

ORDINANCE 2023-20

AN ORDINANCE OF THE BOROUGH OF SEASIDE HEIGHTS, COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING THE BOROUGH CODE OF THE BOROUGH OF SEASIDE HEIGHTS, SO AS TO AMEND CHAPTER 179, ENTITLED "RENTAL PROPERTY"

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Seaside Heights, County of Ocean, and State of New Jersey, as follows:

SECTION 1. The Borough Code of the Borough of Seaside Heights is hereby amended and supplemented so as to amend Chapter 179 entitled "Rental Property," so as to amend Chapter 179 so as to delete Article II entitled "Rental Property" and to replace with a new Article II entitled "Short Term Rentals" and which shall read as follows:

§179-4 Purpose.

The Borough Council of the Borough of Seaside Heights finds and declares that the short-term rental of residential dwelling units within the Borough benefits the local community by affording owners of such units the ability to collect income from their real property (also referenced as "property") in order to diminish the financial burden of carrying costs and maintenance expenses related to the property, as well as providing travelers with an alternative option for accommodations in the Borough, thereby promoting the local travel and tourism industry, and contributing to the economic vitality of the Borough. Notwithstanding those benefits, the Borough Council also finds and declares that certain transitory uses of residential property tend to affect the residential character of the community and, if unregulated, can be injurious to the health, safety and welfare of the community.

In addition, for many decades during the months of April, May and June the Borough has experienced substantial numbers of unsupervised minors who rent rooms in the Borough to celebrate high school proms and graduations. These large numbers of unsupervised minors have grown because of curfews and other restrictions imposed by neighboring municipalities.

These crowds of minors often create unlawful and unsafe conditions by engaging in violent and disorderly behavior which results in excessive and unnecessary noise, parking complaints, vandalism, destruction of public and private property, fights that lead to serious bodily injury, underage drinking and public intoxication, underage possession and use of cannabis, and public urination. These problems were exacerbated by changes in state law in 2021 that virtually eliminated consequences and accountability on the part of minors and their parents and criminalized behavior of law enforcement officers.

The Borough has been strained to dedicate substantial manpower and financial resources to these problems while public safety employees and volunteers are put in harm's way. Moreover, the Borough attempted to control part of these problem by adopting in 2018 minimum age of 18

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years to rent any premises in the Borough. But experience and data indicate very clearly that the rental restriction ordinance did not mitigate the problems.

The intended purposes of this Section are to: a) balance the rights of the owners of residential dwelling units proposed for short-term rental use and the Borough's business community affected by the allowance and existence of short-term rentals; b) protect the public health, safety and general welfare of individuals and the community at large; c) provide for an organized and reasonable process for the short-term rental of certain defined classifications of residential dwelling units in the Borough; d) monitor and provide a reasonable means for the mitigation of impacts created by such transitory uses of residential properties within the Borough; e) preserve and protect the long-term housing market stock in the Borough; f) implement rationally based and reasonably tailored regulations to protect the integrity of the Borough's residential neighborhoods, and g) ensure that the short-term rental property inventory in the Borough satisfies basic property maintenance standards, in order to protect the safety of occupants and the citizens of the Borough.

The Borough Council of the Borough of Seaside Heights has therefore determined that it shall be unlawful for any owner of any property within the geographic bounds of the Borough of Seaside Heights, New Jersey, to rent or operate a short-term rental contrary to the procedures and regulations established in this Section, or applicable State statute.

§179-5 Definitions.

As used in this Section, the following terms shall have the meanings indicated below:

APPLICATION FEE

The fee charged by the Borough for the initial application and renewal fee for the short-term rental license.

NUISANCE PROPERTY

Any property that has been determined as violating the Borough Code of the Borough of Seaside Heights pursuant to Chapter 122 excessive qualifying calls for services, substantiated complaints, or for violations of the chapter.

OCCUPANCY LOAD

The number of persons permitted in a short-term rental property (also referenced as "STRP"), based upon an inspection completed in compliance with local and state codes, and shall be capped at 10 occupants, regardless of the number of bedrooms.

OWNER

An individual or entity holding title to a property proposed for short-term rental, by way of a legally recorded deed.

OWNER-OCCUPIED

The owner of the property resides in the short-term rental property, or in the principal

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residential unit with which the STRP is associated on the same lot, and identifies same as his or her principal residence as that term is defined in this Section. For purposes of this Section, 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 STRP, or in the principal residential unit with which the STRP is associated on the same lot, and identify same as his or her principal residence as that term is defined in this Section.

PRINCIPAL RESIDENCE

The address: (1) where at least one of the property owners spends the majority of his or her non-working time, and (2) which is most clearly the center of his or her domestic life, and (3) which is identified on his or her driver's license, voter registration 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 being a principal residence for purposes of this Section.

PROPERTY

A parcel of real property located within the boundaries of the Borough of Seaside Heights, Ocean County, New Jersey.

RESPONSIBLE PARTY

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, and, in the case of the property manager, to accept service of legal process on behalf of the owner of the short-term rental property.

SHORT-TERM RENTAL (also referenced as "STR")

The accessory use of a dwelling unit for occupancy by someone other than the unit's owner or permanent resident for a period of less than thirty (30) consecutive days, up to a cumulative total period not to exceed one hundred eighty (180) days in a calendar year, which dwelling unit is regularly used and kept open as such for the lodging of guests, and which is advertised or held out to the public as a place regularly rented to transient occupants, as that term is defined in this Section. The dwelling unit can be rented to short-term renters throughout the licensed period (one year).

SHORT-TERM RENTAL PROPERTY (also referenced as "STRP")

A residential dwelling unit that is used and/or advertised for rent as a short-term rental by transient occupants as guests, as those terms are defined in this Section. Dwelling units rented to the same occupant for more than thirty (30) continuous days, licensed Bed and Breakfast establishments, licensed rooming or boarding houses, hotels, and motels shall not be considered Short-Term Rental Property.

SHORT-TERM RENTAL PROPERTY AGENT

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 STR application to the Borough on behalf of the owner, and fulfilling all of the obligations in connection with completion of the short-term rental property permit application process on

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behalf of the owner. Such person shall be available for, and responsive to contact on behalf of, the owner, at all times.

TRANSIENT OCCUPANT

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 Section.

§179-6 Nonrefundable Fees:

- A. The initial application fee shall be \$200 per unit/rental.
- B. The initial annual license fee shall be \$500 per unit/rental.
- C. The annual renewal fee shall be \$100 per inspection per unit.

§179-7 Regulations Pertaining to Short-Term Rentals.

A. It shall be unlawful for any owner of any property within the geographic bounds of the Borough of Seaside Heights to rent or operate a short-term rental contrary to the procedures and regulations established in this Section or applicable state statute. Failure to make application for, and to obtain issuance of a short-term rental license prior to advertising the rental 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 NJ Real Estate Commission, shall be equivalent to operation of the rental without a license, and shall constitute a violation of this code, and will result in enforcement action and the issuance of a summons, and may subject the rental owner, the rental agent, and the responsible party to issuance of fines and/or penalties.

B. Short-term rentals shall only be permitted in the following classifications of property in the Borough of Seaside Heights:

- 1. Condominium units, where the Condominium Association By-Laws or Master Deed expressly permit a short-term rental;
- 2. Single-family residences; and
- 3. Multi-family residential dwellings.

C. Notwithstanding the provisions of Subsection B. above, short-term rentals shall not be permitted in hotels or studio hotels; motels; boarding or rooming houses; dormitories; any housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees with or without families; foster homes; public or private clubs; rest homes; halfway houses; transitional housing facility or other facility operated for the care, treatment, or reintegration into society of any person; adult family care homes; assisted living facilities; community residences for

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developmentally disabled persons; community shelters for victims of domestic violence; nursing homes; any housing operated or used exclusively for religious, charitable or educational purposes; or any housing owned by a governmental or quasi-governmental agency and used to house its employees or for governmental purposes. Furthermore, short-term rental of the following properties is prohibited:

1. Condominiums or townhomes, where the Condominium Association By-Laws or Master Deed, or Condominium Rules and Regulations, do not permit short-term rentals of condominium units in the development;
2. Owner allowed the expiration of the STR permit, without having made a timely application for renewal of the permit prior to its expiration date; or
3. STR permit was suspended or revoked; or
4. Upon sale or transfer of title to the property to any other individual, or entity, whether or not any of the current owner(s) is a principal or member in the grantee entity.

D. In addition to any other licensing requirements set forth in the Borough Code, the owner of an STRP shall obtain a short-term rental license from the Borough before renting or advertising for rent any short-term rental. The failure to obtain a valid STR license prior to operating or advertising the short-term rental property in any print, digital, or internet advertisement or web-based platform, and/or in the MLS or any realtor's property listing shall be a violation of this article.

E. No STR license issued under this section 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.

F. Every STR owner must comply with the Borough's land use regulations and zoning ordinance.

G. The short-term rental license, if issued, shall be valid for the year or partial year for which the applicant has applied, without proration and shall be renewed annually basis by submitting a renewal application to the Code Enforcement Office.

H. The short-term rental license shall expire automatically when the short-term rental property changes ownership, and a new initial application will be required in the event the new owner intends to use the property as a short-term rental property. A new initial application shall also be required for any short-term rental that was subject of a license suspension or revocation.

- I. Application fees, license fees, and renewal fees of any kind shall not be prorated.

§179-8 Application and inspections.

A. Applicants for a short-term rental license shall submit to the Code Enforcement Office an initial application and an annual renewal application. The application shall be furnished,

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under oath, on a form provided by the Borough, accompanied by the nonrefundable initial application fee or renewal application fee. The application shall include:

- (1) The name, address, telephone number and email address of the owner(s) of record of the dwelling unit for which a license is sought as well as a copy of their driver's license or other valid state identification card.
- (2) The number and location of all parking spaces available to the premises, which shall include the number of off-street parking spaces and on-street parking spaces directly adjacent to the premises. The owner shall certify that every effort shall be made to avoid and/or mitigate issues with on-street parking in the neighborhood in which the STR is located, resulting from excessive vehicles generated by the STR usage of the property, in order to avoid a shortage of parking for residents in the surrounding neighborhood.
- (3) The address of the proposed STR unit.
- (4) If the owner is an LLC, corporation, or partnership, the following information must also be included: individual names of all members of the LLC, principals of corporation, or partners in partnership and the personal contact information, including address and telephone numbers for each of them.
- (5) The name, address, telephone number and email address of the STR responsible party, which shall constitute his or her seven-day-a-week, twenty-four-hour-a-day contact information;
- (6) The owner's acknowledgement that owner received a copy of this ordinance, has reviewed the ordinance, understands its requirements, and certifies, under oath as to the accuracy of all information provided in the license application.
- (7) The owner agrees to use his or her best efforts to assure that use of the premises by all transient occupants will not disrupt the neighborhood, and will not interfere with the rights of the neighboring property owners to the quiet enjoyment of their properties; and
- (8) For a condominium short-term rental license application, a letter of approval by the condominium association must be submitted with application.
- (9) A sworn statement shall be required that there have been no prior revocations or suspensions of this or a similar license, in which event a license shall not be issued, which denial may be appealed as provided hereinafter.
- (10) Attached to and concurrent with submission of the license application described in this section, the owner shall provide:
 - a. Proof of the owner's current ownership of the short-term rental unit;
 - b. Proof of general liability insurance in a minimum amount of \$500,000

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including coverage specific to short-term rental activity; and

c. Written certificates from the STR responsible party that they agree to perform all of the respective duties specified in this section.

(11) Owner's agreement that all renters of the short-term rental property shall be limited to one (1) vehicle per four occupants of the short-term rental property.

(12) Every application for a short-term rental license shall be subject to annual inspections for the STRP's compliance with the Borough's fire safety regulations and property maintenance code.

(13.) Owner shall submit a zoning permit, which states that the premises are not being occupied or used in violation of the Borough's Land Use Regulations and Zoning Ordinance, shall be required.

(14) The Borough Administrator or designee shall have the authority to obtain additional information from the STRP owner or amend the license application to require additional information, as reasonably necessary, to achieve the objectives of this Section.

(15) Security Plan.

(a) STRP's that are owner occupied shall submit a security plan for rentals occurring during the period of April 15 through June 30 of each year.

(b) STRP's that are not owner-occupied shall submit a security plan for rentals occurring during the period of April 15 through June 30 of each year that includes a SORA-Certified Security Officer.

- B. A physical inspection of the unit by the Code Enforcement Office is required for each application and renewal thereof. If an STRP fails the initial inspection, the owner must make all necessary improvements and call for a new inspection. Each additional inspection will generate a charge of \$50 which must be paid in advance of the re-inspection(s).
- C. The owner of the short-term rental must maintain three years of records concerning rental occupancy, including the identity of all transient occupants who have occupied the property, which shall consist of names, ages, addresses and dates of occupancy, which shall be made available upon request of the Borough.
- D. The STRP owner must be current with all property taxes, water and sewer utility charges, and electric utility charges assessed to the property prior to issuance of a short-term rental license. In the event any code violations have been issued by the Borough relating to the STRP, a short-term rental license shall not be issued until such time as all violations are remedied.
- E. All fines or penalties issued by the Municipal Court of Borough of Seaside Heights

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for any past code violations relating to the STRP, including penalties for failure to appear in court, must be satisfied in full prior to the issuance of a short-term rental license.

F. The STRP owner shall publish the short-term rental license number issued by the Borough in every print, digital, or internet advertisement, and/or in the Multiple Listing Service (hereinafter "MLS") or other real estate listing of a real estate agent licensed by the NJ State Real Estate Commission, in which the STRP is advertised for rent.

G. Each and every time there is a change of occupancy by transient occupants during the license year, the STR responsible party shall provide the Borough in advance of occupancy the names and dates of birth of all STR occupants; name and address of the primary transient occupant who is responsible for the STR; and start and end dates of the STR period on a form to be made available in paper and online by the Code Enforcement Office.

H. During the period commencing April 15 and ending at midnight on June 30 of each year, no short-term rental property shall be rented to any person under 21 years of age. The primary occupant executing the rental agreement shall be 21 years of age or older and must actually occupy the property during the term of the short-term rental. In the event any occupants are under 18 years of age those occupants shall be the immediate family member or under legal guardianship of the primary occupant or another occupant that is 21 years of age or older. Both the primary occupant executing the short-term rental agreement and the STR owner shall be responsible for compliance with this provision, and both shall be responsible for a violation.

I. During the period commencing July 1 and ending at midnight on April 14 of each year, no short-term rental property shall be rented to any person under 18 years of age. The primary occupant executing the rental agreement shall be 18 years of age or older and must actually occupy the property during the term of the short-term rental. In the event any occupants are under 18 years of age those occupants shall be the immediate family member or under legal guardianship of the primary occupant or another occupant that is 18 years of age or older. Both the primary occupant executing the short-term rental agreement and the STR owner shall be responsible for compliance with this provision, and both shall be responsible for a violation.

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§179-9 Issuance of license and appeal procedure.

- (1) Upon submission of a completed initial or renewal application and all required fees and completion of the STR inspection the Code Enforcement Office shall either issue or deny in writing the short-term rental license (with the reasons for a denial being stated therein) with 10 business days.
- (2) In cases where a STR application is denied, the owner shall have 10 calendar days to appeal in writing to the Borough Administrator.

- (3) The Borough Administrator or designee shall hear and decide the appeal within 30 days.

§179-10 Short-Term Rental Operational Requirements.

A. Short-term rentals must comply with all applicable rules, regulations and ordinances of the Borough of Seaside Heights and all applicable rules, regulations and statutes of the State of New Jersey, including regulations governing such lodging uses, as applicable. The STRP owner shall ensure that the short-term rental is used in a manner that complies with all applicable laws, rules and regulations pertaining to the use and occupancy of a short-term rental.

B. The owner of a STRP shall not install any advertising or identifying mechanisms, such as signage, including lawn signage, identifying the property for rent as a short-term rental property, high school prom rental, high school graduation rental, or group rental in general.

C. Transient occupants of the STRP shall comply with all ordinances of the Borough of Seaside Heights including, but not limited to those ordinances regulating noise and nuisance conduct. Failure of transient occupants to comply shall subject the transient occupants, the STRP owner, the STRP responsible party, and the STRP rental agent listed in the short-term rental license application to fines and/or penalties and suspension or revocation of the STRP license.

D. The STRP owner shall post the following information in a prominent location within the short term rental property:

1. Owner name; if owner is an entity, the name of a principal in the entity, and phone number for the owner (individual);
2. The name and phone number of the responsible party and the STRP rental agent (as those terms are defined in this Section);
3. The phone numbers for the Borough of Seaside Heights Police Department and Code Enforcement Office;
4. Maximum number of parking spaces available on site;
5. Trash and recycling collection information and all applicable rules and regulations regarding trash disposal and recycling;
6. A copy of the Borough of Seaside Heights animal house ordinance and this Section; and
7. Notification that a transient occupant, STRP rental agent, the responsible party or STRP owner may be cited or fined by the Borough of Seaside Heights for violations of, and in accordance with any applicable ordinance(s) or laws;

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E. In the event any complaints are received by the Seaside Heights Police Department or Code Enforcement Officer regarding the short-term rental and/or the transient occupants in the STRP, and the STRP owner is unreachable or unresponsive, both the responsible party and the STRP rental agent identified in the short-term rental license application shall be responsible for taking any action required to properly resolve such complaints, and shall be authorized by the STRP owner to do so.

F. While a STRP is rented, the owner, the STRP rental agent, or the responsible party shall be available twenty-four hours per day, seven days per week for the purpose of responding within two (2) hours to complaints concerning the STRP premises, maintenance of the STRP premises, operation of the STRP, or conduct of the STRP occupants, or nuisance complaints arising by virtue of the short-term rental.

G. Failure to make application for, and to obtain the issuance of, a short-term rental license 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 NJ State Real Estate Commission, shall be equivalent to operation of the STRP without a permit, and shall constitute a violation of this Section, and will result in enforcement action and the issuance of a summons, and shall subject the STRP owner, the STRP rental agent, and the responsible party to issuance of fines and/or penalties.

H. The person offering a dwelling unit for short-term rental use must be the owner of the dwelling unit. 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. 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. Violation of this Section may result in enforcement action against the tenant, the STRP owner, the STRP 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.

§179-11 License Suspension and Revocation.

Any short-term rental license may be suspended or revoked pursuant to the same process provided for mercantile licenses set forth in Chapter 122.

§179-12 Violations and Penalties.

A. A violation of any provision of the within Section may subject the STRP owner, transient occupant(s), the short-term rental property rental agent, and the responsible party or their agents to fines assessed by the Municipal Court up to \$2,000 per violation, per day, that the violation exists.

B. Any ordinances or parts thereof inconsistent herewith shall be amended and supplemented to conform to the provisions contained herein.

C. If any part of this section is declared unconstitutional or illegal by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

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D. This section shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey, following the required twenty-day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).


SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. 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, 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 4. 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 Borough Council on first reading at a meeting of the Borough Council of the Borough of Seaside Heights held on the **21st day of June, 2023**, and will be considered for second reading and final passage at a regular meeting of the Borough Council to be held on the **19th day of July, 2023** at 5:00 p.m., at the George E. Tompkins Municipal Complex, 116 Sherman Avenue, Seaside Heights, New Jersey, above the firehouse, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.



DIANE B. STABLEY, RMC
Borough Clerk, Borough of Seaside Heights

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