

ORDINANCE NO. 10-2022

AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH OF SEA BRIGHT TO ADD CHAPTER 164 "RESIDENTIAL PROPERTY, SHORT TERM RENTAL REGISTRATION", PERTAINING TO THE REGULATION OF SHORT TERM RENTAL UNITS WITHIN THE BOROUGH.

WHEREAS, the Borough Council finds that many owners of residential dwelling units in the Borough engage in the lease or rental of such dwelling units both for long and short-term rental use; and

WHEREAS, the Borough Council further finds that in order to ensure the public health, safety and welfare it is important in cases of emergency, disturbance, law enforcement and regulatory activities for the Borough to have a record enabling the owner or managing agent of any such residential dwelling unit to be contacted at any time; and

WHEREAS, the Borough Council hereby determines that it would be in the best interests of the Borough of Sea Bright and its residents to prohibit any owner of a residential dwelling unit to rent, lease or otherwise permit the occupancy of the unit by non-owners without first having registered the residential dwelling as a short term rental unit with the Borough;

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, as follows:

SECTION ONE. The Code of the Borough of Sea Bright, Part II, "General Legislation", be and is hereby amended and supplemented to add thereto Chapter 164, "Residential Property-Short Term Rental Registration", to read, in full, as follows:

"CHAPTER 164 RESIDENTIAL PROPERTY-SHORT TERM RENTAL REGISTRATION"

§ 164-1 Purpose and Scope.

This section aims to regulate the increasingly widespread practice of renting or leasing various types of dwellings, or segments thereof, located primarily in residential neighborhoods, on a short-term basis to transient guests. This practice has been popularized and facilitated by various websites that advertise and broker these rentals. Left unregulated, this practice could adversely affect the health, safety, and general welfare of the citizens of the Borough. This section seeks to balance the rights of the owners of residential dwelling units and the needs of the community at large.

This section does not apply to lawfully established and operating hotels, motels, rooming houses, boardinghouses, and bed-and-breakfast establishments.

§ 164-2 Definitions.

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

OWNER

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

OWNER-OCCUPIED

Shall mean the owner of the property resides in the short term rental property (also referenced as “STRP”), or in the principal 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 164.

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 (2) which is identified 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 being a principal residence for purposes of this Section 164.

PROPERTY

Shall mean a parcel of real property located within the boundaries of the Borough of Sea Bright.

RESPONSIBLE PARTY

Shall mean both the short-term rental property owner and a person (or 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 use of a dwelling unit as defined in Section 130-5 of the Code of the Borough of Sea Bright for occupancy by someone other than the unit’s owner or permanent resident for a period of ninety (90) days or less consecutive days. Short Term Rental properties are required to have a minimum stay period of seven (7) consecutive days. Any advertisement or rental of Short Term Rental Properties must include and invoke this minimum stay requirement.

SHORT-TERM RENTAL PROPERTY (ALSO REFERENCED AS “STRP”)

Shall mean a dwelling unit as defined in Section 130-5 of the Code of the Borough of Sea Bright, 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 164. Dwelling units rented to the same occupant for more than ninety (90) continuous days, licensed Bed and Breakfast establishments, licensed rooming or boarding houses, hotels, and motels shall not be considered a Short-Term Rental Property.

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 164. 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.

TRANSIENT SPACE MARKETPLACE

Shall mean a marketplace or travel agency through which a person may offer STRs to customers and through which customers may arrange for occupancies of STRs.

The definition of a transient space marketplace does not include a marketplace or travel agency that exclusively offers transient accommodations in New Jersey owned by the owner of the marketplace or travel agency. “Obtained through a transient space marketplace” means that payment for the accommodation is made through a means provided by the marketplace or travel agency, either directly or

indirectly, regardless of which person or entity receives the payment, and where the contracting for the accommodation is made through the marketplace or travel agency.

§ 164-3 Regulations Pertaining to Short-Term Rentals.

a. It shall be unlawful for the owner of any property within the Borough, to rent or operate a short-term rental contrary to the procedures and regulations established in this Section 164 or applicable State statute.

b. Short-term rentals shall be permitted to be conducted in the following classifications of property in the Borough of Sea Bright:

1. Condominium units, where the Condominium Association By-Laws and Master Deed do not prohibit a short-term rental;

2. Single-family residences;

3. One unit within a two-family residential dwelling, where the other unit is occupied by the owner and identified by the owner as his or her principal residence;

4. Not more than two units in any multi-family residential dwelling, where one other unit in the same dwelling is occupied by the owner and identified by the owner as his or her principal residence.

c. Notwithstanding the provisions of paragraph b above, short-term rentals shall not be permitted in:

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;

2. A room within a single-family, two-family or multi-family residential dwelling unit, where the room shares common kitchen and bathroom facilities with the occupant(s) of the dwelling unit in which it is located, which occupant(s) is neither the owner of the dwelling unit nor identifies the remainder of the dwelling unit in the single-family, two-family or multi-family residence as his or her principal residence.

d. The provisions of this Section 164 shall apply to short-term rentals as defined in subsection 164.2 above. The following do not qualify as a STRP, as that term is used herein, and are not required to obtain a short-term rental permit pursuant to this Section 164: any hotel, motel, studio hotel, rooming house, dormitory, public or private club, bed and breakfast inn, convalescent home, rest home, home for aged people, foster home, halfway house, transitional housing facility, or other similar facility operated for the care, treatment, or reintegration into society of human beings; 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.

§ 164-4 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 Zoning and Land Use Regulations of the Borough of Sea Bright, the owner of a short-term rental property shall obtain a short-term rental permit from the Borough of Sea Bright Municipal Clerk, before renting or advertising for rent any short-term rental.

b. 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 Borough of Sea Bright. The failure to obtain a valid STR permit prior to advertising the short-term rental property in any print, digital, or internet advertisement or web-based platform, and/or in the MLS or any real estate agent's property listing shall be a violation of this Chapter. No STR permit issued under this Chapter may

Chapter 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, or any agent acting on behalf of the owner, shall submit to the Borough of Sea Bright Municipal Clerk, a short-term rental permit application provided by the Borough, along with an annual application/registration fee of \$500.

d. The short-term rental permit, if granted, shall be valid for a period of one year from the date of issuance.

e. The owner of a short-term rental property, 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 Municipal Clerk, 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 Department.

f. A short-term rental permit and rental Certificate of Occupancy shall be renewed on an annual basis, based upon the anniversary of the original permit issuance, by submitting to the Municipal Clerk, a short-term rental permit application and rental Certificate of Occupancy application and a registration fee as set forth in subsection 164-4.c.

g. The short-term rental permit shall expire automatically when the short-term rental property changes ownership, and a new initial application and 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 registration fee shall also be required for any short-term rental that had its short term rental permit revoked or suspended.

§ 164-5 Application Process for Short-Term Rental Permit and Inspections.

a. Applicants for a short-term rental permit shall submit, on an annual basis, per Sections 164-4d and f, an application for a short-term rental permit to the Borough of Sea Bright. 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. The name, address, telephone number and email address of the short-term rental property responsible party, which shall constitute his or her 7 day a week, 24-hour a day contact information;

4. The owner's acknowledgement that he or she has received a copy of this Chapter, has reviewed it, understands its requirements and certifies as to the accuracy of all information provided in the permit application;

5. The number and location of all parking spaces available to the premises, which shall include the number of legal off-street parking spaces and on-street parking spaces directly adjacent to the premises. 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;

6. The owner's agreement that all renters of the short-term rental property shall be limited to one (1) vehicle per four (4) occupants in the short-term rental property;

7. 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

8. Any other information required to be provided to the Borough in connection with an application for a rental certificate of occupancy. The Borough Administrator or his or her 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 section.

b. Every application for a short-term rental permit shall be subject to inspections every three months for the STRP's compliance with the State's or Borough's fire safety regulations and the Borough's 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 Chapter.

c. For a condominium short-term rental permit application, a letter of approval by the condominium association must be submitted with the application.

d. A Zoning Compliance Certificate, which states that the premises are not being occupied or used in violation of the Zoning and Land Use Regulations of the Borough, shall be required.

e. Confirmation 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 Chapter, 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 no less than \$500,000 for combined property damage and bodily injury to or death of one or more persons in any one accident or occurrence, except in the case of the owner of a multifamily home which is four or fewer units, one of which is owner occupied, then coverage must be maintained for the foregoing in an amount no less than \$300,000, or such minimum amounts which may be set by State law; and

3. Written certification from the responsible party that they agree to perform all of the respective duties specified in this Chapter.

g. The STRP owner/permit holder shall publish the short-term rental permit 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 short-term rental property is advertised for rent on a short term basis.

h. Each and every time there is a change of occupancy by transient occupants during the year when the permit is active, the STRP owner, their agent, or the responsible party must provide the Borough with information as to the identity of all transient occupants who will be occupying the STRP, on a form to be made available by the Municipal Clerk or in electronic format on the Borough website. The intent is that the Borough shall have basic identifying information of all occupants of the STRP at all times, just as required by the Borough in conjunction with any standard rental Certificate of Occupancy application, which information shall include the occupant's or occupants' names and ages, and the dates of the commencement and expiration of the term of each short-term rental period of the respective occupant(s).

i. In no event shall a short-term rental property be rented to anyone younger than eighteen (18) 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 eighteen (18), 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 eighteen (18) 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 property is not occupied by at least one adult over the age of eighteen (18), during the term of the short term rental;

§ 164-6 Issuance of Permit and Appeal Procedure.

- a. Once an application is submitted, complete with all required information and documentation and fees, the Municipal Clerk, following any necessary investigation for compliance with this Chapter 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 Borough Administrator, by filing the appeal with the Borough Administrator’s Office.
- c. Within thirty (30) days thereafter, the Borough Administrator or his or her designee shall hear and decide the appeal.

§ 164-7 Short-Term Rental Operational Requirements.

- a. All short-term rentals must comply with all applicable rules, regulations and ordinances of the Borough of Sea Bright 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. A dwelling unit shall be limited to a single short-term rental contract at a time.
- c. 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.
- d. Transient occupants of the STRP shall comply with all ordinances of the Borough of Sea Bright 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 and the responsible party 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.
- 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 name and phone number for the responsible party;
 - 3. The phone numbers for the Borough of Sea Bright Police Department, the Borough of Sea bright Fire Department, the Borough of Sea Bright Department of Code Enforcement and the Borough of Sea Bright Building Department;
 - 4. The maximum number of parking spaces available onsite;
 - 5. Trash and recycling pick-up day, and all applicable rules and regulations regarding trash disposal and recycling;
 - 6. A copy of this Ordinance No. 10-2022
 - 7. Notification that a guest, transient occupant, the responsible party or STRP owner may be cited or fined by the Borough of Sea Bright Police Department, Code Enforcement, or the Borough of Sea Bright

Building Department, for violations of, and in accordance with any applicable ordinance(s) of the Borough of Sea Bright;

f. In the event any complaints are received by the Sea Bright Police Department, Code Enforcement, or the Building Department regarding the short-term rental and/or the transient occupants in the STRP, and the owner of the STRP is unreachable or unresponsive, the responsible party 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 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 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 Sea Bright Police Department or neighbors, arising by virtue of the short-term rental of the property.

h. If the STRP is the subject of two (2) or more civil and/or criminal complaints which result in sustained violations of this Chapter, other provisions of the Borough Code or State law, the Borough Administrator or his designee may revoke the short-term rental permit issued for the property, in which case, the STRP may not be the subject of a new STRP permit application for one (1) year following the date of revocation of the permit.

i. Failure to make application for, or 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 NJ State Real Estate Commission, shall be equivalent to operation of the STRP without a permit, and shall constitute a violation of this Code, and will result in enforcement action and the issuance of a Summons, and shall subject the STRP owner and the responsible party to issuance of fines and/or penalties.

j. 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 164 will result in enforcement action against the tenant, the STRP owner, and the responsible party, and will subject all such parties to the issuance of a Summons and levying of fines and/or penalties.

k. In the event that the Borough finds three (3) occurrences where the number of vehicles belonging to the transient occupants of a STRP exceeds the number allowed pursuant to Section 164-5a6, the short-term rental permit for the property is subject to revocation by the Borough Administrator or his designee.

l. The STRP owner must be current with all tax 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 Borough 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.

m. All fines or penalties issued by the Municipal Court for the Borough of Sea Bright 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.

§ 164-8 Violations and Penalties.

A violation of any provision of this Chapter may subject the STRP owner, transient occupant(s), and the responsible party or their agents to fines assessed by the Court. Penalties for non-compliances with the requirements set forth in the ordinance shall be as follows:

First Offense:	Warning Issued
Second Offense:	\$100 - \$500 Fine
Third or more Offense:	\$500 - \$2000 per Violation and potential revocation of STR permit

§ 164-9 Short Term Rental Municipal Tax.

a. Pursuant to New Jersey Statutes 40:48F-1 et. seq., all STRs which are obtained through a transient space marketplace, and/or all STRs which do not share any living or sleeping space with any other rental unit, and are directly or indirectly owned or controlled by a person offering for rent two or more other units during the calendar year, are subject to a three (3)% short term rental municipal tax (Tax) on all charges of rent.

This Tax shall not apply to STRs where no maid service, room service, linen-changing service, or other common hotel services are made available by the lessor, and the rental transaction is executed by a real estate broker licensed by the New Jersey Real Estate Commission, and where the keys to the property, whether a physical key, access to a keyless locking mechanism, or other means of physical entrance to the property, are provided to the lessee at the offsite location of the licensed real estate broker.

b. Any unpaid taxes under this Section shall be subject to interest at a rate of five (5) % per annum.

c. The Tax stated herein shall be paid by the lessees of the STR.

d. No vendor of a Transient Space Marketplace shall assume or absorb the tax created in this Section.

e. No vendor of a Transient Space Marketplace shall in any manner advertise or hold out to any person or to public in general, in any manner, directly or indirectly, that the tax will be assumed by the vendor, that the tax will not be separately charged and stated to the customer, or that the tax will be refunded to the customer.

f. Each assumption or absorption by a vendor of the tax created in this Section shall be deemed a separate offense and each representation or advertisement by a vendor for each day the representation or advertisement continues to be deemed a separate offense.

g. All violations in regard to the provisions of this Section as to the Tax shall be subject to the penalties stated in Section 164-7.

h. The Tax created by this Section shall be collected on behalf of the Borough by the person collecting the rent from the STR customer.

i. The individual required to collect the Tax per subparagraph h shall be personally liable for the Tax imposed, collected or required to be collected hereunder.

j. Notwithstanding any other provision, Transient Space Marketplaces are required to collect and pay the Tax for transactions obtained through the transient space marketplace in accordance with State Statute.

SECTION TWO. This Ordinance shall be transmitted to the State Treasurer, together with a list of the names and addresses of all STRs located in the Borough.

SECTION THREE. All Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION FOUR. Should any section, paragraph, clause or other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

SECTION FIVE. This Ordinance shall take effect after its passage and publication according to law or January 1, 2023, whichever is later except the Tax provisions of Section 164-9 shall take effect on the first day of the first full month occurring 90 days after the transmittal to the State Treasurer.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Sea Bright, introduced on October 18, 2022 and will be further considered after a Public Hearing held on November 14, 2022.

INTRODUCED: October 18, 2022
PUBLIC HEARING: November 14, 2022
ADOPTED: November 14, 2022

WITNESS

BOROUGH OF SEA BRIGHT


CHRISTINE PFEIFFER, CLERK


BRIAN KELLY, MAYOR