

## Chapter 9 BUSINESSES

### ARTICLE I. BUSINESS AND LICENSING

#### Sec. 9-1. Intent of article.

It is the intent of this article to impose the taxes set forth in this article upon all businesses and practitioners operating in the town consistent with the requirements of the Constitution and laws of the state. In the event that the fees imposed hereby shall not be authorized on any business and practitioner or taxes and fees shall be in excess of the maximum amount authorized by law, such taxes and fees shall be imposed only to the extent authorized by law.

#### Sec. 9-2. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Administrative fee* means a component of an occupation tax that approximates the reasonable cost of handling and processing the occupation tax.

*Employee* means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form W-2, but not a form I.R.S. 1099.

*License* means a permit or certificate issued by the town manager or his designee that allows an entity to operate lawfully in the town. A license does not create any rights to operate in violation of any provision of this Code of Ordinances and it may be revoked by the mayor and town council at any time. This definition applies to any license issued pursuant to this chapter.

*Location or office* means and includes any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction work site which serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office. The renter's or lessee's location which is the site of personal property which is rented or leased from another does not constitute a location or office for the personal property's owner, lessor, or the agent of the owner or lessor. The site of real property which is rented or leased to another does not constitute a location or office for the real property's owner, lessor, or the agent of the owner or lessor unless the real property's owner, lessor, or the agent of the owner or lessor, in addition to showing the property to prospective lessees or tenants and performing maintenance or repair of the property, otherwise conducts the business of renting or leasing the real property at such site or otherwise conducts any other business, profession, or occupation at such site.

*Occupational tax* means a tax levied on persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business.

*Practitioner of professions and occupants* shall not include a practitioner who is an employee of a business if the business pays an occupation tax.

*Regulatory fees.*

- (1) The term "regulatory fees" means payments, whether designated as license fees, permit fees, or by another name, which are required by the town as an exercise of its municipal power and as a part of or as an aid to regulation of an occupation, profession, or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the town.
- (2) The term "regulatory fees" does not include:
  - a. Administrative or registration fees; or
  - b. Required occupation taxes for businesses and professions located in the town.

State law reference(s)—O.C.G.A. § 48-13-5.

**Sec. 9-3. Business license required.**

- (a) All persons, firms, companies, or corporations, including limited liability companies and professional corporations, now or hereafter operating a business in the town, are hereby required to register their business or office, obtain an occupation tax certificate for their business or office, and pay the amount now or hereafter fixed as taxes and fees thereon as authorized under the provisions of chapter 13 of title 48 of the Official Code of Georgia, Annotated, as amended by Ga. L. 1993, p. 1292.
- (b) The occupation tax certificate shall serve as a business license. Additional business licenses may be required as established in this chapter.
- (c) Stock or manufacturing companies or other companies, subsidiaries, agencies, district offices, branch offices, corporations or individuals, having either their business proper or their general branch offices located within the town, and either represented by the officers of the company, or any agent, for the purpose of soliciting patronage for the same, or for the transaction of any business pertaining thereto, shall be required to obtain an occupation tax certificate.
- (d) All licenses granted under this article shall expire on December 31 of each year. Licensees shall be required to file an application in each ensuing year. The applicant shall be required to comply with all rules and regulations for the issuance of licenses as if no previous licenses had been held.

State law reference(s)—Levy of occupation tax, O.C.G.A. § 48-13-6.

**Sec. 9-4. Fee; basis.**

- (a) Except as otherwise provided in this article, every business and practitioner subject to this article shall pay a tax based on whether the operation is considered a regular business operation or a home-based business.
- (b) All persons, firms, companies, or corporations, including limited liability companies and professional corporations, as well as home-based business (limit of two nonresident employees or six employees total) pay a flat rate fee as adopted by the town council each fiscal year during the budget resolution and adoption.

**Sec. 9-5. Application for registration.**

- (a) It shall be the duty of each person, firm or corporation subject to this article, to file with the town on or before March 31 of each calendar year an application for registration under this article setting forth all activities of each business, to submit a permit application, and such other information as may be required by the town to properly administer this article.
- (b) Each business or practitioner with a location or office situated in more than one jurisdiction, including businesses or practitioners with one or more location or office in the state and one or more location outside the state, a permit application shall be filed with the town for operations conducting business from a physical location within the town's corporate boundaries.

**Sec. 9-6. Payment of fee; separate locations; refunds.**

- (a) Following the filing of the application, business or professional practitioner subject to this Code shall remit payment in full for all taxes and fees due not later than March 31 of the year in which the application is filed. Each person, firm or corporation operating under various trade names must secure a separate occupation tax certificate for each trade name issued. In addition, a separate occupation tax certificate must be secured for each business location.
- (b) In the event a business ceases to operate after the issuance of an occupation tax certificate, no refund of the fee or tax shall be granted.
- (c) Except as provided in subsection (b) of this section, the refund of the occupation tax levied herein is governed by O.C.G.A. § 48-5-380.

State law reference(s)—O.C.G.A. § 48-5-380.

**Sec. 9-7. Termination of business.**

It shall be the duty of each business and practitioner subject to fees and occupation taxes under this article when it shall cease to do business or practice to return its current occupation tax certificate, together with a statement as to the date of termination of doing business or practice to the town.

**Sec. 9-8. Commencement of business after January 1.**

Businesses and practitioners, other than home-based occupations, which commence operation by January 1 of any year shall pay the full amount of licensing and administrative fees. Such payments shall be due and payable 30 days following the commencement of the business.

**Sec. 9-9. Transfer, suspension, revocation.**

- (a) *Transfer.* No certificate issued hereunder may be transferred. Any new business or practitioner shall apply and register for a new certificate within 30 days after the commencement of business.
- (b) *Revocation.*
  - (1) Each certificate granted hereunder shall be subject to suspension or revocation for violation of any current or future rule or regulation of this Code, the Code of Ordinances for Fayette County, or state or federal law.
  - (2) Notice.
    - a. Whenever, in the opinion of the town manager, there is cause to suspend or revoke this certificate, a written notice of intention to suspend or revoke the certificate shall be furnished to the holder thereof. A hearing will be scheduled wherein the certificate holder may present his case before the mayor and town council or such board as the mayor and town council may designate.
    - b. After the hearing, the mayor and town council or its designate may suspend or revoke this certificate if the grounds set forth below in subsection (b)(2)c of this section exist or, in the mayor and town council's discretion, if the establishment is a threat or nuisance to public health, safety or welfare.
    - c. The decision to suspend or revoke a certificate issued under this article shall be solely within the discretion of the mayor and town council or such board as the mayor and town council may designate. An occupation tax certificate may be suspended or revoked upon one or more of the following grounds, but is not limited to:
      - 1. The certificate holder is guilty of fraud in the business or occupation he practices, or fraud or deceit in being licensed to practice in that area;
      - 2. The certificate holder is engaged in his business or occupation under a false or assumed name, or is impersonating another practitioner of a like or different name;
      - 3. The certificate holder is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants to such an extent as to incapacitate such person to the extent that he is unable to perform his duties;
      - 4. The certificate holder is guilty of fraudulent, false, misleading, or deceptive advertising or practices;
      - 5. The certificate holder has been convicted of or has pled guilty or *nolo contendere* to any sexual offense as set out in title 16, chapter 6 of the Official Code of Georgia Annotated, or to any offense involving the lottery, illegal possession or sale of narcotics or alcoholic beverages or possession or receiving of stolen property, for a period of five years immediately prior to the filing of the application. If after having been granted a certificate, the applicant is found not to be of good moral character, or pleads guilty or

enters a plea of nolo contendere to any of the above offenses, said certificate shall be subject to suspension and/or revocation;

6. The application contains materially false information, or the applicant has deliberately sought to falsify information contained therein;
7. The establishment is a threat or nuisance to public health, safety or welfare;  
or
8. Any other violation of this article.

**Sec. 9-10. Payment; penalty for late payment; issuance of executions against delinquent taxpayers.**

- (a) Any occupation tax with its associated administrative fees hereunder, shall be due and payable by March 31 of each calendar year. If the business or practice was not in operation on January 1, the occupation tax with its associated administrative fees shall be due and payable 30 days following the commencement of business. The town shall assess a penalty in the amount of ten percent of the amount owed for each calendar year or portion thereof for:
  - (1) Failure to pay occupation taxes and administrative fees when due;
  - (2) Failure to file an application by March 31 of any calendar year, when the business or practitioner was in operation the preceding calendar year; and/or
  - (3) Failure to register and obtain an occupation tax certificate within 30 days of the commencement of business.
- (b) Payments required by the article herein may be collected in any suit at law or in equity, or the town may cause executions to issue against the person, firm or corporation liable for the payment. Executions shall be levied and sold together with all costs thereof, by the town, or town's designee, as ex-officio sheriff of the county. In addition, any person whose duty it is to register any business or practice and obtain any occupation tax certificate and fails to do so, or who fails to pay the occupation tax or administrative fee required by this article, or who makes any deliberate or substantial and material false statement on an application or provides materially false information in support of an application, shall be denied an occupation tax certificate, shall be required to surrender any existing such occupation tax certificate and be deemed to have no such occupation tax certificate for purposes hereof, and shall be subject to a civil fine according to the maximum amount allowable under state law.

**Sec. 9-11. Proration of fee.**

License fees for new applications for a home based business shall be prorated if the business will be in operation for less than six months during the year of application. All businesses that will begin operations on or after July 1 shall pay one-half (50 percent) of the license fee for the year of application. No other license fee shall be prorated.

(Ord. No. 07-12-08, art. 1, § 13, 12-12-2007; Ord. No. 17-01-163 , § 2, 1-10-2017)

State law reference(s)—O.C.G.A. § 48-13-22.

**Sec. 9-12. Repealer, exceptions.**

All ordinances providing for occupation taxes and administrative fees in conflict with this article are hereby repealed; provided, however, that nothing herein shall affect any ordinance providing for regulation of ride hailing services or shall affect any resolution providing for future regulation of the sale of taxable items or services not mentioned herein.

**Secs. 9-13—10-35. Reserved.**

**ARTICLE II. DOOR-TO-DOOR SALES**

**Sec. 9-36. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Licensed solicitor* means and includes any person who has obtained a valid permit as hereinafter provided, which permit is in the possession of the solicitor on his person while engaged in soliciting.

*Residence* means and includes every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

*Soliciting* means and includes any one or more of the following activities:

- (1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services, of any kind, character or description whatever, for any kind of consideration whatever;
- (2) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or publication; or
- (3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

**Sec. 9-37. Permit required.**

- (a) It shall be unlawful for any person, firm or corporation to engage in the business of soliciting, calling on residences door-to-door without first having obtained a permit in accordance with the provisions contained in this chapter.
- (b) The requirement of subsection (a) of this section is meant to apply to door-to-door solicitations for commercial transactions for profit only.
  - (1) It is not meant to regulate solicitation for charitable, political, or other nonprofit purposes provided that all sales proceeds are the property of and used by the nonprofit organization.
  - (2) It does not apply to officers or employees of the town, county, state, or federal government, or any subdivision thereof, when on official business.

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- (c) Each person shall at all times while soliciting in the town carry upon his person the permit so issued and the same shall be exhibited by such solicitor whenever he is requested to do so by any police officer or by any person solicited.
  - (d) Each permit issued shall contain the name of the solicitor, the name and address of the person, firm or corporation or association whom the solicitor is employed by or represents, a photograph of the solicitor, and physical description. Such photograph shall be provided by the solicitor and shall be at least two inches by two inches in size.
  - (e) The permit shall state the expiration date thereof. In no event shall a permit be valid for more than six months.

(Ord. No. 07-12-08, art. 5, § 2, 12-12-2007)

**Sec. 9-38. Permit applications.**

- (a) Application for a permit shall be made upon a form provided by the town. The town shall have applications available on request. The applicant shall truthfully state in full the information requested on the application, to wit:
  - (1) Name and address of present place of residence and length of residence at such address; also business address if other than present address;
  - (2) Address of place of residence during the past three years if other than present address;
  - (3) Age of applicant;
  - (4) Physical description of the applicant;
  - (5) Name and address of the person, firm, or corporation or association whom the applicant is employed by or represents; and the length of time of such employment or representation;
  - (6) Name and address of employer during the past three years if other than the present employer;
  - (7) Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage;
  - (8) Period of time for which the certificate is applied;
  - (9) Proposed route, including streets to be included on each day, which applicant intends to follow;
  - (10) The date, or approximate date, of the latest previous application for permit under this chapter, if any;
  - (11) Whether the applicant has ever been convicted of a felony, a crime of moral turpitude, or any other violation of any state or federal law;
  - (12) Names of magazines, books, or journals to be sold;
  - (13) Names of the three most recent communities where the applicant has solicited house to house;
  - (14) Proposed method of operation;

- (15) Description and license plate number of vehicle intended to be operated by applicant;
  - (16) Signature of applicant; and
  - (17) Social security number of applicant.
- (b) All statements made by the applicant upon the application or in connection therewith shall be under oath.
  - (c) The applicant shall agree to submit to fingerprinting and a background investigation by the Fayette County Sheriff's Office in connection with the application for the permit.
  - (d) The town manager shall cause to be kept in his office or designee office an accurate record of every application received and acted upon together with all other information and data pertaining thereto and all permits issued under the provisions of this chapter, and of the denial of applications. Applications for permits shall be numbered in consecutive order as filed, and every permit issued shall be identified with the duplicate number of the application upon which it was issued.
  - (e) No permit shall be issued to any person who has been convicted of a felony or crime of moral turpitude within five years of the date of the application; nor to any person who has been convicted of a violation of any of the provisions of this chapter; nor to any person whose permit issued hereunder has previously been revoked as herein provided.
  - (f) The fee for a permit shall be valid for a six-month period.

**Sec. 9-39. Permit revocation.**

- (a) Any permit issued hereunder shall be revoked by the town manager if the holder of the permit is convicted of a violation of any of the provisions of this chapter or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a permit under the terms of this chapter.
- (b) Immediately upon such revocation, written notice thereof shall be given to the holder of the permit in person or by certified United States mail addressed to his residence address set forth in the application.
- (c) Immediately upon the giving of such notice the permit shall become null and void and must be turned in to the town manager's office.

**Sec. 9-40. Routes.**

To the extent practical, each solicitor shall identify the streets and routes which he will follow on each day he is engaged in the business of soliciting. If changes in routes are made, then such changes must be immediately reported to the town manager's office.

**Sec. 9-41. Prohibitions.**

- (a) Any licensed solicitor who shall be guilty of any fraud, cheating, or misrepresentation, whether himself or through an employee, while acting as a solicitor in the town, shall be deemed guilty of a violation of this chapter.



- (b) It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined if the occupant of said residence has made it clear, by written sign or otherwise, that solicitors are not invited.
- (c) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.
- (d) Times allowed.
  - (1) It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether licensed under this chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, prior to 10:00 a.m. or after 6:30 p.m., Eastern Standard Time, or before 10:00 a.m. or after 7:00 p.m. Eastern Daylight Saving Time, Monday through Saturday, or at any time on Sunday, or on a state or national holiday.
  - (2) Solicitations for political purposes shall not occur prior to 10:00 a.m. or after 7:00 p.m., Eastern Standard Time, or before 10:00 a.m. or after 7:00 p.m. Eastern Daylight Saving Time.

**Sec. 9-42. Penalties.**

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine not to exceed the maximum fine allowed by state law for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

**Secs. 9-43—9-63. Reserved.**

***ARTICLE III. CHARITABLE SOLICITATION***

**Sec. 9-64. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Charitable organization* means those entities defined and registered as provided in O.C.G.A. § 43-17 et seq.

*Public area* means an area to which the public or a substantial group of persons has access, including but not limited to alleys, bridges, buildings, driveways, parking lots, parks, play grounds, plazas, sidewalks, and streets that are open to the general public.

*Solicit* means to request an immediate donation of money or other thing of value from another person including employment, business or contributions or to request the sale of goods or services.

**Sec. 9-65. Permit required.**

It shall be unlawful for any person, firm, organization or corporation to solicit within any public right-of-way in the town; provided, however, recognized charitable organizations as defined herein and governmental entities may solicit within the public right-of-way provided they first obtain a permit in accordance with this chapter. Permitted charitable solicitation shall not take place within the public right-of-way between the hours of 7:00 a.m. to 9:00 a.m. and 5:00 p.m. to 7:00 p.m.

**Sec. 9-66. Applicability.**

This chapter regulates the time, place and manner of solicitations and shall not apply to any persons exercising their clearly established constitutional right to picket, protest or engage in other constitutionally protected activity.

**Secs. 9-67—9-87. Reserved.**

***ARTICLE IV. PANHANDLING***

**Sec. 9-88. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Aggressive panhandling* means and includes:

- (1) Intentionally or recklessly making any physical contact with or touching another person or his vehicle in the course of the solicitation without the person's consent;
- (2) Following the person being solicited, if that conduct is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (3) Continuing to solicit within five feet of the person being solicited after the person has made a negative response, if continuing the solicitation is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (4) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by

a permit issued pursuant to section 10-152 shall not constitute obstruction of pedestrian or vehicular traffic;

- (5) Intentionally or recklessly using obscene or abusive language or gestures intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or words intended to, or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (6) Approaching the person being solicited in a manner that is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

*Public area* means an area to which the public or a substantial group of persons has access, including but not limited to alleys, bridges, buildings, driveways, parking lots, parks, play grounds, plazas, sidewalks, and streets that are open to the general public.

*Solicit* means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, including employment, business or contributions or to request the sale of goods or services. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication.

#### **Sec. 9-89. Prohibitions.**

- (a) It shall be unlawful for any person, firm, organization, or corporation to aggressively panhandle or solicit funds for the sole benefit of the solicitor within any public area in Brooks or:
  - (1) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property; or
  - (2) From any operator of a motor vehicle that is in traffic on a public street, whether in exchange for cleaning the vehicle's windows, or for blocking, occupying, or reserving a public parking space; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle.
- (b) Unauthorized solicitation shall constitute an ordinance violation.
- (c) Aggressive panhandling shall constitute an aggravated ordinance violation.

#### **Sec. 9-90. Applicability.**

This chapter regulates the time, place and manner of solicitations and shall not apply to any persons exercising their clearly established constitutional right to picket, protest or engage in other constitutionally protected activity.

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## **ARTICLE V. SHORT-TERM RENTAL REGULATIONS**

### **Sec. 9-100. Intent and purpose.**

- (a) The purpose of this chapter is to establish regulations, procedures, and standards for the use of privately owned residential dwellings as short-term rentals that prevent the negative effects of such use on surrounding residential areas and neighbors. It is the town's intent to establish short-term rental regulations that require compliance with code, permitting and other legal requirements; that promote a mix of lodging options that support the Town of Brooks' tourism base and local economy; that allow for residents of the community to supplement their incomes through appropriately renting their properties; that uphold the health, safety, and welfare of the public; and that protect homes and neighborhoods by ensuring that the impacts of short-term rentals do not adversely affect the residents and character of residential areas.
- (b) Additionally, this section is intended to ensure that the number of occupants within such rental units does not exceed the reasonable capacity of the dwelling and property to cause health and safety concerns, and that minimum health and safety standards are maintained to protect visitors and neighbors from unsafe or unsanitary conditions.
- (c) This chapter is not intended to provide any owner of residential property with the right or privilege to violate any private conditions, covenants, and restrictions applicable to the owner's property that may prohibit the use of such owner's residential property for short-term rental purposes that would otherwise be permitted by this chapter.

### **Sec. 9-101. Definitions.**

For purposes of this chapter, the following words, and phrases whether capitalized or not shall have the meaning respectively ascribed to them by this section.

*Advertise, advertisement, advertising, publish, and publication* mean any and all means, whether verbal or written, through any media whatsoever whether in use prior to, at the time of, or after the enactment of the ordinance amending this chapter, used for conveying to any member or members of the public the ability or availability to rent a short-term rental unit as defined in this section, or used for conveying to any member or members of the public a notice of an intention to rent a short-term rental unit as defined in this section. For purposes of this definition, the following media are listed as examples, which are not and shall not be construed as exhaustive: Verbal or written announcements by proclamation or outcry, newspaper advertisement, magazine advertisement, handbill, written or printed notice, printed or poster display, billboard display, e-mail or other electronic/digital messaging platform, electronic commerce/commercial Internet websites, social media Internet websites, and any and all other electronic media, television, radio, satellite-based, or Internet website.

*Applicable laws, rules and regulations* means any laws, rules, regulations, and codes (whether local, state, or federal) pertaining to the use and occupancy of a privately owned dwelling unit as a short-term rental.

*Applicant* means the owner of the short-term rental unit.

*Authorized agent or representative* means a designated agent or representative who is appointed by the owner and is responsible for compliance with this chapter with respect to the short-term rental unit.

*Town manager* means that person acting in the capacity of the town manager of the Town of Brooks or his or her designee.

*Dwelling* means the permanent structure on real property in which people reside; "Dwelling" does not include any impermanent, transitory, or mobile means of temporary lodging, including, but not limited to, mobile homes, recreational vehicles (RVs), car trailers, and camping tents, which are not eligible for short-term rental under this chapter.

*Local contact person* means the person designated by the owner or the owner's authorized agent or representative who shall be available 24 hours per day, seven days per week with the ability to respond to the location within 60 minutes for the purpose of: (1) taking remedial action to resolve any such complaints; and (2) responding to complaints regarding the condition, operation, or conduct of occupants of the short-term rental unit.

*Occupant* means any person(s) within the dwelling unit during the rental period.

*Owner* means the person(s) or entity(ies) that hold(s) legal and/or equitable title to the property on which the subject short-term rental unit is located.

*Phase* means any phase of any applicable development plan previously approved by the town and as defined by the town.

*Property* means a residential legal lot of record on which a short-term rental unit is located.

*Rent* means the amount of the consideration charged or chargeable to the tenant or person entitled to occupancy, for the occupancy of space, valued in money whether received in money, goods, labor or otherwise, including the full value of receipts, cash, credits, property or services of any kind or nature, without any deductions whatsoever. Rent may have been, or may be in part, payable or paid prior to or following (in whole or in part) the occupancy to which it is attributable and may have been paid in whole or in part in advance on a long-term basis, such as in a time-share project or similar arrangement.

*Responsible person* means the signatory of an agreement for the rental, use and occupancy of a short-term rental unit, who shall be an occupant of that short-term rental unit, who is at least 21 years of age, and who is legally responsible for ensuring that all occupants of the short-term rental unit and/or their guests or visitors comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short-term rental unit.

*Short-term rental brochure* means a document prepared by the town and supplemented by the owner or the authorized agent or representative from time to time that summarizes the general rules of conduct, consideration, and respect, including, without limitation, provisions of this Code and other applicable laws, rules or regulations pertaining to the use and occupancy of short-term rental units, including but not limited to the following:

- (1) Maximum number of overnight and daytime occupants;

- (2) Location (map and/or descriptive language) of designated off-street (or on-street) parking, other available parking, description of any prohibited parking areas, and prohibition against parking on landscaped areas or roadside right-of-way;
- (3) Quiet hours and noise restrictions;
- (4) Other relevant town Codes and ordinances;
- (5) Prohibition against special events;
- (6) Restrictions on outdoor facilities;
- (7) 24-hour contact person and phone number;
- (8) Property cleanliness requirements;
- (9) Trash pick-up requirements, including location of trash cans;
- (10) Safety information (including location of fire extinguishers);
- (11) Emergency numbers;
- (12) Notice that failure to conform to the occupancy and parking requirements is a violation of the town Code and occupant or visitor can be cited, and
- (13) Other useful information about the community.

*Short-term rental permit* means a permit that allows the use of a privately owned residential dwelling as a short-term rental unit pursuant to the provisions of this chapter, and which incorporates by consolidation a business license otherwise required by chapter 10, article II (or successor provisions, as may be amended from time to time) of this Code.

*Short-term rental unit* means a privately owned residential dwelling or any separable portion of such dwellings, rented for occupancy for lodging or sleeping purposes for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. This term is not applicable to hotels, motels, bed and breakfasts, nursing homes, convalescent homes, or foster homes.

*STR* may be used as an abbreviation for "short-term rental".

*Tenant* for purposes of this chapter, means any person who seeks to rent or who does rent a short-term rental unit.

**Sec. 9-102. Authorized agent or representative.**

- (a) Except for the completion of an application for a short-term rental permit and business license, the owner may designate an authorized agent or representative to ensure compliance with the requirements of this chapter with respect to the short-term rental unit on his, her or their behalf. Nevertheless, the owner shall not be relieved from any personal responsibility and personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term rental unit, regardless of whether such noncompliance was committed by the owner's authorized agent or representative or the occupants of the owner's short-term rental unit or their guests. Nothing in this requirement limits the owner's ability to market and rent their property through third party vendors such as AirBNB, VRBO, etc. Any such rental listings must include all

required information as enumerated in, and otherwise comply with, this Code. Regardless of rental method, all local tax requirements and ordinances must be complied with.

- (b) The owner must be the applicant for and holder of a short-term rental permit and business license and shall not authorize an agent or a representative to apply for or hold a short-term rental permit and business license on the owner's behalf. The owner's signature is required on all short-term rental application forms, and the town may prescribe reasonable requirements to verify that an applicant or purported owner is the owner in fact.

**Sec. 9-103. Short-term rental permit—Required.**

- (a) Prohibitions.
  - (1) It shall be unlawful for any person, whether a principal or agent, clerk, or employee, either for him or herself, or for any other person or for anybody, corporation or otherwise, to lease or operate a short-term rental without first obtaining a short-term rental permit in accordance with the provisions of this section or operating same in violation of the standards set forth herein.
  - (2) This section shall not apply to leases of residential homes for more than 30 days, or other rental arrangements in country inns, bed and breakfasts and hotels. It shall apply to dwellings managed by a properly permitted country inns, bed and breakfasts or hotel but owned by others.
  - (3) An owner or authorized agent or representative is not permitted to rent individual rooms within a residential dwelling unit unless those rooms have their own exterior access and are separable from the rest of the unit by a lockable door.
- (b) The owner is required to obtain a short-term rental permit and a business license from the town before the owner or the owner's authorized agent or representative may rent or advertise a short-term rental unit. No short-term rental use may occur in the town except in compliance with this chapter.
- (c) A short-term rental permit and business license shall be renewed on an annual basis to remain valid. A new owner of a short-term rental unit that had been issued a short-term rental permit to a former owner shall apply for a new short-term rental permit if the new owner plans to continue to use the residential dwelling as a short-term rental unit, subject to the first come, first served limitation of section 10-364(b). When an owner or an owner's authorized agent or representative converts non-bedroom spaces and areas in an existing residential dwelling into additional bedrooms, the owner shall apply for a new short-term rental permit if the owner intends to continue to use the residential dwelling as a short-term rental unit.
- (d) A short-term rental permit and business license shall be valid only for the number of bedrooms in a residential dwelling equal to the number of bedrooms the town establishes as eligible for listing as a short-term rental unit and shall not exceed the number of bedrooms allowable for the number of occupants as set forth in section 10-365(b). The town may determine the maximum number of bedrooms in a residential dwelling with multiple bedrooms eligible for use as a short-term rental unit upon issuance of a short-term rental permit. When determining the maximum number of bedrooms eligible for use as short-term rentals, the town shall consider the public health, safety, and welfare, shall comply with fire,

building and residential codes, and may rely on public records relating to planned and approved living space within the residential dwellings, including, but not limited to, official county records, and tax assessor records. An owner and/or owner's authorized agent or representative may not advertise availability for occupancy of a short-term rental unit for more than five bedrooms or 12 occupants in any case.

- (e) The allowable number of bedrooms shall meet all applicable requirements under federal, state and town Codes and all applicable building and construction codes in this Code. A short-term rental permit shall not issue for, or otherwise authorize the use of, bedrooms converted from non-bedroom spaces or areas in an existing residential dwelling except upon express town approval for the additional bedrooms in compliance with this Code (or successor provisions, as may be amended from time to time), and upon approval of an application for a new or renewed short-term rental permit as provided in section 10-363(b).
- (f) A short-term rental permit and business license shall not be issued or renewed if the property, or any building, structure, or use or land use on the property is in violation of this Code or any other applicable laws, rules, and regulations. The town may conduct an inspection of the property prior to the issuance or renewal of a short-term rental permit and/or business license.
- (g) A short-term rental permit and business license shall not be issued or renewed if the residential dwelling to be used as a short-term rental unit lacks adequate parking. For purposes of this subsection, "adequate parking" shall be determined by dividing the total number of occupants commensurate with the approved number of bedrooms as provided in the table under section 8-105(b) by four, such that the ratio of the total number of occupants to onsite parking spots does not exceed four to one (4:1). For example, a residential dwelling with three bedrooms may permissibly host a total number of six occupants and therefore requires two on-site parking spots.

No more than one on-street parking spot may count towards the number of on-site parking spots necessary to meet the "adequate onsite parking" requirement unless more spaces are dedicated to the structure in question and are reserved for the use of the applicant residential dwelling only or if parking is available in an open public lot. Any designated parking shall be no more than 100 yards from the front door of the applicant residential dwelling as measured by the shortest route of travel.

**Sec. 9-104. Short-term rental permit—Application requirements.**

- (a) The owner must submit the information required on the town's short-term rental permit application form provided by the town, which may include the following:
  - (1) The name, address, and 24-hour telephone numbers of the owner of the subject short-term rental unit;
  - (2) The name, address, and 24-hour telephone numbers of the owner's authorized agent or representative, if any;
  - (3) The name, address, and 24-hour telephone numbers of the local contact person;
  - (4) The address of the proposed short-term rental unit, all Internet listing site(s) and listing number(s);



- (5) The number of bedrooms shall not exceed the number of bedrooms allowable for the number of occupants as set forth in section 8-105(b);
  - (6) Acknowledgement of receipt of a short-term rental information packet from the town, which includes a copy of the short-term rental brochure;
  - (7) Certification from the owner, owner's authorized agent, or representative that issuance of a short-term rental permit pursuant to this chapter is not inconsistent with any recorded or unrecorded restrictive covenant, document, or other policy of a homeowner association or other person or entity which has governing authority over the property on which a short-term rental unit will be operated;
  - (8) A statement that the owner of the short-term rental has met and will continue to comply with the standards and other requirements of this section;
  - (9) Such other information as the town manager or designee deems reasonably necessary to administer this chapter;
  - (10) The short-term rental permit application shall be accompanied by an application fee as set by resolution of the town council;
  - (11) A short-term rental permit application may be denied if the applicant has failed to comply with application requirements in this chapter or has had a prior short-term rental permit for the same short-term rental unit revoked within the past 12 calendar months;
- (b) In addition, the town may limit the number of short-term rental units in a given geographic area to avoid negative community impacts resultant from such concentrations. Short-term rentals shall be limited as follows:
- (1) In mixed-use, live-work, apartment/condominium, or commercial buildings, or TMX district: no limitation.
  - (2) In single family residential areas in TR district: no more than 20 percent of dwellings in any block. No more than two adjacent units are allowed on any town right-of-way or on any private street.
  - (3) In RA districts: no more than 20 percent of dwellings in any block, with the following exceptions:
    - a. Up to three residences under common ownership that are more than 500 feet from the nearest off-site residence; and
    - b. Individual residences under separate ownership that are more than 800 feet from the nearest off-site residence are not limited.
  - (4) Applications will be accepted on a 'first come, first served' basis.
  - (5) The town shall maintain a waiting list of short-term rental permit applications in areas where additional units have been so limited. Additional applications may be accepted on a 'first come, first served' basis when the number of units in any geographic area falls under the limits noted.
  - (6) These guidelines may be further restricted, based on substantial evidence after a noticed public hearing, if there is a concentration of short-term rental units that either

affects the public health, safety, and welfare or significantly negatively impacts the character and standard of living within a specific neighborhood or within a specific geographic area, or both.

- (c) Short-term rental permit applications may take, and the town shall have, at least 30 days to process but no more than 45 days. Nothing in this subsection or chapter shall be construed as requiring the town to issue or deny a short-term rental permit in less than 30 days, as no permit shall be issued until such time as application review is complete.
- (d) Within 30 days of any other change in material facts pertaining to the information contained in the short-term rental permit application, the owner, owner's authorized agent, or representative shall submit an application and requisite application fee for a new short-term rental permit, which must be obtained prior to continuing to rent the subject unit as a short-term rental.
- (e) Short-term rental units in operation prior to the effective date of the ordinance shall register and apply in compliance with this article no later than June 30, 2023. All short-term rentals shall be registered annually thereafter in accordance with this chapter.
- (f) Annual renewal. A short-term rental permit may be renewed by submission of a renewal application meeting the application requirements of this chapter annually if:
  - (1) Owner pays inspection fee and passes inspection to be conducted by the fire marshal and the annual fee;
  - (2) Property is not subject to outstanding town Code violations or violations of other applicable laws, rules, and regulations;
  - (3) Owner has no outstanding town fees or fines;
  - (4) More than one conviction or plea of guilty or nolo contendere to a disorderly house or nuisance charge in the previous calendar year; and
  - (5) Town shall deny an application to renew a short-term rental permit for 12 months following a revocation of said short-term rental permit pursuant to this chapter.

**Sec. 9-105. Operational requirements and standard conditions.**

- (a) The owner and/or owner's authorized agent or representative shall use reasonably prudent business practices to ensure that the short-term rental unit is used in a manner that complies with all applicable laws, rules, and regulations pertaining to the use and occupancy of the subject short-term rental unit.
- (b) The responsible person(s) shall be an occupant(s) of the short-term rental unit for which he, she or they signed a rental agreement for such rental, use and occupancy. No non-permanent improvements to the property or structures or vehicles, such as tents, trailers, or other mobile units, may be used as short-term rentals unit. No sleeping related to a short-term rental unit is allowed out-of-doors. The total number of occupants allowed to occupy any given short-term rental unit shall not exceed the maximum number set forth in the table below. Additionally, the number of full bathrooms required for the number of occupants is set forth in the table below. A full bathroom must meet the minimum International

Residential Code standards (R 306, Sanitation) and include a wash basin, toilet and tub or shower. In no case are more than 12 overnight guests are allowed in a short-term rental unit.

Number of Bedrooms	Maximum Number of Overnight Occupants	Minimum number of Bathrooms
Studio	2	1 full bath
1	2*	1 full bath
2	4*	2 full baths
3	6*	2 full baths
4	8*	3 baths
5	10*	3 baths

\*(plus up to two additional children under the age of 15)

- (c) While a short-term rental unit is rented, the owner, the owner's authorized agent or representative and/or the owner's designated local contact person shall be available 24 hours per day, seven days per week, with the ability to respond within 60 minutes to complaints regarding the condition, operation, or conduct of occupants of the short-term rental unit or their guests.
- (d) The owner, the owner's authorized agent or representative and/or the owner's designated local contact person shall use reasonably prudent business practices to ensure that the occupants and/or guests of the short-term rental unit do not create unreasonable or unlawful noise or disturbances, engage in disorderly conduct, or violate any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term rental unit.
- (e) Each occupant and visitor to a short-term rental shall comply with all applicable provisions of the town Code, including, without limitation, noise, and disorderly conduct restrictions. No occupant of or visitor to a short-term rental shall cause or permit a public nuisance to be maintained on such property.
- (f) Prior to occupancy of a short-term rental unit, the owner or the owner's authorized agent or representative shall:
  - (1) Obtain the contact information of the responsible person;
  - (2) Provide a copy of the short-term rental brochure to the responsible person; and require such responsible person to execute a formal acknowledgement that he or she is legally responsible for compliance by all occupants of the short-term rental unit and their guests with all applicable laws, rules and regulations pertaining to the use and occupancy of the short-term rental unit, including the short-term rental brochure. Such acknowledgement may be located within the policies and rules sections of online listing platforms and may be confirmed electronically.
- (g) The owner, the owner's authorized agent or representative and/or the owner's designated local contact person shall, upon notification or attempted notification that the responsible person and/or any occupant and/or guest of the short-term rental unit has created unreasonable or unlawful noise or disturbances, engaged in disorderly conduct, or committed violations of any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term rental unit, promptly respond within 60 minutes to

immediately halt and prevent a recurrence of such conduct by the responsible person and/or any occupants and/or guests. Failure of the owner, the owner's authorized agent or representative and/or the owner's designated local contact person to respond to calls or complaints regarding the condition, operation, or conduct of occupants and/or guests of the short-term rental within 60 minutes, shall be subject to all administrative, legal, and equitable remedies available to the town, including revocation of the short-term rental permit pursuant to this chapter.

- (h) Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the town's authorized waste hauler on scheduled trash collection days.
- (i) The owner, authorized agent or representative and/or the owner's designated local contact person shall post a copy of the short-term rental permit and a copy of the short-term rental brochure in a conspicuous place within the short-term rental unit, and a copy of the short-term rental brochure shall be available to each occupant of the subject short-term rental unit.
- (j) The short-term rental permit number, maximum occupancy as permitted, and life-safety inspection expiration date must be listed in all advertising for the short-term rental.
- (k) Guesthouses or any other dwellings, detached from the primary residential dwelling on the property, or the primary residential dwelling on the property, may be rented pursuant to this chapter only if the guesthouse (or other dwelling) and the primary residential dwelling are rented to one party, or if the owner is present in one of the dwellings and the other dwelling is rented. For the avoidance of doubt, only one short-term rental permit will be permitted per property.
- (l) The owner and/or the owner's authorized agent or representative shall post the current short-term rental permit number on or in any advertisement that promotes the availability or existence of a short-term rental unit.
- (m) The owner and/or owner's authorized agent or representative shall operate a short-term rental unit in compliance with any other permits or licenses that apply to the property.
- (n) Life safety.
  - (1) All building and fire related construction shall conform to the town's adopted building codes.
  - (2) A 2A:10B:C type fire extinguisher (a standard five-pound extinguisher) shall be properly mounted within 75 feet of all portions of the structure on each floor and will be maintained in accordance with the manufacturer's specifications.
  - (3) Every sleeping room shall have at least one operable emergency escape and rescue opening.

#### **Sec. 9-106. Violations.**

- (a) It is an offense for the owner, authorized agent or representative, local contact person, or responsible person to allow, permit, cause, or fail to prohibit an occupancy in violation of

this Code. Each day that a unit is occupied in violation of this article shall be considered a separate offense, and, upon conviction, shall be subject to fines as established by the town.

- (b) It shall be deemed a repeat offense:
  - (1) If the owner, authorized agent or representative, local contact person, or responsible person fails to comply with any of the provisions of this section more than twice in a calendar year; and/or
  - (2) If the property is the subject of repeated health or safety violations of town Code or state law.
- (c) Citations. The town may issue a citation to any owner, authorized agent or representative, local contact person, responsible person or occupant for violation of this Code. Fines shall be set by the town council.

**Sec. 9-107. Enforcement.**

- (a) Should a law enforcement officer or code enforcement officer respond to a complaint involving a short-term rental and issue a citation/notice of violation for any violation of town ordinances to an occupant of a short-term rental, the town shall attempt to call the owner or authorized agent or representative. The owner or authorized agent or representative shall attempt to contact the occupants of the short-term rental within one hour of receiving the call from the town to address the citation/notice of violation with the occupants. Should a second complaint be filed involving the same occupants of the short-term rental and a law enforcement officer or code enforcement officer issues a second citation/notice of violation, the owner or authorized agent or representative shall terminate the short-term rental with that occupant and notify the responsible person that all occupants must vacate the short-term rental immediately.
- (b) Law enforcement officers and code enforcement officers shall have the authority to issue citations to the owner or authorized agent or representative for failing to have a valid and current short-term rental permit.
- (c) Law enforcement officers and code enforcement officers shall have the authority to issue citations to the responsible person for violating the maximum number of occupants in a short-term rental unit.
- (d) The fire chief or his designee shall have the right to issue notice to the owner or authorized agent or representative of any life safety issues or concerns. All such issues or concerns shall be rectified within 30 days and no rental of the short-term rental unit may occur until such issue or concern is rectified to the satisfaction of the fire chief or his designee.
- (e) The provisions of this subsection are in addition to and not in lieu of any criminal prosecution or penalties as provided by town ordinances or state law.
- (f) This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### **Sec. 9-108. Revocation process.**

- (a) A violation of any provision of this chapter, the applicable tax codes, the fire codes, or the building codes by the owner, authorized agent or representative, or local contact person shall constitute grounds for suspension and/or revocation of the short-term rental permit.
- (b) The town shall issue a notice of violation to the owner, or owner's authorized agent or representative, pursuant to this Code, if there is a violation of this chapter committed, caused, or maintained by the owner, authorized agent or representative, or local contact person.
- (c) Three violations of any provision of this chapter or this Code (other than violations of the tax codes, fire codes or building codes which are addressed separately herein) within one year by the owner, authorized agent or representative, or local contact person, with respect to any one property will result in an immediate suspension of the short-term rental permit.
- (d) Two violations of the tax codes, fire codes or building codes within a five-year period shall result in immediate suspension of the short-term rental permit.
- (e) Failure to rectify a life safety issue or concern noted by the fire chief or his designee within 30 days of such notice to the owner or authorized agent or representative shall result in immediate suspension of the short-term rental permit.
- (f) Three separate incidents in which a law enforcement officer or code enforcement office issued a citation within one year to occupants of the same short-term rental unit shall result in immediate suspension of the short-term rental permit.
- (g) The owner or authorized agent or representative shall have the right to seek an appeal to the town manager by submitting a written request to lift the suspension. Such written request must be received by the town manager within ten days of the suspension of the short-term rental permit. The town manager shall take into account the type of violations that occurred, the length of time the owner or authorized agent or representative had short-term rental permits, the prior history of the owner or authorized agent or representative in regards to short-term rentals, and any extenuating circumstances. The town manager may conduct an investigation into the suspension as deemed appropriate by the town manager. The town manager shall issue a written decision to the owner or authorized agent or representative stating the basis for his or her decision.

### **Sec. 9-109. Appeals.**

Any person aggrieved by any decision of the town manager made pursuant to this chapter may request a hearing before the mayor and council. The request must be in writing and sent to the town clerk. Such hearing shall be conducted at the first regularly scheduled town council meeting that is no less than 15 days after the town clerk receives the written request. The person requesting the hearing shall be heard first by the mayor and council and shall have ten minutes to present his or her case. The town manager shall have ten minutes to respond. Upon hearing from the aggrieved person and the town manager, the town council shall vote to affirm or overturn the decision of the town manager. Any appeal of the town council's decision shall be filed in the superior court of the county in which the short-term rental unit is located.