

ORDINANCE NO. 2023-05

AN ORDINANCE BY THE TOWNSHIP OF LITTLE EGG HARBOR, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE TOWNSHIP CODE SO AS TO AMEND CHAPTER 279, RENTAL PROPERTY, TO AMEND ARTICLE I, RENTAL CERTIFICATES OF OCCUPANCY, OMIT ARTICLE II, SEASONAL PROPERTY AND CREATE A NEW ARTICLE II, SHORT TERM RENTALS

NOW, THEREFORE, BE IT ORDAINED, by the governing body of the Township of Little Egg Harbor, County of Ocean, State of New Jersey, as follows:

SECTION 1. That the governing body hereby amends Chapter 279, Rental Property, so as to amend Article I, Rental Certificates of Occupancy, §279-1, "Definitions" so as to omit the term, "SUMMER LEASE/RENTAL" and its definition in its entirety.

SECTION 2. That the governing body hereby amends Chapter 279, Rental Property, so as to amend Article I, Rental Certificates of Occupancy, §279-1, "Definitions" so as to amend the definition of "RENTAL UNIT" as follows:

"Includes the term "commercial property," "apartment," "dwelling," "building," dwelling unit," "habitable room" or "lodging unit" as defined by this chapter and used for rental, lease or hire for a period of 29 or more consecutive days at a time. Rentals, leases or hires of such rental units for a period of 28 consecutive days or any lesser period of time may be considered "SHORT TERM RENTALS" and must comply with the requirements of Chapter 279, Article II; Short Term Rentals, herein. This definition shall not apply to any single-family home which is not available for rental purposes.

SECTION 3. That the governing body hereby amends Chapter 279, Rental Property, so as to further amend Article I, § 279-2 "Rental mercantile license required; forms" as follows:

Article I. Rental Certificates of Occupancy

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§ 279-2 Rental mercantile license required; forms.

* * *

H. The fee for the rental mercantile license shall be \$50 for each premises, which shall be submitted with the completed license form and a certificate of insurance evidencing the minimum liability insurance requirement pursuant to P.L. 2022, c. 92.

SECTION 4. That the governing body hereby amends Chapter 279, Rental Property, so as to amend Article I, Rental Certificates of Occupancy, §279-9, "Certification of inspection and occupancy" to omit "31 days" and replace it with "29" in Subsection A and B.

SECTION 5. That the governing body hereby amends Chapter 279, Rental Property, so as to amend Article I, Rental Certificates of Occupancy, §279-9(A) and §279-9(B) so as to replace "31 days or more" with "twenty-nine (29) or more consecutive days."

SECTION 6. That the governing body hereby amends Chapter 279, Rental Property, so as to amend Article I, Rental Certificates of Occupancy, §279-9(B) so as to add the following sentence:

"Any gap of period of time between rentals of the same Rental Unit, which is with the same Tenant or corporate entity of the Tenant, shall be considered a continuation of a rental and count towards the total consecutive days for purposes of this Article".

SECTION 7. That the governing body hereby amends Chapter 279, Rental Property, so as to amend Article I, Rental Certificates of Occupancy, §279-9(C) so as to replace "Code Official" with "Zoning Officer."

SECTION 8. That the governing body hereby amends Chapter 279, Rental Property, so as to amend §279-10, Violations and Penalties, so as to add the following sentence to the end of the paragraph:

"Failure to comply with the requirements for submitting a certificate of insurance evidencing minimum liability insurance as required under P.L. 2022, c. 92, may subject the Owner as defined in this Chapter, to a summary proceeding pursuant to N.J.S.A. 2A:58-10 et seq. whereby the Township may collect a fine of not less than \$500, but no more than \$5,000, against an owner failing to comply

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with the law.”

SECTION 9. That the governing body hereby amends Chapter 279, Rental Property, so as to omit “Article II, Seasonal Property” in its entirety and replace it with “Article II, Short Term Rentals”.

SECTION 10. That the governing body hereby amends Chapter 279, Rental Property, so as to create Article II, Short Term Rentals, as follows:

ARTICLE III SHORT TERM RENTALS

§ 279-11 Purpose

The purpose of this Article is to address the presence of short-term rentals of residential dwelling units in established residential neighborhoods, which can create negative compatibility impacts and nuisance violations. It is in the public interest that short-term rental uses be regulated in order to help preserve housing for long-term tenants and to minimize any potential deleterious effects of short-term rental properties on other properties in the surrounding neighborhoods in which they are located. There is substantial interest in furthering the public health, safety and welfare by protecting the residential character of areas designate for residential uses and enforcing minimum life safety standards,

§ 279-12. Definitions.

The following terms shall have the meanings indicated below when used in this Article, in addition to any applicable terms defined in Article I herein:

“Dangerous condition” shall mean a condition that creates a substantial risk of injury to life and/or property.

“Owner-occupied” shall mean the owner of the property who resides in the short-term rental property, or in the principal residential unit with which the short-term rental property is associated on the same lot, and identifies same as his or her principal residence as that term is defined in this Article. For purposes of this Article, if the owner of the property is an entity other than an individual or individuals, then at least one principal or member of the owner entity must reside in the short-term rental property, or in the principal residential unit with which the short-term rental property is associated on the same lot, and identify same as his or her principal residence as that term is defined in this Article.

“Principal residence” shall mean the address: (1) where at least one of the property owners spends the majority of his or her non-working time and has established the property as his or her primary residence as evidenced by the owner’s obvious, clear activity and presence at the property on a regular basis; and (2) which is identified as the address on his or her driver’s license or State identification card as being his or her legal address. All the above requirements must be met in order for an address to constitute a principal residence for purposes of this Article.

“Property” shall mean a parcel of real property located within the boundaries of the Township of Little Egg Harbor, Ocean County, New Jersey.

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"Responsible party" shall mean the short-term rental property owner or a person (property manager) designated by the owner to be called upon and be responsible at all times during the period of a short-term rental and to answer for the maintenance of the property, or the conduct and acts of occupants of the short-term rental property.

"Short-term rental" (hereinafter "STR") shall mean occupancy by someone other than the unit's owner or permanent resident for a period of twenty-eight (28) or fewer consecutive days, which dwelling unit is regularly used and kept open as such for the lodging of guests for compensation, and which is advertised or held out to the public as a place regularly rented to transient occupants as defined in this Article.

"Short-term rental property" (hereinafter "STRP") shall mean a residential property that is used and/or advertised for rent as a short-term rental for transient occupants as guests for compensation.

"Short-term rental property agent" shall mean any New Jersey-licensed real estate agent or other person designated and charged by the owner of a short-term rental property, with the responsibility for making the short-term rental application to the Township. Such person shall be available for and responsive to contact on behalf of the owner at all times.

"Transient occupant" shall mean any person or a guest or invitee of such person, who, in exchange for compensation, occupies or is in actual or apparent control or possession of residential property, which is either: (1) registered as a short-term rental property, or (2) satisfies the definition of a short-term rental property, as such term is defined in this Article. It shall be a rebuttable presumption that any person who holds themselves out as being an occupant or guest of an occupant of the short-term rental is a transient occupant.

§ 279-13 Regulations pertaining to short-term rentals.

- A. It shall be unlawful for any owner of any property within the geographic bounds of the Township of Little Egg Harbor Township, Ocean County, New Jersey, to rent, operate, or advertise a short-term rental in a manner that is contrary to the procedures and regulations established in this Article or applicable state law.
- B. Short-term rentals shall only be permitted to be conducted in the following classifications of property in the Township of Little Egg Harbor Township:
- (1) Dwelling units located in a condominium association, homeowners' association, or cooperative association, where the association's bylaws, master deed, or other relevant governing document permits short-term rentals and where the owner of the unit legally identifies an address within the association as his or her principal residence; and
 - (2) Individually or collectively owner-occupied single-family residences.
 - (3) Properties with legal two-family dwelling units, if one unit is owner-occupied.
- C. Short-term rentals shall not be permitted in any dwelling in which rent is set by HUD or by a State agency.
- D. Short-term rentals as herein defined shall not be permitted to operate in any of the following:

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hotel, motel, studio hotel, boarding house, dormitory, public or private club, convalescent home, rest home, home for aged people, adult family care homes, assisted living facilities, community residences for developmentally disabled persons, community shelters for victims of domestic violence, senior housing, nursing homes, halfway house, transitional housing facility, or other similar facility operated for the care, treatment, or reintegration into society of individuals, any housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees with or without their families; any housing operated or used exclusively for religious, charitable or educational purposes; or any housing owned by a governmental agency and used to house its employees or for governmental purposes. These occupancies shall be regulated pursuant to any applicable Federal, State, County and/or other local law and regulations regarding the above.

- E. The person offering a dwelling unit for short-term rental use must be the owner of the dwelling unit.
 - a. A tenant of a property may not apply for a short-term rental permit, nor shall the property or any portion thereof be sub-leased by the tenant on a short-term basis, or operated as a STRP by the tenant except as provided below.
 - b. This STRP regulation shall supersede any conflicting provision in a private lease agreement permitting sub-leasing of the property, or any portion of the property.
 - c. Violation of this Article will result in enforcement action against the tenant, the STRP owner, the short-term rental agent, and the responsible party, and will subject all such parties to the issuance of a summons and levying of fines and/or penalties.

§ 279-14 Short-term rental permit requirements and registration fee.

- A. In addition to any other applicable requirements in the Township Code, the owner of a short-term rental property shall obtain a short-term rental permit from the Township Zoning Officer, before renting or advertising for rent any short-term rental.
- B. The following minimum requirements must be met for consideration of an application for a short-term rental permit:

- (1) No dangerous condition exists or has existed within the last 365 days at the property which is the subject of the application for the short-term rental permit.
- (2) No violations of the Township Code, including but not limited to, nuisance provisions of Chapter 134, "Animals", Chapter 242, "Noise", Chapter 274, "Property Pending Foreclosure, Registration of", Chapter 326, Vehicular Sound Reproduction" and Chapter 358, "Nuisances, Public Health", have been issued within the last two (2) years prior to the date of the application regarding conditions at the property for which the application is made for the short-term rental permit. A violation shall be defined as a Notice of

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Violation/Summons as issued by the Code Enforcement Officer and/or Law Enforcement Officer which has been docketed in Superior Court or Municipal Court of proper jurisdiction.

- (3) Any violations have been issued by the Township more than two (2) years prior to the date of the application must have either been adjudicated or dismissed in the court of proper jurisdiction as of the date of the application and the violation properly abated. Any violations or summonses dismissed by the court due to failure to appear by the property owner or responsible party shall result in a rejection of the application for the short-term rental permit.
 - (4) No open building or construction permits at the property.
 - (5) All Township taxes, water, and sewer charges must be current and no municipal liens have been placed upon the property.
- C. No person or entity shall operate a STRP, or advertise a residential property for use as a STRP, without the owner of the property first having obtained a STR permit issued by the Township Zoning Officer.
- a. The failure to obtain a valid STR permit prior to using or advertising the STRP in any print, digital, or internet advertisement or web-based platform, and/or in the multiple listing service (hereinafter "MLS") or any realtor's property listing shall be a violation of this chapter.
 - b. No STR permit issued under this Article may be transferred or assigned or used by any person or entity, other than the owner to whom it is issued, or at any property location or dwelling unit other than the property for which it is issued.
- D. The application must be accompanied by a non-refundable fee of one hundred dollars (\$100.00).
- E. The STR permit if granted, shall be valid for a period of one year from the date of issuance.
- F. A short-term rental permit shall be renewed on an annual basis, based upon the anniversary of the original permit issuance, by submitting to the Zoning Officer, a short-term rental permit application, and a renewal registration non-refundable fee of one hundred dollars (\$100.00).
- G. The short-term rental permit shall immediately terminate upon change in ownership of the property and a new initial application and registration fee will be required.
- H. Any property for which a STR permit was issued and subsequently revoked or suspended shall not be eligible to apply for a new STR permit until one (1) year after the date of the suspension.

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§ 279-15. Application process for short-term rental permit and inspections.

- A. The application for a short-term rental permit shall be submitted to the Township Zoning Officer, on the appropriate Township form with the applicable fee. The application must include the following:
- (1) The name, address, telephone number and email address of the owner(s) of the property for which a permit is sought.
 - a. If such owner is not a natural person, the application must include and identify the names of all members, shareholders, partners, officers and/or directors of any such entity, and the personal contact information, including street address, email address and telephone numbers for said persons.
 - (2) The physical address of the proposed STR.
 - (3) A copy of the driver's license or State identification card of the owner(s) of the short-term rental property. If Section 279-23(A)(1)(a) above applies, a copy of the responsible party's driver's license or State identification card.
 - (4) Certification by the owner(s) that the proposed STR property is a principal residence of the owner(s).
 - (5) Certification that the owner(s) are in compliance with all requirements for a STR as delineated in this Article.
 - (6) Copies of two utility bills from the STRP that are less than thirty (30) days old.
 - (7) The owner(s)' sworn acknowledgement that he/she has received a copy of this Article, has reviewed it, understands its requirements, and certifies as to the accuracy of all information provided in the permit application.
 - (8) Acknowledgment that any short-term renters shall be limited to one vehicle per two occupants in the STRP.
 - (9) Owner(s) agreement that all transient occupants will not disrupt the neighborhood and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties, and an understanding that any violations may be issued against both transient occupants and owners.
 - (10) A certificate of insurance evidencing the minimum liability insurance requirement pursuant to P.L. 2022, c. 92.
 - (11) Any other information that this chapter requires an owner to provide to the Township in connection with an application for a certificate of occupancy. The Township Zoning Officer shall have the authority to obtain additional information from the STRP owner/applicant or amend the permit application to require additional information, as necessary, to achieve the objectives of this chapter.
- B. Every initial application for a short-term rental permit shall require documentation indicating that the property has been inspected for compliance with the Township's fire safety regulations and Property Maintenance Code within the past six (6) months. Thereafter, upon renewal, the applicant must present documentation that the property has been inspected for compliance with the Township's fire safety regulations and Property Maintenance Code within the past three years.
- C. A zoning compliance certificate, which states that the premises are not being occupied or used in violation of the Township's Land Development Ordinances, shall be required.

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- D. The STRP owner /permit holder shall publish the short-term rental permit number issued by the Township in every print, digital, or internet advertisement, and/or in the MLS or other real estate listing of a real estate agent licensed by the New Jersey Real Estate Commission, in which the STRP is advertised for rent on a short-term basis.
- E. In no event shall a STRP be rented to anyone younger than twenty-one (21) years of age. The primary occupant of all short-term rentals executing the agreement between the owner and the occupant must be over the age of twenty-one (21), and must be the party who will actually occupy the property during the term of the short-term rental. The primary occupant may have guests under the age of twenty-one (21) who will share and occupy the property with them. Both the primary occupant executing the short-term rental agreement and the STRP owner shall be responsible for compliance with this provision, and shall both be liable for a violation, where the STRP is not occupied by at least one adult over the age of twenty-one (21) during the term of the STR. No one under eighteen (18) years of age shall be permitted on the premises of a STRP unless they are accompanied by their legal guardian.

§ 279-16. Issuance of permit and appeal procedure; certificate of occupancy

- A. Once an application is submitted, complete with all required information and documentation and fees, the Township Zoning Officer shall perform an inspection of the short term rental unit for a Certificate of Occupancy within thirty (30) days of the submission of the application. Upon satisfactory completion of said inspection, the Zoning Officer shall either issue the Certificate of Occupancy and short-term rental permit or issue a written denial of the permit application, with the reasons for such denial being stated therein within thirty (30) days.
- B. If denied, the applicant shall have ten (10) business days to appeal the denial, in writing, to the Township Administrator.
- C. Within thirty (30) days thereafter, the Township Administrator or his/her designee shall hear and decide the appeal. The decision of the Township Administrator or his/her designee shall be final.

§ 279-17 Short-term rental operational requirements.

- A. The STRP owner shall ensure that the STR is used in a manner that complies with all applicable laws, rules and regulations pertaining to the use and occupancy of a STR.
- B. No advertising or identifying mechanisms, such as signage, including lawn signage, shall be placed on the property identifying it as for rent as a STRP.
- C. While a STRP is rented, the owner(s) or the responsible party shall be available twenty-four (24) hours per day, seven days per week for the purpose of responding within two hours to complaints regarding the condition of the STRP premises, maintenance of the STRP premises, operation of the STRP, or conduct of the guests at the STRP, or nuisance complaints from the Police Department, or neighbors, arising by virtue of the short-term rental of the property.

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- D. If the STRP is the subject of three or more substantiated complaints, the Township Zoning Officer shall revoke the short-term rental permit issued for the STRP, in which case, the STRP may not be the subject of a new STRP permit application for one year following the date of revocation of the permit.
- a. The Township Administrator or his/her designee shall retain the discretion to revoke a short-term rental permit in the event of a single substantiated complaint if, in his/her sole discretion, the interests of the Township and its residents justify immediate revocation.
 - b. In the event that an STRP is the subject of a civil and /or criminal complaint and/or code violation that involves a dangerous condition, the Township Zoning Officer or the Township Administrator or his/her designee may, at their sole discretion, suspend the STRP's short-term rental permit.
- E. Any revocation or suspension of the STR permit shall be noticed in writing to the STR owner(s) within thirty (30) days of said revocation or suspension, with the reasons for such revocation or suspension delineated therein within thirty (30) days.
- a. The STR owner shall have ten (10) business days to appeal the revocation or suspension, in writing, to the Township Administrator.
 - b. The Township Administrator or his/her designee shall hear the appeal within thirty (30) days of receipt of the appeal. The decision of the Township Administrator or his/her designee shall be final.
- F. Failure to make application for, and to obtain the issuance of, a short-term rental permit prior to advertising the STRP in print publications or newspapers, on any internet-based booking platforms, or online, and/or in the MLS or other real estate listing of a real estate agent licensed by the New Jersey Real Estate Commission, shall be equivalent to operation of the STRP without a permit.
- G. Operation of the STR at the property without a permit shall constitute a violation of this Code, subject to issuance of notice of violation, summons and appropriate enforcement action against the property owner(s).

§ 279-18. Violations and penalties.

Any violation of any provision of this chapter may subject the STRP owner, transient occupant(s), the short-term property rental agent, and the responsible party or their agents to fines assessed by the Court up to one thousand two-hundred fifty dollars (\$1,250.00) per violation, but not less than one hundred dollars (\$100.00) per violation per day that the violation exists.

Failure to comply with the requirements for submitting a certificate of insurance evidencing minimum liability insurance as required under P.L. 2022, c. 92, may subject the Owner as defined in this Article, to a summary proceeding pursuant to N.J.S.A. 2A:58-10 et seq. whereby the Township may collect a fine of not less than \$500, but no more than \$5,000, against an owner failing to comply with the law.

SECTION 11. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 12. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction,

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such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.


SECTION 13. This ordinance shall take effect after second reading and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Little Egg Harbor held on the 9th day of February, 2023, and will be considered for second and final passage at a meeting of the Township Committee to be held on the 9th day of March, 2023, at 7:00 p.m. at the Municipal Building located at 665 Radio Road, Little Egg Harbor, at such time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.



KELLY LETTERA, RMC
Township Clerk
Township of Little Egg Harbor



BLAISE SCIBETTA, MAYOR

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