabrookisland.org), which includes a portal to post comments. Ordinance 2020-14 was subject to first reading on October 27 at which time amendments were made to the original language presented to Council for consideration; Council again considered the proposed ordinance on November 17 and adopted an amendment in the nature of a substitute before deferring further action until the December 15 Council meeting. The “revised” version of 2020-14 now posted on the website reflects the amendments made by Council to date. (There is no provision in state law requiring amendments that a Council member may offer to be posted in advance.)

What is the status of Ordinance 2020-14? How do I track Council action on 2020-14 or any action by the SI Town Council?

Further consideration of Ordinance 2020-14 under second reading was deferred by Council until the regular Council meeting on December 15. The motion to defer also included a provision for another public hearing before that meeting, and that hearing has been scheduled for December 8 at 1pm (notice of which and instructions for participating in the virtual public hearing are posted on the Town’s website.)

As a procedural/parliamentary note, when the motion is made for second reading of an ordinance, it opens the ordinance for discussion and amendment. Second reading does not mean automatic approval of the pending language nor does the motion to move to second reading preclude a later motion to defer consideration to a later date. An ordinance is deemed enacted when approved by a majority on second reading.

Agendas of meetings and minutes are all available on the Town’s website. One way to track Council action is to subscribe to SIPOA’s *Tidelines* blog where notices of the Town’s meetings and their agendas are always posted. Contrary to claims being made, the Town has complied with, and exceeded, all notice requirements of SC Code 6-29-760.

How will I apply for the rental permit required by 2020-14? Is the rental permit part of my business license application? What is the fee for the rental permit?

Under 2020-14, operating a STR will still require a business license that must be renewed each year, and the business license number will continue to be required in any advertisement marketing the rental. It is the intent of Council to coordinate the rental permit application timing with the business license renewal process so property owners will receive one envelope with both applications and will only have that one paperwork interaction with Town Hall. The rental permit will also need to be renewed each year, and the permit number will also need to be included in any advertisement marketing the rental.

The proposed fee for the rental permit is \$250 annually. The recommended amount was calculated to cover the administrative and enforcement costs for implementing the ordinance; it was not established as a revenue stream for the general budget as some have charged. (For reference, the fee for the STR rental permit on Kiawah Island is \$500.)

Does the ordinance propose occupancy limits? And, if so, how will they be calculated?

The proposed ordinance will establish an occupancy limit for a rental property of 2 people per code-compliant bedroom plus 2 for properties with 2500 square feet or less. For larger properties, greater than 2500 square feet, the occupancy limit will be 2 people per code-compliant bedroom plus four. Children under the age of 2 will not count toward the occupancy limit. The number of code-compliant bedrooms and square footage is based on Charleston County tax records to which everyone has online access. Owners may contact Charleston County to appeal the number of bedrooms listed in the tax records. The ordinance also provides for an appeal of the finished square footage by presenting a recent appraisal to the Town's Zoning Administrator.

What are the required safety requirements?

Rental properties will be required to equip the property with at least one standard, multi-purpose fire extinguisher with a minimum rating of 1A:10B:C; and also be required to have at least one working smoke alarm in every bedroom, one outside each sleeping area, and at least one per floor. Properties that burn fossil fuel (such as propane) and/or have an attached, enclosed garage will be required to also have a carbon monoxide detector. Smoke alarms and carbon monoxide detectors may be battery powered, hard wired, or plugged into an existing electrical outlet.

Will inspections of STR properties be required?

Unlike other jurisdictions (Kiawah for example), routine safety inspections proposed in 2020-14 are not mandatory prior to issuance of the rental permit. Unless there is an emergency indicating the need for an inspection, the Town Administrator anticipates that only a small number of rental properties each year will be subject to an inspection.

And of significant note, in the amendment adopted by Council on November 17, to clarify the Town's intention to minimize disruptions to rental guests, routine inspections shall be arranged with at least 24-hour notice, avoided between Memorial Day and Labor Day when possible, and shall be conducted between the hours of 9:00 am and 5:00 pm.

How will the safety requirements be enforced?

In completing the rental permit, property owners will attest to compliance with the safety requirement and, in making the application, agree to a safety inspection of the rental property. At present, the Town employs two enforcement officers, who can be tasked to make these inspections.

May the Town inspect my property without a warrant?

The safety inspection does not require a warrant. An STR is a business and in operating that business and applying for the required license and permit, the applicant is consenting to the established conditions associated with the permit and license. Failure to allow the Town access for the safety inspection would violate the conditions of the STR permit and could result in the Town taking legal action. This is similar to restaurants, bars, and other commercial food service businesses that must allow access by SCDHEC personnel to conduct food safety inspections.

Will every STR property be required to have a local contact?

Yes, the proposed ordinance requires that all STRs have a designated local contact who resides within 50 miles of the property and is available to respond to issues at the rental property within two hours of being notified of a problem. The local contact may be the property owner, or any professional management company, rental agent, relative, friend, or neighbor who is authorized by the property owner and who meets the criteria for being the local contact.

Does 2020-14 change the procedure at the security gate for issuing vehicle passes for renters and their guests?

No. The Town does not control access to the island through the security gate. As such, the proposed ordinance does not in any way address operations at the security gate, which is under SIPOA's exclusive jurisdiction and control.

Does the proposed ordinance restrict the number of cars that may be parked at a STR? Does it impose any additional parking restrictions?

The proposed ordinance only requires that a rental property have at least one off-street parking space available.

It places no restrictions on the number of cars that may be parked at a STR, so any suggestion that the Town will be out counting cars and issuing citations is wrong. Research does suggest that clearly advertised occupancy limits may limit the number of cars that are brought to a rental property.

Ordinance 2020-14 will place the most basic rules on parking — don't park in a no-parking area or against traffic; don't block a fire hydrant; don't block emergency vehicles; don't block a neighboring driveway or intersection; don't park on a lawn, sidewalk, or path.

SIPOA, as well as some individual regimes, have parking rules in place, and those rules may be more restrictive than those imposed by the Town (they cannot, however, be less restrictive). SIPOA, however, cannot enforce parking in areas it does not own, such as on private streets, cul-de-sacs, and parking lots. Also of note, there are areas of the Town outside the gate and SIPOA's jurisdiction where the parking restrictions in 2020-14 will also be applicable.

Why does the proposed ordinance prohibit the rental of "accessory dwelling units" such as a guest or pool house?

Under the current Town Code, a property owner is prohibited from renting or leasing an accessory dwelling as an STR, and the proposed ordinance does not change that prohibition. The proposed ordinance does not make any changes to the zoning designations within the Town. Requiring properties to be rented in their entirety as an STR, retains the character and integrity of the Town's residential zoning.

Who will be in charge of enforcing compliance with the ordinance?

The Town currently employs two general code enforcement officers. The Town Administrator, who also serves as the Zoning Administrator, is also an enforcement officer. (Employees of the company providing Beach Patrol services on Seabrook Island's beaches have also been sworn as code enforcement officers; as of this time, they have not been tasked, by contract, with duties beyond beach patrol.)

Will a public complaint called into the Town immediately result in a violation and a fine?

No! A complaint is simply a complaint until it is investigated, and it will be investigated only if it falls under the jurisdiction of the ordinance. Under the proposed ordinance, a complaint does NOT equal a violation, a violation does NOT equal a citation, and a citation does NOT equal guilt. Once the process plays out, guilt can only be determined by admission or by the judge in our municipal court. A complaint may trigger a phone call to the property owner, rental agent, or local contact. Or, depending on the nature of the complaint, it may trigger an enforcement officer to drive by the property. If, indeed, there is a problem, a verbal warning or request may be all that is needed to correct a problem or situation.

As a matter of practice, the Town's primary objective is to encourage compliance, rather to impose punishment. For example, the Town's beach patrol officers issued hundreds of warnings on the beach this past summer, but only one citation was written during the 2020 season.

To clarify the intent of the ordinance to first encourage compliance, this language was added by the amendment adopted by Council on November 17:

Notwithstanding any provisions to the contrary, whenever the Zoning Administrator determines that a violation of this section has occurred, he or she shall contact the property owner, designated agent, or local contact, as applicable, to indicate the nature of the violation and to direct the notified party to take such action as may be necessary and proper to correct the violation and/or prevent further violations from occurring. Any notice made in accordance with the foregoing may be communicated by phone, email, in writing or in person, and shall include a reasonable time during which the notified party shall correct the violation. If the notified party fails to correct the violation within the time specified by the Zoning Administrator, the Zoning Administrator may issue an ordinance summons. In the event a violation is deemed by the Zoning Administrator to present a substantial threat to public health or safety, or in instances when a short-term rental unit has received multiple notices for the same violation, the Zoning Administrator may immediately issue an ordinance summons

Will it be a misdemeanor to violate the provisions of 2020-14?

A violation of any Town ordinance for which a person admits guilt or is found guilty in municipal court following a trial is a misdemeanor. The penalty language in Ordinance 2020-14, even as revised by the amendment adopted on November 17, is found elsewhere in the current Town Code and is nothing new. For example, a violation of the business license requirements, under which STRs have operated for years, would be a misdemeanor. A violation of a zoning requirement is deemed a misdemeanor under state law.

Does a violation of 2020-14 impact the status of the rental permit? Can decisions be appealed?

A single violation (or even two during a 12-month period) would have no bearing on the status of a rental property. The only time a rental may be required to cease operations would be upon the suspension or revocation of a short-term rental permit. In most instances, this would require 3 or more actual violations in a 12-month period (suspension) or 6 or more actual violations in a 24-month period (revocation). An “alleged” violation does not count as a “strike” unless and until the owner and/or agent are found guilty by admission or following a trial in municipal court.

The proposed ordinance states that “any person who is aggrieved by a decision of the Zoning Administrator to suspend or revoke a short-term rental permit may appeal the decision to the Board of Zoning Appeals, pursuant to Section 19.40 of this ordinance.” An appeal then stays all legal proceedings unless there is a determination of imminent peril to life or property. In other words, the Town would be precluded from initiating legal proceedings against the property owner or agent while the suspension or revocation is pending appeal.

Does the proposed STR ordinance duplicate SIPOA jurisdiction? Why not just let SIPOA address these issues?

It is not the intent of the proposed ordinance to violate SIPOA's jurisdiction, and every attempt has been made in its drafting not to duplicate rules. One reason Council initiated consideration of STR issues, was based on the SIPOA administration indicating it would “welcome and appreciate” some help on certain issues (parking and occupancy limits) where the association's jurisdiction was limited. All this said, the Town does have the legal right to establish rules it deems necessary and appropriate for the Town of Seabrook Island under which both SIPOA (and the Club) operate. (For example, due to the ongoing COVID-19 pandemic, the Town has adopted an emergency ordinance requiring face masks to be worn in business establishments and certain other situations.)

Why is the Town considering this ordinance that impacts all rental properties; why not just deal with problem properties when they arise?

Beyond the requirement that STRs have a business license and list the license number in all advertisements, there is nothing substantial in Town Code that addresses STRs. If there are no rules or requirements on the books, there is nothing the Town can do to address issues that may arise at even one problem property. Further, a short-term rental is a business, with regular turnover between guests on a short-term basis (daily, weekly, etc.). Generally speaking, the Town's ordinances place more restrictions on businesses than standard residential uses.

Is the Town ignoring the economic impact and importance of rental properties to the island?

The introductory language of the proposed ordinance clearly recognizes the importance of STRs to the economic viability of the island and their importance to property owners who choose or need to rent their properties for the income.

The proposed ordinance focuses mainly on safety issues because the Mayor and Council are sensitive to burdens that may arise from governmental regulation, but at the same time they are striving to balance the interests of all parties on the island and on either side of the debate. Unlike STR ordinances put in place in neighboring jurisdictions, 2020-14 is far less restrictive; for example, it does NOT place any caps on the total number of STRs within the Town or limit the maximum number of nights an STR may be offered in any given year. Not everyone agrees with this direction, but it is the balance Council has found in this ordinance.

Any additional questions can be posted through the public comment portal on the Town's website. Every effort will be made to update this fact sheet to respond to those posted questions.

* * * * *