

ORDINANCE NO. 5424

AN ORDINANCE TO ENACT CHAPTER 5.90 OF THE
CODE OF THE CITY OF ELIZABETH, ENTITLED
"SHORT-TERM RENTALS", TO REGULATE SHORT-
TERM RENTAL PROPERTIES WITHIN THE CITY AND
TO PROHIBIT SHORT-TERM RENTALS THAT ARE
NOT OWNER-OCCUPIED.

WHEREAS, the City Council of the City of Elizabeth recognizes that the short-term rental of residential dwellings within the City can provide flexible accommodations for travelers while contributing to the local economy; and

WHEREAS, short-term rentals provide an added benefit for real property owners to garner additional income in order to diminish the financial burden of carrying costs and maintenance expenses related to the property; and

WHEREAS, notwithstanding those benefits, the City Council also finds and declares that certain transitory uses of residential property tend to affect the residential character of the community and, if unregulated, can be injurious to the health, safety and welfare of the community; and

WHEREAS, the use of single and multi-family dwelling units into short-term rental can result in the loss of long-term housing for residents and has the potential to negatively impact the quality of neighborhoods by replacing a stable family dwelling with business use that detracts from overall community; and

WHEREAS, unregulated short-term rentals in residential neighborhoods can negatively impact the area through nuisance violations, excess noise, property damage, and an overall decrease in public safety; and

WHEREAS, the City Council finds that the regulation of short-term rentals are necessary to promote the safety and well-being of the community, to mitigate the impact of transitory uses of residential properties, and preserve the long-term housing market within the City of Elizabeth; 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 established 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.

PRESENTED to the Mayor for
APPROVAL or DISAPPROVAL on

FEB 10 2021

City Clerk

“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.

“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 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, or tenants that have month-to-month leases permitted by N.J.S.A. 46:8-1 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 Elizabeth Section 5.90.020 is hereby established and shall read:

Regulations pertaining to short-term rentals.

- A. It shall be unlawful for any owner to rent, operate, or advertise a short-term rental of any property within the geographic bounds of the City of Elizabeth for a period of thirty (30) days or less.
- B. Notwithstanding the language of this Section, owners within the geographic bounds of the City of Elizabeth 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. Short-term rentals shall not be permitted in a multiple dwelling 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 Elizabeth.
- D. Notwithstanding the language of this Section, owners who rent, operate, or advertise a short-term rental pursuant 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.
- E. 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 established and shall read:

Short-Term Rental Permit 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 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 (STR permit) issued by the City of Elizabeth Bureau of Central Licensing. 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 realtor's property listing shall be a violation of this Section. 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 shall submit to the Bureau of Central Licensing, a short-term rental permit application provided by the City, along with an annual application/registration fee of \$75.00. 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.
- E. The STR permit, if granted, shall be valid for a period of one year from the date of issuance. 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 Bureau of 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 permit shall be given notice of 60 days by the Chief License Inspector before the expiration of their permit. Owners shall notify the Chief License Inspector in writing within 30 days if they do not intend to renew their permit.

G. The STR 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 permit revoked.

H. Rooming houses are exempt from the 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 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 permit shall submit, on an annual basis, an application for a short-term rental 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 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 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 Business Administrator or their designee shall have the authority to obtain additional information from the owner/applicant or amend the permit application to require additional information, as necessary, to achieve the objectives of this Section.
- C. 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;
 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 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 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 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 established and shall read:

Issuance of 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 permit 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 Chief Licensing Inspector.

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

D. A 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 established and shall read:

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

B. Permit Revocation. 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, have their permit revoked for a time not less than one (1) year and shall be unable to apply for a new permit during that time. 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 permit. If the owner does not request a hearing, the permit shall be automatically revoked upon the expiration of ten (10) days after the notice of revocation has been given to the owner.

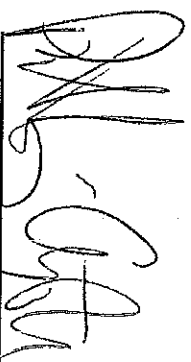
C. Penalties and Fines. Any person who shall violate any provision of this chapter or any provision of any rule or regulation pursuant to the authority granted by this Chapter shall, upon conviction, in the Elizabeth Municipal Court or other court of competent jurisdiction be punished by a fine of not 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.

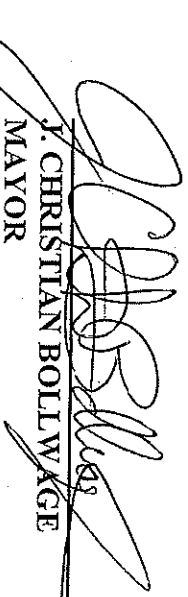
SECTION 8. If any portion or clause of this ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this ordinance.

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: February 9, 2001


PATRICIA PERKINS-AUGUSTE
PRESIDENT OF CITY COUNCIL

APPROVED: 2/10/2001


J. CHRISTIAN BOLLWAGE
MAYOR

ATTEST:


YOLANDA M. ROBERTS, R.M.C.
MUNICIPAL CLERK