

ORDINANCE NO. 5621

**AN ORDINANCE TO AMEND CHAPTER 5.90 OF THE CODE OF THE CITY OF ELIZABETH, ENTITLED "SHORT-TERM RENTALS", TO MODIFY THE DEFINITION OF A "SHORT-TERM RENTAL" AND TO CLARIFY THE LICENSING REQUIREMENTS.**

WHEREAS, on February 9, 2021, the City Council for the City of Elizabeth adopted Ordinance 5424, which enacted Chapter 5.90 of the Code of the City of Elizabeth to regulate short-term rentals to protect the integrity of the City's residential character.

WHEREAS, the Ordinance defined short-term rentals to the accessory use of a dwelling unit for occupancy by someone other than the unit's owner or permanent resident for a period not more than 180 consecutive nights. Further, it stated that short-term rentals occupied by a transient occupant for a period of less than 30 consecutive days must be owner-occupied; and

WHEREAS, City Council finds that, in order to promote the safety and well-being of the community, as well as to mitigate the impact of transitory uses of residential properties, it is necessary to limit short-term rentals further and to clarify the licensing process; and now, therefore

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH:**

**SECTION 1.** The Code of the City of Elizabeth, Section 5.90.010, is hereby amended and shall read:

Definitions. For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When consistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

"Dwelling unit" shall mean a room or group of rooms, providing complete, independent living facilities, including permanent provisions for living, sleeping, eating, cooking, and sanitation for one or more persons.

"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, or in the principal residential unit with which the property 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 Chapter, 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 STR property, or in the principal residential unit with which the STR property 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" 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 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.

"Rental Certificate of Occupancy" shall mean a specified form obtained from the Bureau of Planning and Zoning that certifies that the dwelling unit complies with the City's Housing Code and zoning ordinances and is eligible to be used as a short-term rental property.

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“Responsible Party” shall mean the short-term rental property owner and/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” (or “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 not more than 180 consecutive nights, which dwelling unit is **owner-occupied and 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.** This definition shall not include hotels, motels, bed and breakfast inns, **rooming houses**, or tenants that have month-to-month leases permitted by N.J.S.A. 46:8-19.4 et seq.

“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.

**SECTION 2.** The Code of the City of Elizabethtown, Section 5.90.020, is hereby amended and shall read:

Regulations pertaining to short-term rentals.

**A. It shall be unlawful for any owner of any property to rent, operate, or advertise a short-term rental of any property within the geographic bounds of the City of Elizabethtown for a period of thirty (30) days or less without first obtaining a license issued by the Chief License Inspector of the City of Elizabethtown. Further it shall be unlawful for any owner to rent, operate, or advertise a short-term rental in a manner that is contrary to the procedures and regulations established in this Chapter or applicable State Law.**

**~~B. Notwithstanding the language of this Section, owners within the geographic bounds of the City of Elizabethtown may rent, operate, or advertise a short-term rental for a period of thirty (30) days or less if the dwelling units are owner-occupied.~~**

**~~C.B.~~** Short-term rentals shall not be permitted in a dwelling unit in which rent is set by a federal or state agency, set by an agreement with the owner/developer, or governed by rent control set forth in Chapter 5.70 of the Code of the City of Elizabethtown.

**~~D.C.~~** Notwithstanding the language of this Section, owners who rent, operate, or advertise a short-term rental pursuant in accordance with this Chapter to Subsection A, above, shall do so according to the procedures and regulations set forth below:

1. The short-term rental use shall be conducted in a manner that does not materially disrupt or adversely affect the residential character of the neighborhood. In particular, the short-term rental shall not become a nuisance to adjoining residents and its impact should be no greater than that of a private home with guests.
2. Use of the short-term rentals for commercial events or social events with non-guests shall be prohibited.
3. Responsible parties shall not rent a short-term rental property to anyone younger than 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 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 21 who will share and occupy the property with them. Both

the primary occupant executing the short-term rental agreement and the owner of the short-term rental property 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 21, during the term of the short-term rental.

4. There shall be no sign identifying the short-term rental use, and there shall be no identification of such short-term rental use upon any mailbox.
- D. Nothing in this Chapter shall prevent formation of an otherwise lawful occupancy of a dwelling unit for a rental period of more than thirty (30) days.

**SECTION 3.** The Code of the City of Elizabeth, Section 5.90.030, is hereby amended and shall read:

Short-Term Rental Permit License Required: Application/Registration Fee: Municipal Land Use and Zoning Compliance

- A. The owner of a short-term rental property shall obtain a short-term rental permit license from the City of Elizabeth Bureau of Central Licensing, before renting or advertising for rent any short-term rental.
- B. No responsible party shall operate or advertise a short-term rental without first having obtained a short-term rental permit license (STR license permit) issued by the City of Elizabeth Bureau of Central Licensing. The failure to obtain a valid STR license 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 realtor's property listing shall be a violation of this Section. No STR license 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 shall submit to the Bureau of Central Licensing, a short-term rental license permit application provided by the City, along with an annual ~~application/registration~~ fee of \$75.00 \$200.00. This fee includes the application/registration fee (\$75.00), carbon monoxide inspection (\$75.00), and the zoning inspection required to obtain a Rental Certificate of Occupancy (\$50.00). Said fee shall be non-refundable, even if the application is denied.
- D. Responsible parties shall obtain a Rental Certificate of Occupancy from the Bureau of Planning and Zoning prior to using a dwelling unit as a short-term rental. ~~The fee for such Rental Certificate of Occupancy will be \$55.00, which shall include the cost of inspection of the STR property. The applicant shall also obtain a certificate from the Fire Prevention Bureau certifying that the dwelling unit has passed a carbon monoxide inspection. If the applicant fails to pass either the inspection required to obtain a Rental Certificate of Occupancy or the carbon monoxide inspection, they shall have 60 days to remove, correct, or abate the violations specified by either the Zoning Officer or Fire Official. If the applicant does not remove, correct, or abate the violations within 60 days, the applicant must resubmit a new application and annual fee.~~
- E. The STR license permit, if granted, shall be valid for a period of one year from the date of issuance. A short-term rental license permit and Rental Certificate of Occupancy shall be renewed on an annual basis, based upon the anniversary of the original license permit issuance, by submitting a renewal application and annual fee to the Bureau of Central Licensing. ~~Planning and Zoning a Rental Certificate of Occupancy application and fee of \$35.00. A reinspection fee of \$35.00 shall apply for each failed reinspection. Upon receipt of a renewed Rental Certificate of Occupancy, the owner shall submit to the Bureau of Central Licensing a short-term rental permit application, with proof of a renewed Rental Certificate of Occupancy and a renewal registration fee of \$55.00.~~

F. Owners with a valid STR license permit shall be given notice of 60 days by the Chief License Inspector before the expiration of their license permit. Owners shall notify the Chief License Inspector in writing within 30 days if they do not intend to renew their license permit.

G. The STR license permit shall expire automatically when the STR property changes ownership, and a new initial application and first-time registration fee will be required if the new owner intends to use the property as a STR property. A new application and first-time registration fee shall also be required for any STR that had its STR license permit revoked.

H. Rooming houses are exempt from the license permit requirements of this Chapter pursuant to Chapter 5.76 of this Code and N.J.S.A. 55:13B-1 et seq.

**SECTION 4.** The Code of the City of Elizabeth, Section 5.90.040, is hereby established and shall read:

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

A. The Chief License Inspector shall promptly forward the application and accompanying materials to the Director of the Police Department, the Director of the Fire Department, the Director of the Department of Health and Human Services, the head of the Bureau of Construction, and the head of the Bureau for Planning and Zoning for investigation and report.

B. Applicants for a short-term rental license permit shall submit, on an annual basis, an application for a short-term rental license permit to the City of Elizabeth Bureau of Central Licensing. 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 license 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. A copy of the driver's license, voter registration or state identification card of the owner of the short-term rental property, confirming, as set forth in this section, that the property is the principal residence, as that term is defined herein, of the owner making application for the STR permit;
4. The owner's sworn acknowledgement that they comply with the requirement that the short-term rental property constitutes the owner's principal residence, as defined in Section 5.90.010 above, or that the owner is entitled to an exemption from that requirement;
5. The name, address, telephone number and email address of the owner, which shall constitute their 7 day a week, 24-hour a day contact information;
6. The owner's sworn acknowledgement that they have received a copy of this Section, has reviewed it, understands its requirements and certifies, under oath, as to the accuracy of all information provided in the license permit application;
7. 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;

8. The owner's agreement that all renters of the short-term rental property shall be limited to one (1) vehicle per two occupants in the short-term rental property;
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 Section requires a property owner to provide to the City in connection with an application for a rental certificate of occupancy. The Chief License Inspector or their designee shall have the authority to obtain additional information from the owner/applicant or amend the ~~license permit~~ application to require additional information, as necessary, to achieve the objectives of this Section.

C. Attached to and concurrent with submission of the ~~license 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;
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.
4. For a condominium short-term rental ~~license permit~~ application, a letter of approval by the condominium association must be submitted with the application.

D. The STR property owner shall publish the short-term rental ~~license permit~~ number issued by the City 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.

E. Each and every time there is a change of occupancy by transient occupants during the year when the ~~license permit~~ is active, the owner must provide the City with information as to the identity of all transient occupants who will be occupying the STR property, on a form to be made available by the Bureau of Central Licensing or in electronic format on the City website. The intent is that the City shall have basic identifying information of all occupants of the STR property at all times, just as required by the City 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).

F. Upon receiving an application, the Chief License Inspector shall investigate and determine whether the statements contained in the application are true and whether all city taxes, both real and personal, have been fully paid.

SECTION 5. The Code of the City of Elizabeth, Section 5.90.050, is hereby amended and shall read:

Issuance of License-Permit and Appeal Procedure.

- A. Once an application is submitted, complete with all required information and documentation and fees, the Bureau of Central Licensing, following any necessary investigation for compliance with this Section, shall either issue the short-term rental ~~license permit~~ or issue a written denial of the ~~license 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 Chief License Inspector.

C. Within thirty (30) days thereafter, the Business Administrator or their designee shall hear and decide the appeal.

D. A license-permit shall only be issued after all outstanding violations have been abated.

**SECTION 6.** The Code of the City of Elizabeth, Section 5.90.060, is hereby amended and shall read:

A. Enforcement. The provisions of this article shall be enforced by the Chief ~~Code-Enforcement-Officer~~ **License Inspector**, Fire Official, or law enforcement as their jurisdiction may arise.

B. License-Permit Revocation. Any license issued pursuant to this Chapter may be revoked by the Chief License Inspector upon written notice to the licensee where the licensee has violated any section of this Chapter, or for the following reasons:

- i. Fraud, misinterpretation, or false statement made in the application process.
- ii. Fraud, misinterpretation, or false statement made in the course of the renting, operating, or advertising a STR property pursuant to this Chapter.
- iii. Failure to remediate a danger that makes the STR property unsafe, unsanitary, or unfit for human habitation within a reasonable period of time.

Any violation of a provision in this Chapter shall be for a time not less than one (1) year and the licensee shall be unable to apply for a new license-permit during that time, with the exception of Section 5.90.060(B)(iii), above, where the Chief License Inspector shall have the authority to permanently revoke a license in this instance.

C. Hearing. Upon receipt of the notice of revocation, the owner may, within two (2) business days, file with the Chief License Inspector a written request for a hearing. The hearing shall be held within ten (10) days of the request, at which hearing the owner shall have the opportunity to be heard. At the conclusion of the hearing, the Business Administrator or their designee shall either affirm the revocation or reinstate the license-permit. If the owner does not request a hearing, the license-permit shall be automatically revoked upon the expiration of ten (10) days after the notice of revocation has been given to the owner.

D. Penalties and Fines. Any person who shall violate any provision of this chapter or any provision of any rule or regulation pursuant to the authority granted by this Chapter shall, upon conviction, in the Elizabeth Municipal Court or other court of competent jurisdiction be punished by a fine of not less than two hundred fifty dollars (\$250.00) and not more than two thousand dollars (\$2,000.00), with each day's failure to comply with any provision, rule, or order constituting a separate and distinct offense.

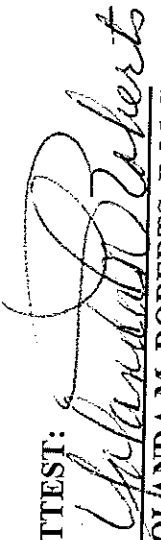
**SECTION 7.** All ordinances or parts of ordinances inconsistent with the provisions of this ordinance be and the same are hereby repealed.

**SECTION 8.** If any portion or clause of this ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this ordinance.

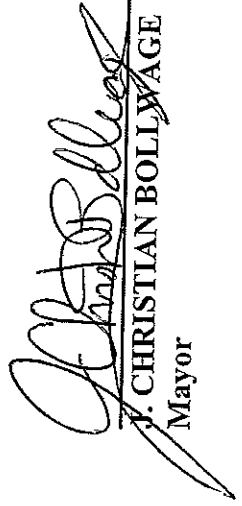
**SECTION 9.** The effective date of this ordinance shall be twenty (20) days after its final passage by City Council and approval by the Mayor at the time and in the manner provided by law.

PASSED: 3/22/22

APPROVED: 3/23/22

ATTEST:   
YOLANDA M. ROBERTS, R.M.C.  
Municipal Clerk

  
NELSON GONZALEZ  
President of City Council

  
CHRISTIAN BOLLYWAGE  
Mayor