

ORDINANCE NUMBER 32-2023

An Ordinance to Amend the Lambertville City Code, 2014, Chapter 5-11, to Include Provisions to Manage Short-Term Rentals

CHAPTER 5-11 - SHORT-TERM RENTALS.

§ 5-11.1 - Definitions.

The following terms shall have the meanings indicated below:

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

"Owner" shall mean any person alone or jointly or severally with others:

a. Who has legal or equitable title to any premises, with or without accompanying actual possession thereof;

b. Who has equitable title and is either in actual possession or collects rents therefrom;

c. Who, as executor, executrix, trustee, guardian or receiver of an estate or as mortgagee or as vendee in possession, either by virtue of a court order or by agreement or voluntary surrender of the premises by the person holding the legal title, or as collector of rents, shall have charge, care or control of any dwelling, boardinghouse or lodging house; or any such person thus representing the person holding the equitable or legal title, all of whom under this chapter shall be bound to comply with the provisions hereof and any rules and regulations adopted pursuant thereto to the same extent as if they were the persons holding the legal or equitable title.

"Owner-occupied" shall mean the owner of the property who resides in the short-term rental property, or in the principal residential unit with which the short-term rental property is associated on the same lot, and identifies the 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 short-term rental property, or in the principal residential unit with which the short-term rental property is associated on the same lot, and identify same as his or her principal residence as that term is defined in this section.

"Principal residence" shall mean the address:

(1) where at least one of the property owners spends the majority of their non-working time;

(2) which is most clearly the center of their domestic life; and

(3) which is identified on their driver's license or State identification card as being their legal address. All the above requirements must be met in order for an address to constitute a principal residence for purposes of this section.

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

"Responsible party" shall mean the short-term rental property owner or a person, including but not limited to any 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" (hereinafter **"STR"**) shall mean the accessory use of a dwelling unit as defined in this section for occupancy by someone other than the unit's owner or permanent resident for a period of thirty-one (31) or fewer consecutive days, which dwelling unit is regularly used and kept open as such for the lodging of quests, and which is advertised or held out to the public as a place regularly rented to transient occupants as defined in this section.

"Short-term rental property" (hereinafter **"STRP"**) shall mean a residential dwelling unit as defined in this section, that is used and/or advertised for rent as a short-term rental for 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 short-term rental 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.

"Substantiated complaint" shall mean a civil or criminal complaint, summons, or notice of violation(s) that is supported by substantial evidence.

"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.

§ 5-11.2 - 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 Lambertville, Hunterdon County, New Jersey, to rent, operate, or advertise a short-term rental in a manner that is contrary to the procedures and regulations established in this section or applicable state law.
- B. Short-term rentals shall only be permitted to be conducted in the following classifications of property in the City of Lambertville:
 - (1) Dwelling units located in a condominium association, homeowners association, or cooperative association, where the association's bylaws, master deed, or other relevant

governing document permits short-term rentals and where the owner of the unit legally identifies an address within the association as his or her principal residence; and

- (2) Individually or collectively owner-occupied single-family residences; and
- (3) Two dwelling units within a two-family residential dwelling, where one unit is owner-occupied as that term is defined in this section.

- C. Short-term rentals shall not be permitted in a multiple dwelling in which rent is: set by the United State Department of Housing and Urban Development (HUD), set by a State agency, or set by an agreement between the City and the owner/developer.
- D. The following shall not be permitted to operate as short-term rentals pursuant to this section: rooming house, dormitory, public or private club, convalescent home, rest home, home for aged people, adult family care homes, assisted living facilities, community residences for developmentally disabled persons, community shelters for victims of domestic violence, senior housing, nursing homes, 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.
- E. 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 except as provided below. 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 will result in enforcement action against the tenant, the STRP owner, the short-term rental agent, and the responsible party, and will subject all such parties to the issuance of a summons and levying of fines and/or penalties.
- F. If, at the time of the adoption of this chapter, an owner is operating a property as short-term rental, it may continue to operate a non-owner-occupied property as a short-term rental, provided that the following conditions are met:
 - (1) The short-term rental property is registered with the City as of the date of adoption of this ordinance, notwithstanding the owner-occupied requirements;
 - (2) A designated individual must be available 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; and

(3) The non-owner-occupied property is in compliance with the remainder of this chapter.

G. If, at the time of the adoption of this chapter, a currently operating short-term rental that is not eligible for a short-term rental permit under this chapter has an existing contract with a transient occupant to use the short-term rental for some period of time before January 1, 2024, the requirements of this chapter shall not apply to the pre-existing contract. During the unpermitted operation of a short-term rental pursuant to this subsection, the responsible party must, upon request by the City, provide documentation indicating that:

(1) The short-term rental was in operation before the adoption of this chapter; and

(2) The short-term rental contract was made before the adoption of this Chapter. If the requested documentation is not provided to the City within twenty (20) days of the request, it shall constitute a violation of this chapter.

H. If, at the time of the adoption of this chapter, a short-term rental property is being operated by a tenant, the tenant may continue to do so without a permit as prescribed by this chapter for the duration of the lease or until January 1, 2024, whichever occurs sooner. During the unpermitted operation of a short-term rental pursuant to this subsection, the responsible party must, upon request by the City, provide documentation indicating that:

(1) the short-term rental was in operation before the adoption of this Chapter; and

(2) that the tenant-operator's lease was not renewed after the adoption of this Chapter. If the requested documentation is not provided to the City within twenty (20) days of the request it shall constitute a violation of this Chapter.

§ 5-11.3 - Short-term rental permit; permit registration fee/application.

A. In addition to any land use requirement(s) set forth in the City of Lambertville land use regulations, the owner/operator of a short-term rental property shall obtain a short-term rental permit from the City of Lambertville, before renting or advertising for rent any short-term rental. The application for a short-term rental permit must meet the following initial requirements to be considered:

(1) For existing short-term rentals, the applicant must not have had more than one documented dangerous condition, as defined in this section, within the last year; and

(2) For existing short-term rentals, the applicant must have no violations of the City of Lambertville's Noise Ordinance, located in Chapter 4-2.1 and Chapter 4-2.2 of this Code, within the last two years. A violation of the Noise Ordinance means a documented violation by the City of Lambertville Municipal Court; and

(3) 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; and
- (4) The applicant must be current with all city taxes, water, and sewage charges; and
 - (5) All fines or penalties issued by the Municipal Court for the City of Lambertville 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.
- B. No person or entity shall operate a STRP, or advertise a residential property for use as a STRP, without the owner/operator of the property first having obtained a STR permit issued by the City. The failure to obtain a valid STR permit prior to using or advertising the STRP in any print, digital, or internet advertisement or web-based platform, and/or in the multiple listing service (hereinafter "MLS") or any realtor's property listing shall be a violation of this chapter. 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 STRP, or any agent acting on behalf of the owner, shall submit to the City a STR permit application provided by the City, along with a registration fee of two hundred fifty dollars (\$250.00). Said fee shall be non-refundable, including in the event that the application is denied.
- D. A short-term rental permit shall be renewed on or by April 1 of each year, by submitting to the City, a short-term rental permit application, and a registration fee of two hundred and fifty dollars (\$250.00). A penalty of \$50.00 shall apply to any application submitted after April 1. Applications received after June 30 will be subject to a penalty fee of \$100. Applications received after September 30 will be subject to a penalty fee of \$150.00.
- E. All short-term rentals must comply with Chapter XI, Fire Prevention and pay the necessary fees.
- F. The short-term rental permit shall expire automatically when the STRP 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 STRP. A new application shall also be required for any STR that had its short-term rental permit revoked or suspended.

§ 5-11.4 - 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. The application shall be furnished on a form specified by the Clerk's Office, accompanied by the non-refundable application fee as set forth in Section 5-11.3 above. Such application shall include:
- (1) The name, address, telephone number and email address of the owner(s) and, if applicable, designated person of record of the dwelling unit, pursuant to Subsection 5-

- 11.2.F herein, 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 street address, email address and telephone numbers for each of them;
- (2) The address of the proposed STR;
 - (3) The owner's sworn acknowledgement that he/she is in compliance with the requirement that the STRP constitutes the owner's or, if applicable, the principal residence of the designated person pursuant to Subsection 5-11.2.F herein, as defined in this section;
 - (4) The name, address, telephone number and email address of the short-term rental property agent or designated responsible party, which shall constitute his /her seven-day a week, twenty-four-hour a day contact information;
 - (5) Copies of the most recent tax payment and sewer utility payment from the STRP that are less than thirty (30) days old; and
 - (6) The owner's sworn acknowledgement that he/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;
 - (7) The number and location of all off-street parking spaces available 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 STR is located, resulting from excessive vehicles generated by the STR 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 STRP shall be limited to one vehicle per two occupants in the STRP;
 - (9) The owner's agreement to use his or her best efforts to assure that use of the STRP 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;
 - (10) If an owner is applying for a short-term rental permit for a property that is not owner-occupied, in accordance with Subsection 5-11.2.F of this chapter, the owner must provide documentary proof that the non-owner-occupied property was in use as a short-term rental property at the time of adoption of this chapter; and
 - (11) Any other information that this chapter requires a property owner to provide to the City in connection with an application for a certificate of occupancy. The Mayor, or their 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; and
 - (12) Proof of the owner's current ownership of the short-term rental unit;
 - (13) Proof of general liability insurance in a minimum amount of five hundred thousand dollars (\$500,000.00);
 - (14) Proof that the owner has paid, or has registered to make payment, to the State of New Jersey of any transient occupancy tax for any short term rental property, which properties are subject to taxation pursuant to *N.J.S.A. 54:32B-3(d)*.

- B. Every initial application for a short-term rental permit shall require documentation indicating that the property has been inspected for compliance with the City's fire safety regulations and lead-based paint regulations. Thereafter, upon renewal, the applicant must present documentation that the property has been inspected for continued compliance with the City's fire safety and lead-based paint regulations.
- C. A zoning compliance certificate, which states that the premises are not being occupied or used in violation of the City's Land Use Regulations and Zoning Ordinances, shall be required with the initial application.
- D. The STRP owner /permit holder shall publish the short-term rental permit number issued by the City in every print, digital, or internet advertisement, and/or in the MLS or other real estate listing of a real estate agent licensed by the New Jersey Real Estate Commission, in which the STRP is advertised for rent on a short-term basis.
- E. In no event shall a STRP be rented to anyone younger than twenty-one (21) years of age. The primary occupant of all short-term rentals executing the agreement between the owner and the occupant must be over the age of twenty-one (21), and must be the party who will actually occupy the property during the term of the short-term rental. The primary occupant may have guests under the age of twenty-one (21) who will share and occupy the property with them. Both the primary occupant executing the short-term rental agreement and the STRP owner shall be responsible for compliance with this provision, and shall both be liable for a violation, where the STRP is not occupied by at least one adult over the age of twenty-one (21) during the term of the STR. No one under eighteen (18) years of age shall be permitted on the premises of a STRP unless they are accompanied by their legal guardian.

§ 5-11.5 - Issuance of permit and appeal procedure.

- A. Once an application is submitted, complete with all required information and documentation and fees, the City, following any necessary investigation for compliance with this section, shall either issue the short-term rental permit or issue a written denial of the permit application, with the reasons for such denial being stated therein within thirty (30) days, provided access to the STRP is provided by the owner or owner's STR agent.
- B. If denied, the applicant shall have ten business days to appeal the denial, in writing, to the City Clerk.
- C. Within thirty (30) days thereafter, the Mayor or his/her designee shall hear and decide the appeal.

§ 5-11.6 - Short-term rental operational requirements.

- A. All STRs must comply with all applicable rules, regulations and ordinances of the City of Lambertville and all applicable rules, regulations and laws of the State of New Jersey, including regulations governing such lodging uses, as applicable. The STRP owner shall ensure that the STR is used in a manner that complies with all applicable laws, rules and regulations pertaining to the use and occupancy of a STR.

- B. 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 STRP.

- C. Transient occupants of the STRP shall comply with all ordinances of the City of Lambertville 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. The owner of a STRP shall post the following information in a prominent location within the STR:
 - (1) Owner name, and if owner is an entity, the name of a principal in the entity, email address and phone number for the principal;
 - (2) The names, email addresses, and phone numbers for the responsible party and the short-term rental agent as those terms are defined in this Chapter;
 - (3) The phone numbers for the Lambertville Police Department;
 - (4) The maximum number of designated parking spaces available for STR use onsite;
 - (5) Trash and recycling pick-up day, and all applicable rules and regulations regarding trash disposal and recycling;
 - (6) Notification that a guest, transient occupant, the short-term rental property agent, the responsible party or STRP owner may be cited or fined by the Lambertville Police Department or the City of Lambertville for violations of, and in accordance with any applicable ordinance(s) of the City of Lambertville;
 - (7) A copy of Lambertville's Community Emergency Response Team (C.E.R.T) Emergency Checklist and Plan.

- E. If any of the information required by Subsection E above is inaccurate while displayed in the STR, it shall constitute a violation of this chapter.

- F. In the event that any complaints are received by the Lambertville Police Department, or the City of Lambertville regarding the STRP and/or the transient occupants 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 (24) hours per day, seven days per week for the purpose of responding within two hours to complaints regarding the condition of the STRP premises, maintenance of the STRP premises, operation of the STRP, or conduct of the guests at the STRP, or nuisance complaints from the Lambertville Police Department, or neighbors, arising by virtue of the short-term rental of the property.
- H. If the STRP is the subject of three or more substantiated complaints, the Mayor or his/her designee shall revoke the short-term rental permit issued for the STRP, in which case, the STRP may not be the subject of a new STRP permit application for one year following the date of revocation of the permit. The Mayor or his/her designee shall retain the discretion to revoke a short-term rental permit in the event of a single substantiated complaint if, in his/her sole discretion, the interests of the City and its residents justify immediate revocation. In the event that an STRP is the subject of a civil and /or criminal complaint and/or code violation that involves a dangerous condition, as defined in this section, the Mayor or his/her designee may, at their sole discretion, suspend the STRP's short-term rental permit pending substantiation.
- I. In the event that the City receives two (2) substantiated complaints concerning excessive vehicles belonging to the transient occupants of a STRP, the short-term rental permit for the property is subject to revocation by the Mayor or his/her designee.
- (1) When the City receives notice of a civil and/or criminal complaint and/or code violation at a STRP as outlined in Subsections 5-11.6.H and I above, the City shall issue a written notice revocation or suspension, as applicable, of the short-term rental permit with the reasons for such revocation or suspension being stated therein within thirty (30) days.
 - (2) The applicant shall have ten (10) business days to appeal the revocation or suspension, in writing, to the City Clerk.
 - (3) Within thirty (30) days thereafter, the Mayor or his/her designee shall hear and decide the appeal.
- J. Failure to make application for, and to obtain the issuance of, a short-term rental permit prior to advertising the STRP in print publications or newspapers, on any internet-based booking platforms, or online, and/or in the MLS or other real estate listing of a real estate

agent licensed by the New Jersey Real Estate Commission, shall be equivalent to operation of the STRP without a permit, 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, the short-term rental agent, and the responsible party to issuance of fines and/or penalties.

§ 5-11.7 - Violations and penalties.

- A. A violation of any provision of this chapter may subject the STRP owner, transient occupant(s), the short-term property rental agent, and the responsible party or their agents to fines assessed by the Court up to two thousand dollars (\$2,000.00) per violation, but not less than two hundred and fifty dollars (\$250.00) per violation per day that the violation exists.

- B. The STRP owner, transient occupant(s), the short-term property rental agent, and the responsible party or their agents shall have thirty (30) days to cure the violation. Within the thirty-day period, at the STRP owner, transient occupant(s), the short-term property rental agent, and the responsible party or their agents' request, they shall be afforded a hearing before a Lambertville Municipal Court Judge for an independent determination concerning the violation.

- C. Subsequent to the expiration of the thirty-day period, the fine shall be imposed if a Court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

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