

**NOTICE OF ADOPTION
TOWN OF OACOMA
ORDINANCE NO. 2022-07**

AN ORDINANCE CREATING LICENSING REGULATIONS FOR VACATION HOME ESTABLISHMENTS IN THE TOWN OF OACOMA, SD.

BE IT ORDAINED by the Board of Trustees of the Town of Oacoma, SD that Ordinance No. 2022-07 be enacted as follows:

1. PURPOSE AND INTENT/ OTHER LAWS

The Board of Trustees of the Town of Oacoma, SD (the "Town") enacts the following licensing ordinances to ensure that Vacation Home Establishments within the municipal boundaries of the Town operate in a manner which complies with state laws and regulations, protects the health, safety, and welfare of the general public, prevents potential conflicts and issues arising from ownership and employees, recognizes certain safety and security considerations.

2. DEFINITIONS

Unless an alternative definition is explicitly stated in this section, this chapter utilizes the definitions for vacation home-related terms which are defined by SDCL 34-18-1.

3. LICENSE REQUIRED

- (a) No Vacation Home Establishment may be located or operate in the Town without the appropriate valid and current Vacation Home Establishment license issued by the Town pursuant to this ordinance. A violation of this provision is subject to the general penalty provision in Section 14. Each day of the violation constitutes a separate offense.
- (b) No Vacation Home Establishment may be located or operate in the Town without the appropriate valid and current Vacation Home Establishment license issued by the Department pursuant to rules promulgated under SDCL 34-18. A violation of this provision is subject to the general penalty provision in Section 14. Each day of the violation constitutes a separate offense.

4. LICENSE APPLICATION

- (a) An application for a Vacation Home Establishment license must be made on a form provided by the Town. No other application form will be considered.
- (b) The applicant must submit the following:
 - 1. Application fee of one thousand dollars (\$1,000). The Town will reimburse five hundred dollars (\$500) for applicants who fail to obtain a license from the South Dakota Department of Health.
 - 2. A certificate of insurance or declaration page reflecting an endorsement for short-term rental occupancies for the prospective Vacation Home Establishment.

3. A copy of a valid SD Sales Tax License for the Vacation Home Establishment.
4. An application that will include, but is not limited to, the following:
 - i. The legal name of the prospective Vacation Home Establishment.
 - ii. The physical address and legal description of the prospective Vacation Home Establishment that meets the zoning requirements in Ordinance No. 2004-03, as amended.
 - iii. The name, physical address, mailing address and contact information for all owners and operators of the proposed Vacation Home Establishment.
 - iv. Number of sleeping rooms and maximum overnight occupancy of the prospective Vacation Home Establishment.
 - v. Evidence that the Vacation Home Establishment will comply with state and local regulations.
 - vi. Any additional information requested by the Town.

5. ISSUANCE OF LICENSE

(a) The Town will issue a license unless:

1. The applicant has made a false statement on the application or submits false records or documentation; or
2. The proposed location of the Vacation Home Establishment does not meet the applicable zoning requirements under Ordinance No. 2004-03, as amended; or
3. The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulation; or
4. Any owner, principal officer, or board member of the applicant has had a lodging establishment license revoked by the Town or by the state; or
5. An applicant, or an owner, principal officer, or board member thereof, is overdue in payment of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to any lodging establishment; or
6. The applicant will not be operating the business for which the license would be issued.

(b) In the case of an application for a Vacation Home Establishment license, the Town will reject the application if the limit on the number of vacation homes has been reached.

(c) The license must be posted in a conspicuous place at or near the entrance to the Vacation Home Establishment so that it may be easily read at any time.

6. NUMBER OF VACATION HOME ESTABLISHMENTS

No more than TWENTY (20) vacation home establishments shall be allowed to operate in the Town at any time. Numerical limits in residential districts are also provided in Section 1540 of Ordinance No. 2004-03 as amended. The numerical limits on vacation home establishments may be altered at any time by resolution of the Board of Trustees of the Town.

7. EXPIRATION OF LICENSE AND RENEWAL

- (a) Each license is valid for a twelve (12) month period beginning April 1 and expiring on March 31 and may be renewed only by making application as provided in Section 4. Application for renewal must be submitted at least thirty (30) days before the expiration date. The license holder must continue to meet the license requirements to be eligible for a renewal.
- (b) The renewal fee is one thousand dollars (\$1,000). The Town will reimburse five hundred dollars (\$500) for applicants who fail to obtain a renewal of their license from the Department.
- (c) Failure to renew a license in accordance with this section may result in additional fees. Upon expiration of the license, the Town may order closure of the Vacation Home Establishment.
- (d) If a license holder has not operated an establishment for which it holds a license in the preceding twelve (12) months, the license will not be renewed.

8. SUSPENSION

- (a) A license may be suspended if the license holder or an employee or agent of the license holder:
 - 1. Violates or is otherwise not in compliance with any section of this ordinance.
 - 2. Violates or is otherwise not in compliance with any section of Ordinance No. 2004-03 as amended.
- (b) A license may be suspended if the license holder has its Department-issued license suspended, revoked, or not renewed by the Department or if the license is expired.
- (c) A license may be suspended if the license holder creates or allows to be created a public nuisance at the Vacation Home Establishment.
- (d) A license may be suspended if the Town finds that the Vacation Home Establishment is not in compliance with state or local regulations.

9. REVOCATION

- (a) A license may be revoked if the license is suspended under Section 8 and the cause for the suspension is not remedied.
- (b) A license may be revoked if the license is subject to suspension under Section 8 because of a violation

outlined in that section and the license has been previously suspended in the preceding 24 months.

- (c) A license is subject to revocation if a license holder or employee of a license holder:
1. Gave false or misleading information in the material submitted during the application process;
 2. Operated the Vacation Home Establishment for which a license is required under this article while the license was suspended;
 3. Repeated violations of Sections 8 and 9;
 4. A license holder, or an owner, principal officer, or board member thereof, is delinquent in payment to the Town, county, or state for any taxes or fees related to the Vacation Home Establishment;
 5. The license holder has its Department-issued license suspended, revoked, or not renewed or the license is expired.
 6. The license holder allows a public nuisance to continue after notice from the Town.

10. SUSPENSION AND REVOCATION PROCESS

- a) The license holder will receive a notice of intent to suspend or notice of intent to revoke informing the license holder of the violation and the Town's intention to suspend or revoke the license. The notice will be hand delivered to the license holder or an employee or agent of the license holder or sent by certified mail, return receipt requested, to the physical address of the license holder.
- b) If the license holder disputes the suspension or revocation, the license holder has ten (10) days from the postmark date on the notice or the date the notice was hand delivered to request a hearing before a hearing panel, which will consist of the Town Board President, Finance Officer, and City Attorney.
- c) A suspension will be for thirty (30) days and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension.
- d) A revocation will be for one (1) year and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder appeals the revocation, in which case the revocation takes effect upon the final determination of revocation.
- e) The license holder who has had the license revoked may not be issued any Vacation Home Establishment license for one year from the date the revocation became effective.

11. APPEAL

An applicant or license holder who has been denied a license or renewal of a license or who has had a license suspended or revoked under this article may appeal to the Board of Trustees by submitting a written appeal within ten (10) days of the postmark on the notice of denial, nonrenewal, suspension, or

revocation. The written appeal must be submitted to Town of Oacoma, P O Box 129, Oacoma, South Dakota, 57365. The appeal will be considered by the Board of Trustees at a regularly scheduled meeting within one month of the receipt of the appeal.

12. LICENSES NOT TRANSFERRABLE

No Vacation Home Establishment license holder may transfer the license to any other person or entity either with or without consideration, nor may a license holder operate a Vacation Home Establishment at any place other than the address designated in the application.

13. LIABILITY FOR VIOLATIONS

Notwithstanding anything to the contrary, for the purposes of this article, an act by an employee or agent of a Vacation Home Establishment that constitutes grounds for suspension or revocation will be imputed to the Vacation Home Establishment license holder for purposes of finding a violation of this article, or for purposes of license denial, suspension, or revocation, only if an officer, director or general partner or a person who managed, supervised or controlled the operation of the Vacation Home Establishment, knowingly allowed such act to occur.

14. PENALTIES

Any person who operates or causes to be operated a Vacation Home Establishment without a valid license or in violation of this article is subject to a suit for injunction as well as prosecution for ordinance violations. Such violations are punishable by a maximum fine of five hundred dollars (\$500.00). Each day a Vacation Home Establishment so operates is a separate offense or violation.

15. SEVERABILITY

The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.

Passed and adopted this 5th day of December, 2022.

TOWN OF OACOMA

/s/Gary Dominiack, President

Oacoma Town Board of Trustees

ATTEST:

/s/Valerie J. Moore, Finance Officer

(SEAL)

First Reading: November 21, 2022

Second Reading: December 5, 2022

Adoption: December 5, 2022

Published once, December 14, 2022 at a total cost of \$__ and may be viewed free of charge at

<https://www.sdpublicnotices.com/>.

Effective Date: January 3, 2023

This ordinance shall become effective twenty days after publication of this notice in the official newspaper, thereby repealing all ordinances or parts thereof in conflict herewith unless a referendum is timely involved prior thereto.