

CITY OF EGG HARBOR

ORDINANCE #4 - 2022

AMENDING CHAPTER 170 OF THE CODE OF THE CITY OF EGG HARBOR

WHEREAS, the Council of the City of Egg Harbor (“the Council”) seeks to permit transient accommodation or short-term rental use of certain legally permitted dwelling units throughout the City of Egg Harbor (also referred as the “City” or “Egg Harbor City”) in order to facilitate the booking or reservation for such uses through third party booking platforms, and promote tourism and economic vitality in the City; and

WHEREAS, the short-term rental of dwellings and dwelling units can provide a flexible housing stock that allows travelers a safe accommodation while contributing to the local economy, promoting travel and tourism and supporting the local tourism industry and business community; and

WHEREAS, the short-term rental of dwellings and dwelling units can provide homeowners with an opportunity to maintain ownership of property in difficult economic circumstances; and

WHEREAS, the needs of long-term residents should be balanced with the allowance of short-term rentals; and

WHEREAS, the Council recognizes that unregulated short-term rentals can create disproportionate impacts related to their size, excessive occupancy, and lack of proper facilities; and

WHEREAS, the presence of short-term rentals of residential dwelling units in established residential neighborhoods can create negative compatibility impacts and nuisance violations which include, but are not limited to, excessive noise, on-street parking, accumulation of trash, and diminished public safety; and

WHEREAS, it is in the public interest that short term rental uses be regulated in order to minimize any potential deleterious effects of short-term rental properties on other properties in the surrounding neighborhoods in which they are located.

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF EGG HARBOR AS FOLLOWS:

Section 1. Article II, Zoning Districts and Maps, Chapter 170-10 Enumeration of Districts is amended as follows:

Short-term rentals are permitted as an accessory use to a permitted principal residential use in all zoning districts and redevelopment plan areas where residential uses are permitted.

Section 2. Article III Terminology, Chapter 170-17 Definitions is amended as follows:

SHORT TERM RENTAL-the accessory use of a dwelling unit for occupancy by someone other than the unit owner or permanent resident for a period of twenty- eight days or fewer consecutive days.

Section 3. Article XI Design Standards, Chapter 170-120 is created and titled SHORT TERM RENTALS.

§170-120.1-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, 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 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 his or her non-working time; (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 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 Egg Harbor.

“Responsible Party” shall mean the short-term rental property owner or a person 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 a property manager to accept service of legal process on behalf of the owner of the short term rental property.

“Short Term Rental Property” (hereinafter “STRP”) shall mean the accessory use of a dwelling unit as defined in this Section for occupancy by someone other than the unit owner or permanent resident for a period of twenty-eight (28) or fewer 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 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 permit 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.

§170-120. 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 Egg Harbor 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 or federal laws.
- b. Short-term rentals shall only be permitted to be conducted in the following classifications of property in the City of Egg Harbor.
 - i. Dwelling units located in a condominium association or homeowners' association where the association's By-Laws, Master Deed or other relevant governing document permits short-term rentals and where the owner of the unit legally identifies the address within the association as his or her principal residence; and
 - ii. Individually or collectively owner-occupied single-family residences; and
 - iii. Two dwelling units within a two-family residential dwelling, where one unit is owner-occupied as that term is defined in this Section; and
 - iv. Two dwelling units in a multiple dwelling provided that (1) the multiple dwelling is not located in a condominium association, homeowner association; (2) the multiple dwelling contains three (3) or fewer separate dwelling units; and (3) another dwelling unit in the multiple dwelling is owner-occupied.
- c. Short Term Rentals shall not be permitted in a multiple dwelling in which rent is: set by HUD or set by a State agency.
- d. The following shall not be permitted to operate as short term rentals pursuant to this Section or any other Chapters of the Code: hotel, motel, studio hotel, 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. Rentals of any dwelling units where the owner/operator of the short-term rental property is not present shall be conducted for no more than sixty (60) total nights per calendar year. Each night in excess of this limit shall be considered a separate violation.
- f. Rentals of any dwelling unit where the owner/operator of this short-term rental property is not present shall be prohibited in dwelling units located in any multiple dwellings that contain more than three (3) separate dwelling units. It shall be a violation to rent or to advertise such properties.
- g. 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 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.

§170-120.3-Short-term Rental Permit. Permit Registration Fee/Application.

- a. In addition to any land use requirement (s) set forth in the City of Egg Harbor Code, the owner/operator of a short-term rental property shall obtain a short-term rental permit from the City of Egg Harbor before renting or advertising for rent, any short-term rental.
- 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 Property Maintenance Code in accordance with this Chapter. Thereafter, every six months, the applicant must present documentation that the property has been inspected for compliance with the City's fire safety regulations and Property Maintenance Code in accordance with this Chapter. Each application is subject to review to verify the STRP's eligibility for use as a STRP and compliance with the regulations in this Section.
- 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.
- d. Attached to and concurrent with submission of the permit application described in this Section, the owner shall provide:
 - i. Proof of the owner's current ownership of the short-term rental unit:

ii. Proof of general liability insurance in a minimum amount of \$500,000.00;
and

iii. 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.

e. 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.

f. The STRP owner or agent shall maintain an up-to-date log of all transient occupants who will be occupying the STRP, which shall contain the occupant or occupants' names, ages, dates of commencement and expiration of each short-term rental period. This log shall be available for inspection by the City in case of emergency. The purpose of this requirement is to ensure that the City shall have basic identifying information of all occupants of the STRP at all times.

g. 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 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 of the age of twenty-one, during the term of the STP. 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.

h. 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 STRP permit issued by the City. The failure to obtain a valid STRP 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 Ordinance. No STRP 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.

i. An owner of property intended to serve as STRP, or any agent acting on behalf of the owner, shall submit to the City of Egg Harbor, a STRP permit application provided by the City along with an initial registration fee of \$250.00. Said fee shall be non-refundable including in the event that the application is denied.

j. The STRP permit, if granted, shall be valid for a period of one (1) year from the date of issuance.

k. A short-term rental permit shall be renewed on an annual basis, based upon the anniversary of the original permit issuance by submitting to the City of Egg Harbor a short-term rental permit application and a renewal registration fee of \$200.00.

l. 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.

§170-120.4- Application Process for Short-Term Rental Permit and Inspections.

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 Egg Harbor. The application shall be furnished, under oath, on a form specified by the City Clerk, accompanied by the non-refundable application fee as set forth in this Chapter. Such application shall include:

i. The name, address, telephone number and email address of the owner (s) and if applicable, designated person 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 street address, emails address and telephone numbers for each of them:

ii. The address of the proposed STRP.

iii. A copy of the driver's license of the owner and, if applicable, designated person 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 in this Section, of the owner making application for the STRP permit.

iv. The owner's sworn acknowledgment that he/she is in compliance with the requirement that the STRP constitutes the owner's or, if applicable, designated person's as defined in this Section.

v. The name, address, telephone number and email address of the short-term rental property agent, where they may be contacted at all times.

vi. The name, address, telephone number and email address of the short-term rental property's responsible party where they may be contacted at all times.

vii. Copies of two (2) utility bills from the STRP that are less than

thirty (30) days old.

viii. The owner's sworn acknowledgment that he/she has received a copy of this Ordinance, has reviewed it, understands its requirements and certifies as to accuracy of all information provided in the permit application.

ix. 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 STRP is located, resulting from excessive vehicles generated by the STRP of the property, in order to avoid a shortage of parking for residents in the surrounding neighborhood.

x. The owner's agreement that all renters of the STRP shall be limited to one (1) vehicle per two occupants in the STRP:

xi. 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 property owners' quiet enjoyment of their properties.

§170.120.5-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 STRP agent.

b. If denied, the applicant shall have ten (10) business days to appeal the denial in writing to the City.

c. Within thirty (30) days thereafter, the City Council or their designee shall hear and decide the appeal.

§170.120.6-Inspection.

Upon application for a permit, inspection will be made by the City for compliance with all City fire regulations, code and zoning regulations applicable and an initial fee of \$75.00 shall be paid by the applicant for the initial inspection. Thereafter, inspections shall be made to the City every six months and an inspection fee of \$50.00 shall be required per each bi-yearly inspection. Failure to obtain any inspections as are required by this section shall constitute a violation of the provisions of this Chapter.

§170.120.7-Short-Term Rental Operational Requirements.

a. All STRP's must comply with all applicable rules, regulations and ordinances of the City of Egg Harbor 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 STRP is used in a manner that complies with all applicable laws, rules and regulations pertaining to the use and occupancy of a STRP.

b. A dwelling unit shall be limited to three (3) short-term rental contracts 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 STRP.

d. Transient occupants of the STRP shall comply with all ordinances of the City of Egg Harbor 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 STR:

i. Owner name: if owner is an entity, the name of a principal in the entity, email address and phone number for the principal.

ii. The names, email addresses and phone numbers for the Responsible Party and the Short-Term Rental Agent as those terms are defined in this Section.

iii. The phone numbers for the City of Egg Harbor's Police Department and the City Offices.

iv. The maximum number of parking spaces available for STRP use onsite.

v. Trash and recycling pick-up day, and all applicable rules and regulations regarding trash disposal and recycling.

vi. 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 Egg Harbor for violations of and in accordance with any applicable Ordinance (s) of the City of Egg Harbor.

f. If any of the information required by (e) above is inaccurate while displayed in the STRP, it shall constitute a violation of this Chapter.

g. In the event that any complaints are received by the City 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.

h. While a STRP is rented, the owner, the Short-Term Rental Agent or the Responsible Party shall be available twenty-four hours per day, seven days per week for the purpose of responding within two (2) hours to complaints regarding the condition of the STRP premises, maintenance of the STRP premises, operation of the STRP or conduct of the guests at the STRP, or nuisance complaints from the neighbors, arising by virtue of the short-term rental of the property.

i. If the STRP is the subject of three (3) or more Substantiated Complaints, the City Council or its 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 (1) year following the date of revocation of the permit. The City Council or its designee shall retain the discretion to revoke a short-term rental permit in the event of a single Substantiated Complaint if in its 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 City Council or its designee may, at its sole discretion suspend the STRP's short-term rental permit pending substantiation.

j. 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 City Council or its designee.

i. When the City Council receives notice of a civil and/or criminal complaint and/or code violation at a STRP as outlined in subsection (i) above, the City Council or its designee shall issue a written notice of 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.

ii. The applicant shall have ten (10) business days to appeal the revocation or suspension in writing to the City Council.

iii. Within thirty (30) days thereafter, the City Council or its designee shall hear and decide the appeal.

k. 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.

§170-120.8- Violations and Penalties.

a. 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 \$1,000.00 per Violation, but not less than \$100 per violation per day that the violation exists.

b. The STRP owner, the 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 (30) 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 the Municipal Court Judge for an independent determination concerning the violation.

c. Subsequent to the expiration of the 30 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.

Section 4. Inconsistent Ordinance Repealed. Should any provision of this Ordinance be inconsistent with the provisions of any prior ordinances, the inconsistent provisions of such prior ordinances are hereby repealed, but only to the extent of any inconsistencies.

Section 5. Invalidity. In the event that any provision of this ordinance or the application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction, such declaration of invalidity shall not affect any other provision or application of this ordinance which may be given effect, and, to realize this intent, the provisions and applications of this Ordinance are declared to be severable.

Section 6. Captions. Captions contained in this Ordinance have been included only for the purpose of facilitating reference to the various sections, and are not intended and shall not be utilized to construe the intent and meaning of the text of any section.

Section 7. Effective date. This Ordinance shall take effect upon passage and publication

INTRODUCED: March 24, 2022

PUBLICATION: March 30, 2022

PUBLIC HEARING: April 7, 2022

ADOPTED:

ATTEST:

Meg Steeb, Municipal Clerk

APPROVED BY THE MAYOR OF THE CITY OF EGG HARBOR, this day
of 2022.

Lisa Jiampetti, Mayor