

Ordinance

Ordinance No. 51

OF THE
CITY OF ATLANTIC CITY, N.J.

Date..8-19-2020...
Date to Mayor..12-17-2020..

Approved as to Form and Legality on Basis of Facts Set Forth

Factual contents certified to by

Revised 10/21/2020 & 11/13/2020

Assistant City Solicitor/s/ Karl Timbers

Director of Licensing & Inspections /s/ Dale Finch

Prepared by the City Solicitor's Office

Council Members ALL COUNCIL Present the following Ordinance:

ORDINANCE TO AMEND THE CODE OF THE CITY OF ATLANTIC CITY CODE, CHAPTER 194, REGULATING SEASONAL PERMITS AND ESTABLISHING REGISTRATION REQUIREMENTS FOR SHORT-TERM RENTALS

WHEREAS, the City Council seeks to regulate short-term rental use of certain legally permitted dwelling units throughout the City of Atlantic City (also referenced as the "City" or "Atlantic City") in order to promote tourism and economic vitality in the City; and

WHEREAS, short-term rental of homes can provide a flexible housing stock that allows travelers a safe accommodation while contributing to the local economy, promoting travel and tourism and supporting the local tourism industry and business community; and

WHEREAS, short-term rental of homes can provide homeowners an opportunity to maintain ownership of property in difficult economic circumstances; and

WHEREAS, the needs of long-term residents should be balanced with the allowance of short-term rentals.

NOW, THEREFORE BE IT ORDAINED by the Council of the City of Atlantic City that the following City Code Sections shall be amended as described below:

Section 1. Chapter 194, Section 194-6, entitled "Seasonal permits" is amended and supplemented in order to establish a new Section to be known as "Short-term rental permits," as follows:

SECTION 194-6 Short-term rental permits.

A. Purpose.

The City Council of the City of Atlantic City finds and declares that the short-term rental of limited residential dwelling units within the City benefits the local community by affording owners of such units the ability to garner additional 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 City, thereby promoting the local travel and tourism industry, and contributing to the economic vitality of the City. Notwithstanding those benefits, the City 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.

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 City'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 City; d) monitor and provide a reasonable means for the mitigation of impacts created by such transitory uses of residential properties within the City of Atlantic city; e) preserve and protect the long-term housing market stock in the City; f) implement rationally based and reasonably tailored regulations to protect the integrity of the City's residential neighborhoods, and g) ensure that the short-term rental property inventory in the City satisfies basic property maintenance standards, in order to protect the safety of occupants and the citizens of the City.

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

Therefore, in lieu of a regular occupancy permit, dwelling units, rooms or other spaces which are occupied on a transient rental basis shall obtain a short-term rental permit prior to the first occupancy of the year for that unit.

B. Authority.

In accordance with New Jersey law, a municipality may make and enforce within its limits all ordinances and regulations not in conflict with general laws, as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants. The City of Atlantic City hereby adopts the within Ordinance in accordance with said authority.

C. Definitions.

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

Application Fee shall mean the fee charged by the City of Atlantic City for the initial application and renewal fee for the Short-Term Rental License.

Nuisance Property shall mean any property that has been determined as violating Chapters 186, 190, and 194 of the Code of the City of Atlantic City or this through excessive qualifying calls for services, substantiated complaints, or for violations of the Chapter.

Occupancy Load shall mean the numbers of persons permitted in a short-term rental property, based upon an inspection completed in compliance with the International Property Maintenance Code, IPMC, and shall be capped at 16 occupants, regardless of the number of bedrooms.

Owner shall mean an individual or entity holding title to a property proposed for short-term rental, by way of a legally recorded Deed.

Property shall mean a parcel of real property located within the boundaries of the City of Atlantic City, Atlantic County, New Jersey.

Responsible Party shall mean both the short-term rental property owner and 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") shall mean 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 ninety (90) consecutive days. The dwelling unit can be rented to short-term renters throughout the licensed period (one year).

Short-Term Rental Property (also referenced as "STRP") shall mean a residential dwelling unit as defined in the Code of the City of Atlantic city, 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.

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 STR application to the City 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 behalf of the owner. 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 Section. 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.

D. Process for application and license issuance.

Upon receipt of an application fee, a thorough review of documents will occur to ensure the required documents are provided, current and accurate. Additionally, a thorough physical inspection within accordance with the International Property Maintenance Code (hereinafter, "IPMC") will be conducted for Code Compliance and to determine the occupancy load of the dwelling. Once the inspection has been completed (and approved) the annual license fee must be submitted. When payment is received, the short-term rental license/permit shall be issued.

The fee schedule for short-term rentals shall be indicated below based on the occupancy load per dwelling unit, regardless of the number of changes of the tenancy. The occupancy load shall be determined by Code Enforcement Inspectors of the Department of Licensing and Inspections using the IPMC.

Annual Application Fee: \$150.00

Annual License Fee (based on occupancy load):

One to Six	\$1000.00
Seven to Eleven	\$1500.00
Twelve to Sixteen	\$1800.00

E. Regulations Pertaining to Short-Term Rentals.

a. It shall be unlawful for any owner of any property within the geographic bounds of the City of Atlantic City, New Jersey, to rent or operate a short-term rental contrary to the procedures and regulations established in this Section or applicable State statute.

b. Short-term rentals shall be permitted to be conducted in the following classifications of property in the City of Atlantic City:

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

c. Notwithstanding the provisions of sub-paragraph (b) above, short-term rentals shall not be permitted in boarding or rooming houses, dormitories, foster homes, adult family care homes, assisted living facilities, community residences for developmentally disabled persons, community shelters for victims of domestic violence, or nursing homes. Further, 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 such short-term rental of condominium units in the development;

F. Short-Term Rental Permit, Permit Registration Fee/Application, and Certificate of Occupancy.

a. In addition to any land use requirement(s) set forth by the City of Atlantic City Land Use Regulations, the owner/operator of a short-term rental property shall obtain a short-term rental permit from the City of Atlantic City Landlord Registration, Code Enforcement Division of the Department of Licensing and Inspections, before renting or advertising for rent any short-term rental.

b. The failure to obtain a valid STR permit 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 Ordinance. No STR permit 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.

c. An owner of property intended to serve as a short-term rental property, as defined herein, or any agent acting on behalf of the owner, shall submit to the City of Atlantic City Landlord Registration, Code Enforcement Division of the Department of Licensing and Inspections a short-term rental permit application provided by the City, along with an application and a registration fee, based upon occupancy load. The Occupancy load will be determined by inspection by the City's Department of Licensing and Inspections. Said fee shall be non-refundable, including in the event that the application is denied.

d. The short-term rental permit, if granted, shall be valid for the year for which the applicant has applied, without proration.

e. The owner of a short-term rental property, as defined herein, or any agent acting on behalf of the owner, who intends to rent all of the property, or any permitted part thereof as a short-term rental, shall also make application to the Landlord Registration, Code Enforcement Division of the Department of Licensing and Inspections, in conjunction with the short-term rental permit application, for the issuance of a rental Certificate of Occupancy for the short-term rental property, on such forms as required by that Division.

f. A short-term rental permit and rental Certificate of Occupancy shall be renewed on an annual basis, by submitting to the Landlord Registration, Code Enforcement Division of the Department of Licensing and Inspections, a short-term rental permit application and rental Certificate of Occupancy application and a renewal registration fee based upon occupancy load.

g. The short-term rental permit shall expire automatically when the short-term rental property changes ownership, and a new initial application and first-time registration fee will be required in the event that the new owner intends to use the property as a short-term rental property. A new application and first-time registration fee shall also be required for any short-term rental that had its short-term rental permit revoked or suspended. Fees charged to the owner shall not be prorated.

G. Application Process for Short-Term Rental Permit and Inspections.

a. Applicants for a short-term rental permit shall submit, on an annual basis, an application for a short-term rental permit to the City of Atlantic City Landlord Registration, Code Enforcement Division of the Department of Licensing and Inspections. The application shall be furnished, under oath, on a form specified by the Director of Licensing and Inspections, accompanied by the non-refundable application fee as set forth in Subsection above. Such 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 permit is sought. If such owner is not a natural person, the application must include and identify the names of all partners, officers and/or directors of any such entity, and the personal contact information, including address and telephone numbers for each of them;
2. The address of the unit to be used as a short-term rental;
3. If the owner is an LLC, Corporation or Partnership, the following information must be included: individual names of all members of the LLC, principals of corporation or partners in partnership; and
4. A copy of the driver's license or State Identification Card of the owner of the short-term rental property;
5. The name, address, telephone number and email address of the short-term rental property responsible party/agent, which shall constitute his or her 7 day a week, 24hour a day contact information;
6. The owner's acknowledgement that he or she has received a copy of this Ordinance, has reviewed it, understands its requirements and certifies, under oath, as to the accuracy of all information provided in the permit application;
7. The owner's acknowledgement that there is only one (1) on street parking space available to the premises. No other parking will be permitted, unless as designated by the City. The owner shall certify that every effort will be made to avoid and/or mitigate issues with on-street parking in the neighborhood in which the short-term rental is located, resulting from excessive vehicles generated by the short-term rental of the property, in order to avoid a shortage of parking for residents in the surrounding neighborhood; and
8. The owner's agreement that all renters of the short-term rental property will not be authorized to park vehicles on street neighborhood parking spaces. The City of Atlantic City, through the Department of licensing and Inspections will provide off street parking facilities at secured locations. Off-street parking permits will be available to the owners of the Short-term rental properties, based upon need (occupancy load) for purchase price of \$15.00 per permit at the time of permits/license issuance. The permits will authorize access to the parking facilities. A parking fee will be charged to each Short-Term Rental vehicle prior to entering the facility.
9. The owner's agreement 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 neighboring property owners to the quiet enjoyment of their properties; and
10. Any other information that this Chapter requires a property owner to provide to the City in connection with an application for a rental certificate of occupancy. The Director of Licensing and Inspections or his designee 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 application for a short-term rental permit shall require annual inspections for the STRP's compliance with the City's fire safety regulations and property maintenance code. In addition, each application is subject to review to verify the STRP's eligibility for use as a short-term rental and compliance with the regulations in this Section.
- c. For a condominium short-term rental permit application, a letter of approval by the condominium association must be submitted with the application.
- d. Every owner must comply with the City's Land Use Regulations and Zoning Ordinance.
- e. 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.
- f. Attached to and concurrent with submission of the permit application described in this Section, the owner shall provide:
1. Proof of the owner's current ownership of the short-term rental unit;
 2. Proof of general liability insurance in a minimum amount of \$500,000.00, including coverage specific to short-term rental activity; and
 3. Written certifications from the short-term rental property agent and responsible party that they agree to perform all of the respective duties specified in this Section.
- g. There shall be no conditional permits. Upon review of documents according to the IPMC, the unit will receive either a pass or a fail for the permit/license. If unit receives a "fail" the owner must make all necessary improvements and call for a new inspection. Each additional inspection will be a charge of \$50 to the owner.
- h. In no event shall a short-term rental property 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 property owner shall be responsible for compliance with this provision, and shall both be liable for a violation, where the property is not occupied by at least one adult over the age of twenty-one, during the term of the short-term rental;
- i. 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 the request of the City.

H. Issuance of Permit and Appeal Procedure.

- a. Once an application is submitted, complete with all required information and documentation and fees, the Landlord Registration, Code Enforcement Division of the Department of Licensing and Inspections, following any necessary investigation for compliance with this Section, shall either issue the short-term rental permit and Certificate of Occupancy, or issue a written denial of the permit application (with the reasons for such denial being stated therein), within ten (10) business days.
- b. If denied, the applicant shall have ten (10) business days to appeal in writing to the Director of Licensing and Inspections, by filing the appeal with the Office of the Director.
- c. Within thirty (30) days thereafter, the Director of Licensing and Inspections or his designee shall hear and decide the appeal.

I. Short-Term Rental Operational Requirements.

- a. All short-term rentals must comply with all applicable rules, regulations and ordinances of the City of Atlantic City 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
- c. Transient occupants of the STRP shall comply with all ordinances of the City of Atlantic City including, but not limited to those ordinances regulating noise and nuisance conduct. Failure of transient occupants to comply shall subject the transient occupants, the owner of the STRP, the Responsible Party and the Short-Term Rental Agent listed in the short-term rental permit application, to the issuance of fines and/or penalties, and the possibility of the revocation or suspension of the STRP permit.
- d. If a property has been determined to be a nuisance property, as defined in City Code Chapter 190, the Director of Licensing and Inspections may suspend the ability of the owner to rent the property. The owner will have ten (10) business days to appeal this determination in writing, by filing appeal with the Office of the Director. Within thirty (30) days thereafter, the Director of Licensing and Inspections or his designee shall hear and decide on the appeal.
- e. The owner of a STRP shall post the following information in a prominent location within the short-term rental:
 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 names and phone numbers for the Responsible Party and the Short-Term Rental Agent (as those terms are defined in this Section);

3. The phone numbers for the Atlantic City Police Department, the Atlantic City Fire Department, the City of Atlantic City Division of Code Enforcement and the City of Atlantic City Landlord Registration, Code Enforcement Division of the Department of Licensing and Inspections;
 4. Copy of the short-term rental license/permit, detailing the occupancy load;
 5. Trash and recycling pick-up day(s), and all applicable rules and regulations regarding trash disposal and recycling must be posted in a prominent location. The number of trash receptacles or toters required for the STR unit will be based upon occupancy load of the property, and this will be determined prior to the issuance of the STR permit /license. Should the solid waste and recycle amounts be excessive (exceed normal levels) the owner may be required to retain a private waste hauler, if so, a copy of the agreement will be required. No open containers, containers without lids or plastic trash bags will be permitted;
 6. Notification that a guest, Transient Occupant, the Short-Term Rental Property Agent, the Responsible Party or Owner may be cited or fined by the City of Atlantic City Police Department or the City of Atlantic City Landlord Registration, Code Enforcement Division of the Department of Licensing and Inspections, for violations of, and in accordance with any applicable Ordinance(s) of the City of Atlantic City;
- f. In the event any complaints are received by the Atlantic City Police Department or the Landlord Registration, Code Enforcement Division of the Department of Licensing and Inspections regarding the short-term rental and/or the Transient Occupants in the STRP, and the owner of the STRP is unreachable or unresponsive, both the Responsible Party and the Short-Term Rental Agent listed in the short-term rental permit application shall have the responsibility to take any action required to properly resolve such complaints, and shall be authorized by the STRP owner to do so.
- g. While a STRP is rented, the owner, the Short-Term Rental Agent, or the Responsible Party shall be available twenty-four hours per day, seven days per week for the purpose of responding within one (1) hour of 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 Atlantic City Police Department or neighbors, arising by virtue of the short-term rental of the property.
- h. Failure to make application for, and to obtain the issuance of, a short-term rental permit 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 permit, 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.

- i. 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 short-term rental 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 will result in enforcement action against the tenant, the owner, the 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.
- j. The STRP owner must be current with all taxes plus water and sewer charges assessed to the property prior to the issuance of a short-term rental permit. In the event that any code violations have been issued by the City relating to the STRP, a short-term rental permit shall not be issued until such time as such violations have been properly abated. The STRP owner must also close any open construction permits for the property prior to the issuance of a short-term rental permit.
- k. All fines or penalties issued by the Municipal Court for the City of Atlantic City 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 permit.
- l. Nothing in this Ordinance shall be read to prohibit or regulate in any way room sharing within in a dwelling between related and otherwise consenting parties.

J. Violations and Penalties.

A violation of any provision of the within Section 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 \$2,000.00 per violation, per day that the violation exists. These fines are in addition to violations of any other section of applicable chapters on the City Code of the City of Atlantic City.

Section 2. Any Ordinances or parts thereof inconsistent herewith shall be amended and supplemented to conform to the provisions contained herein.

Section 3. If any part of this Ordinance is declared unconstitutional or illegal by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

Section 4. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey, following the required twenty (20) day period after adoption, as set forth in N.J.S.A. 40:69A-181 (b)

POSTPONED 10/21/2020

November 13, 2020 9-C

DO NOT USE SPACE BELOW THIS LINE

RECORD OF COUNCIL VOTE ON FINAL PASSAGE

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
DELGADO	X						MORSHED	X					X
DUNSTON	X						RANDOLPH	X				X	
FAUNTLEROY	X						SHABAZZ	X					
KURTZ	X						ZIA	X					
TIBBITT, PRESIDENT								X					
X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second													

Adopted on first reading at a meeting of the Council of the City of Atlantic City, N.J. on ...NOVEMBER 13, 2020.....

Adopted on second and final reading after hearing on...DECEMBER 16, 2020.....

Approved By.../s/ Paula Geletei Date... 12-17-20 ...By Council.....Reconsidered _____ Ride _____
 Mayor Aye Nay

This is a Certified True copy of the Original Ordinance on file in the City Clerk's Office.

/s/ Paula Geletei PAULA GELETEI, City Clerk