



Legislation Text

File #: 23-1860, Version: 1

AN ORDINANCE AMENDING TITLE XVIII HOUSING CODE, CHAPTER XIV, SHORT-TERM RENTALS, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY AMENDING SUBSECTIONS OF CHAPTER 14.

WHEREAS, N.J.S.A. 40:48-2 authorizes a municipality to make, amend, repeal and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, 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; and

WHEREAS, the Municipal Council seeks to amend Title XVIII, Chapter XIV, Short-Term Rentals of the Newark Municipal Code, to require that booking agents, individuals, and other entities ensure that the dwellings that participate in short-term rentals are registered with the Department of Engineering; and

WHEREAS, this amendment will penalize booking agents who do not verify that the Short-term Rental Properties operating within the City of Newark have properly registered and have its rental certificate of occupancy which allows them to operate such business; and

WHEREAS, proper registration is important to know how many Short-term rentals are operating within the City parameters, and to provide a safe and habitable place for the short-term renters to reside in during the time of their stay.

NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, THAT:

Note: Additions are shown in **Bold and Underlined**. Deletions are shown in ~~Strikeouts~~.

SECTION 1. Title XVIII, Housing Code, Chapter XIV Short-Term Rentals, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amending as follows:

§ 18:14-1. SHORT-TERM RENTALS; AUTHORITY; DEFINITIONS.

a. 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 Newark hereby adopts the within Ordinance in accordance with said authority.

b. Definitions. The following terms shall have the meanings indicated below:

BOOKING SERVICE

Shall mean a person, agency, entity, limited liability, corporation, etc. who, directly or indirectly:

1. Provides one or more online, computer or application-based platforms that individually or collectively can be used to:

- (i) list or advertise offers for short-term rentals, and**
- (ii) either accept such offers, or reserve or pay for such rentals; and**

2. Charges, collects or receives a fee for the use of such a platform or for provision of any service in connection with a short-term rental.

A booking service shall not be construed to include a platform that solely lists or advertises offers for short-term rentals.

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 (hereinafter "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. For purposes of this Section, if the owner of the property is an entity other than an individual or individuals, then at least one principal or member of the owner entity must reside in the STRP, or in the principal residential unit with which the STRP is associated on the same lot, and identify same as his or her principal residence as that term is defined in this section.

PRINCIPAL RESIDENCE

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 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 a principal residence for purposes of this Section.

PROPERTY

Shall mean a parcel of real property located within the boundaries of the City of Newark, Essex County, New Jersey.

SHORT-TERM RENTAL PROPERTY (HEREINAFTER "STRP")

Shall mean a residential dwelling unit as defined in Section 18:1-1.3a of the Code of the City of Newark, that is used and/or advertised for rent as a short-term rental by transient occupants as guests, as those terms are defined in this Section. Dwelling units rented to the same occupant for more than 28 continuous days, licensed Bed and Breakfast establishments, licensed rooming or boarding houses, hotels, and motels shall not be considered Short-Term Rental Property.

SHORT-TERM RENTAL PROPERTY AGENT

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.

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.

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 (HEREINAFTER "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 28 or less consecutive days, which dwelling unit is regularly used and kept open as such for the lodging of guests, and which is advertised or held out to the public as a place regularly rented to transient occupants, as that term is defined in this Section and in section 41:2-2 of the City's Zoning and Land Use Regulations.

§ 18:14-2. 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 Newark, Essex County, New Jersey, to rent or operate a short-term rental in a manner that is 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 Newark:

1. Condominium units, where the Condominium Association Bylaws or Master Deed permit a short-term rental, and where the owner of the unit legally identifies the address as his or her principal residence; and

2. Individually or collectively owned single-family residences, which one of the owners legally identifies as the address of his or her principal residence, as that term is defined herein; and

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, as that term is defined herein; and

4. 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, as that term is defined herein; and

5. No more than two rooms within a single-family residential dwelling unit, where the rooms share a common kitchen and bathroom facilities with the occupant of the dwelling unit, and the remainder of the single-family dwelling unit is occupied by the owner and is identified by the owner as his or her principal residence, as that term is defined herein.

c. Notwithstanding the provisions of 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; and

2. An individually or collectively owned single-family residential dwelling unit, which address none of the owners legally identify as their principal residence; and

3. A unit in a two-family residential dwelling, where the other unit is not occupied by the owner nor legally identified by the owner as his or her principal residence; and

4. 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.

5. Three or more individual rooms within a single-family dwelling.

d. The provisions of this section shall apply to short-term rentals as defined in Subsection 18:14-1b above. The following do not qualify as a privately-owned residential dwelling unit, as that term is used

herein, and therefore do not need to obtain a short-term rental permit pursuant to this section: 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.

§ 18:14-3. SHORT-TERM RENTAL PERMIT, PERMIT REGISTRATION FEE/APPLICATION, AND CERTIFICATE OF CODE COMPLIANCE.

a. In addition to any land use requirement(s) set forth in the City of Newark Land Use Regulations, the owner/operator of a short-term rental property shall obtain a short-term rental permit from the City of Newark Department of Engineering, 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 two documented and verified instances where the Newark Police have been called to address complaints of any type attributable to the Short-Term Rental within the last two years; and
2. For existing Short-Term Rentals, the applicant must have no violations of the City of Newark's Noise Ordinance within the last two years. A violation of the Noise Ordinance means a documented violation by the City of Newark Municipal Court; and
3. The applicant must be current with all city taxes, water and sewage charges; and
4. The applicant must have no open violations from the City of Newark's Code Enforcement.

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 of Newark Department of Engineering. 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 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 short-term rental property, as defined herein, or any agent acting on behalf of the owner, shall submit to the City of Newark Department of Engineering, a short-term rental permit application provided by the City, along with an annual application/registration fee of \$250. Said fee shall be non-refundable, including in the event that the application is denied. The annual application/registration fee shall also cover the fee for the rental Certificate of Code Compliance application, referenced below.

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, as defined herein, who intends to rent any permitted part

of the property as a short-term rental, shall also make application to the Department of Engineering, Construction Code Official, in conjunction with the short-term rental permit application, for the issuance of a rental Certificate of Code Compliance for the short-term rental property, on such forms as required by that Department.

f. A short-term rental permit and rental Certificate of Code Compliance shall be renewed on an annual basis, based upon the anniversary of the original permit issuance, by submitting to the Department of Engineering, a short-term rental permit application, a rental Certificate of Code Compliance application, an inspection of the property, and a renewal registration fee of \$250.

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.

§ 18:14-4. 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 of Newark Department of Engineering. The application shall be furnished, under oath, on a form specified by that department, accompanied by the non-refundable application fee as set forth in Subsection 18:14-3 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. A copy of the driver's license 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 Subsection 18:14-1b above;

5. The name, address, telephone number and email address of the short-term rental property agent, which shall constitute his or her seven day a week, twenty-four-hour a day contact information;

6. The name, address, telephone number and email address of the short-term rental property responsible party, which shall constitute his or her seven-day a week, twenty-four-hour a day contact information;

7. The owner's sworn 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;

8. 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;

9. The owner's agreement that all renters of the short-term rental property shall be limited to one vehicle per two occupants in the short-term rental property;

10. 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

11. 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 Code Compliance. The Business Administrator, 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. 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 Ordinance, shall be required.

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; 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. 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 short-term rental property is advertised for rent on a short term basis.

h. In no event shall a short-term rental property be rented 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 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 21, during the term of the short term rental.

§ 18:14-5. ISSUANCE OF PERMIT AND APPEAL PROCEDURE.

- a. Once an application is submitted, complete with all required information and documentation and fees, the Department of Engineering, following any necessary investigation for compliance with this section, shall either issue the short-term rental permit and rental Certificate of Code Compliance, or issue a written denial of the permit application (with the reasons for such denial being stated therein), within 10 business days.
- b. If denied, the applicant shall have 10 business days to appeal the denial, in writing, to the Office of the Business Administrator.
- c. Within 30 days thereafter, the Business Administrator or his designee shall hear and decide the appeal.

§ 18:14-6. SHORT-TERM RENTAL OPERATIONAL REQUIREMENTS.

- a. All short-term rentals must comply with all applicable rules, regulations and ordinances of the City of Newark 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 City of Newark 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.
- 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 Department of Public Safety, the City of Newark Department of

Engineering, Office of Inspections and Enforcement;

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. 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 City of Newark Department of Public Safety, or the City of Newark Department of Engineering, for violations of, and in accordance with any applicable Ordinance(s) of the City of Newark;

f. In the event that any complaints are received by the Newark Department of Public Safety, or the Department of Engineering 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 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 Department of Public Safety, or neighbors, arising by virtue of the short-term rental of the property.

h. If the STRP is the subject of two or more substantiated civil and/or criminal complaints, the Business 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 year following the date of revocation of the permit.

i. 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 chapter, 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.

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 subleased 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 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.

k. In the event that the City receives three 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 Business Administrator or his designee.

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

m. All fines or penalties issued by the Municipal Court for the City of Newark 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.

§ 18:14-7. VERIFICATION OF SHORT-TERM RENTAL

a. It shall be unlawful for a booking service to charge, collect or receive a fee from a person in connection with a short-term rental property unless such booking service has used the verification system maintained by the City to:

(i) verify that the dwelling unit or housing accommodation that is the subject of such short-term rental is associated with the short-term rental registration number submitted by such person to the booking service and such registration is currently valid, that the uniform resource locator or listing identifier being used to offer the short-term rental is associated with the short-term rental registration number, and that the host and physical address information provided by such person to the booking service match the information maintained by the City, including, but not limited to, the full legal name of the host and the full physical address of the dwelling unit or housing accommodation. The Department shall provide a confirmation reflecting that such verification has occurred. A booking service shall reconfirm the active registration of a dwelling unit any time it knows or should have known that any data it used to complete the verification in this section has changed, and the Department may establish by rule a minimum reverification period.

b. A booking service shall report to the Department of Engineering on a annual basis in a manner and form established by the Department for each transaction relating to a short-term rental: the booking services public uniform resource locator for the listing or other identifier showing that the property is within the City limits, proof of rental receipts which shows how many times the STP was booked and the amount of revenue it grossed within a year, and the confirmation obtained from the Department. Upon submission of such report, a booking service shall certify that the verification required by subsection (a) of this section has occurred for each transaction in the report.

c. Penalties.

(i.) For each transaction in which a booking service charges, collects, or receives a fee, directly, or indirectly, for activity described in the definition of booking service in relation to a short-term rental in violation of this chapter, such booking service shall be liable for a civil penalty of not more than \$2,000 per transaction.

(ii.) If the booking service fails to provide information in compliance with this chapter, said booking service shall be liable for a penalty to be assessed once per reporting

period for each transaction the booking service has failed to report. The penalty shall not exceed \$2,000.00 or the total fees collected during the proceeding year by the booking services transactions related to the specific property, individual renter, and/or registration number.

§ 18:14-8. VIOLATIONS AND PENALTIES.

A violation of any provision of the within 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 \$2,000 per violation, per day that the violation exists.

SECTION 2. Any existing ordinances or parts thereof inconsistent with this Ordinance are hereby repealed.

SECTION 3. Severability. If any provision of this amendment shall be deemed unenforceable by a Court of competent jurisdiction, the remainder of the amendment shall remain in full force and effect.

SECTION 4. This Ordinance does not require approval by the Commissioner of Transportation.

SECTION 5. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

SECTION 5. Codification. This Ordinance shall be a part of the Code of the City of Newark as though codified and fully set forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Code. The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Newark in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

STATEMENT

This Ordinance amends Title XVIII Housing Code, Chapter XIV, Short-Term Rentals to the Revised General Ordinances of The City of Newark, New Jersey, 2000, as amended and supplemented, by amending Subsection Chapter 14.