

BOROUGH OF RED BANK
COUNTY OF MONMOUTH
STATE OF NEW JERSEY

ORDINANCE NO. 2023-02

**ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY
CREATING A NEW CHAPTER ENTITLED SHORT TERM RENTALS**

WHEREAS the Mayor and Council finds and declares that certain transitory uses of residential properties tend to negatively affect the residential character of the community and, if unregulated, can be injurious to the health, safety and welfare of the community.

WHEREAS the intent purposes of this Ordinance are to:

- a. Protect the public health, safety and general welfare of individuals and the community at large.
- b. Provide for an organized and reasonable process for the short-term rental of certain defined classifications of residential dwelling units in the Borough.
- c. Monitor and provide a reasonable means for mitigation of impacts created by such transitory uses of residential properties within the Borough of Red Bank.
- d. Preserve and protect the long-term housing market in the Borough; and
- e. Ensure that the short-term property inventory in the Borough satisfies basic fire safety standards, in order to protect the safety of occupants and the citizens of the Borough.

WHEREAS, the Mayor and Council has therefore determined that it shall be unlawful for any owner of any property within the boundaries of Borough of Red Bank to rent or operate a short-term rental contrary to procedures and the regulations established in Section or applicable state statute.

BE IT ORDAINED by the Governing Body of the Borough of Red Bank that the Revised General Ordinances of the Borough of Red Bank, Monmouth County; is hereby amended and supplemented as follows:

SECTION ONE: There shall be a new Chapter created entitled "Short Term Rentals"

XXX-1. Definitions. The following terms shall have the meanings indicated below:

DWELLING UNIT OR UNIT

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

OWNER

An individual or entity holding title to a property proposed for short-term rental, by way of a legally recorded deed.

OWNER-OCCUPIED

"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

The address: (1) where at the least one of the property owners spends the majority of his or her nonworking time, and (2) which is most clearly the center of his or her domestic life, and (3) which is identified on his or her license or State Identification Card as being his or her legal address. All the above requirements must be met for an address to constitute a principal residence for the purposes of this Section.

PROPERTY

A parcel of real property located within the boundaries of the Borough of Red Bank, Monmouth County, New Jersey.

RESPONSIBLE PARTY

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. The responsible party must be a New Jersey resident for the acceptance of legal process and to provide the periodic site inspection required under this ordinance.

SHORT-TERM RENTAL (also referenced as "STR")

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 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 (also referenced as "STRP")

A residential dwelling unit, or room within a residential dwelling unit, 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 twenty-eight (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

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 STR application to the Borough 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 persons shall be available for, and responsive to contact on behalf of, the owner, at all times.

TRANSIENT OCCUPANT

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.

XXX-2. Regulations Pertaining to Short Term Rentals

1. It shall be unlawful for any owner of any property within the geographic bounds of the Borough of Red Bank, New Jersey, to rent or operate a short-term rental contrary to the procedures and regulations established in this Section or applicable state statute.
2. Short-term rentals shall be permitted to be conducted in the Borough of Red Bank in the following designated zones as described in Red Bank's official Zoning map: BR-1, BR-2, CCD-1, CCD-2, I, LI, NB, HB, WD and PO with the following classifications of property and restrictions provided that all other provisions of this Ordinance are met.
 - a. Condominiums, where the Condominium Association Bylaws or Master Deed permits a short-term rental, and where the owner of the unit legally identifies the address as his or her principal residences.
 - b. Individual or collectively owned single-family residences.
 - c. One unit within a two-family residential dwelling, where the other unit is owner-occupied and identified by the owner as his or her principal residence, as that term is defined herein; and
 - d. No more than two units in any multi-family residential dwelling, where one unit is owner-occupied and identified by the owner as his or her principal residence, as that term is defined herein.

3. Limitations. Notwithstanding the provisions of the paragraphs (1) and (2) above, short term rentals shall not be permitted in boarding or rooming houses, 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:

- a. Condominiums or townhouses, 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
- b. Any single-family or multi-unit dwelling in which rent is set or subsidized by HUD, a State or local agency, or designated as affordable housing by Federal, State or Local law.
- c. An individual or collectively owned single-family residential dwelling unit, which address none of the owners legally identified as their principal residence; and
- d. 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
- e. A room within a single-family, two family or multifamily residential dwelling unit, where the room shares common kitchen and bathroom facilities with the occupants(s) of the dwelling unit in which it is located, which occupants(s) is neither the owner of the dwelling unit nor identifies the remainder of the dwelling unit in the single-family, two-family or multifamily residence as his or her principal residence.
- f. Two or more individual rooms within a single-family dwelling.

4. The provisions of this Section shall apply to short-term rentals as defined in Subsection (1) and (2) 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.

5.

XXX-3. Short Term Rental Business License, Permit, Permit Registration Fee/Application, and Certificate of Occupancy.

1. In addition to any land use requirement(s) set forth by the Borough of Red Bank Planning & Development Regulations, the owner/STRP agent of a short-term rental property shall register such STRP/unit as a commercial entity and register such with the Borough of Red Bank and obtain a short-term rental permit from the Borough of Red Bank Fire Marshall's Office, 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:
 - a. The person offering a dwelling unit for short-term rental use must be the owner, as defined in Section 1 above, 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 rental basis or operated as an 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.
 - b. For existing Short-Term Rentals, the applicant must not have had no more than two documented and verified instances where the Red Bank Police have been called to address complaints of any type attributable to the Short-Term Rental and.
 - c. For existing Short Terms, the applicant must have no violations of the Borough of Red Bank's Noise Ordinance. A violation of the Noise Ordinance means a documented violation by the Borough of Red Bank Municipal Court; and
 - d. The applicant must have no open violations from the Borough of Red Bank's Code Enforcement; and
 - e. The applicant must be current with all Borough taxes, water, and sewage charges; and

- f. The applicant must close any open construction permits for the property prior to issuance of a short-term rental permit.

2. The failure to obtain a valid business license and short-term rental 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 by any real estate agent licensed by the NJ Real Estate Commission's property listing shall be a violation of this section. No short-term rental 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.
3. An owner of a property intended to serve as a short-term rental property, as defined herein, or any STRP agent acting on behalf of the owner, shall submit to the Borough of Red Bank Fire Marshall's Office and short-term rental permit application provided by the Borough, along with an annual application/registration fee of \$500. Said fee shall be non-refundable, including if the application is denied. The annual application/registration fee shall also cover the fee for the rental Certificate of Code Compliance application, reference below.
4. The short-term rental permit, if granted, shall be valid for a period of one year from the date of issuance.
5. The owner of 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 Fire Marshall's Office, in conjunction with the short-term rental permit application, for issuance of a rental Certificate of Code Compliance for the short-term rental property, on such forms as required by that Department.
6. 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 Fire Marshal's Office, a short-term rental application, a short-term permit application, a rental Certificate of Code Compliance application, an inspection of the property, and a renewal registration fee of \$50.
7. 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 property. A new application and first-time registration fee shall be required for any short-term rental that had its short-term rental permit revoked or suspended.

XXX-4. Application for process for short term rental permit and inspections.

1. Application process. Application for a short-term rental permit shall be submitted under oath on a form specified by the Borough of Red Bank Fire Marshall's Office accompanied by the nonrefundable application fee as set forth in Subsection E above. Such application shall include:
 - a. The name, address, telephone number and e-mail address of the owner(s) of record of the dwelling unit for which a permit is sought. To verify this information, the applicant shall provide their driver's license. 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.
 - b. Copy of a valid Red Bank Borough business license.
 - c. The address of the unit to be used as a short-term rental.
 - d. If the property owner is not going to be present for the activities in, and maintenance of, the STR on a seven-day-a-week basis, 24 hours a day, then the name, address, telephone number and email address of the short-term rental property agent, or short-term rental property responsible party who will assume this responsibility shall be available seven-days-a-week, 24 hours a day shall be provided to the Borough Clerk upon execution of each STR agreement.
 - e. For a condominium short-term rental permit application, a letter of approval by the condominium association must be submitted with the application.
 - f. The owner's sworn acknowledgement that they comply with the requirements that the short-term rental property constitutes the owner's principal residence.
 - g. A copy of the driver's license or State-issued Identification Card of the owner of the short-term rental property, conforming, as set forth in this Section, that the property is the principal residence, as that term is defined herein, of the owner making application of the STR permit.

- h. The number and location of all parking spaces available on the premises, which shall include the number of legal off-street parking spaces on the premises. The owner shall certify that renters will not use on-street parking unless off-street parking is unavailable. Where no off-street parking is available, on-street parking regulations apply.
- i. A certification from the Borough Fire Prevention Office that the premises have the required smoke and CO2 alarms and fire extinguishers and that all are in working order.
- j. A zoning compliance certificate, which states that the premises are not being occupied or used in violation of the Borough's Land Use Regulations, and Zoning or Short-Term Rental Ordinance,
- k. The owner's agreement that all transient renters shall be limited to one vehicle per two occupants in the short-term rental property.
- l. The owner's agreement that uses 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.
- m. Attached to and concurrent with submission of the permit application the owner shall provide proof of general liability insurance at a minimum amount of \$500,000, with the Borough of Red Bank named as an additional insured.
- n. A sworn statement that there have been no prior revocations or suspensions of this or a similar permit, in which event a permit shall not be issued, which denial may be appealed as provided hereinafter.
- o. A certification that the STRP owner is current with all taxes assessed to the property prior to the issuance of a short-term rental permit; that any code violations that have been issued by the Borough relating to the STRP have been properly abated; that any open construction permits for the property prior to the issuance of a short-term rental permit have been closed; and that all fines or penalties issued by the Municipal Court for the Borough of Red Bank for any past code violations relating to the STRP, including penalties for failure to appear in court, are satisfied in full.

2. Required Inspections: Every application for a short-term rental permit shall require annual inspections for STRP's compliance with the Borough's fire safety regulations.

3. Other Requirements:

- a. The STRP owner/permit holder shall include the short-term rental business license and permit number issued by the Borough 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.
- b. The primary occupant of all short-term rentals executing the agreement between the owner/short-term rental property agent and the occupant must be over the age of 18 and must be the party who will occupy the property during the term of the short-term rental.
- c. The STRP owner/permit holder shall provide the name, address, telephone number and e-mail address as well as a copy of a valid State-issued Identification Card of the transient occupant of the STR unit to the Borough Clerk immediately upon entering into each agreement for a STR, and the fully executed agreement will also be provided to the clerk

XXX-5. Insurance of Permit and Appeal Procedure.

1. Once an application is submitted, complete with all required information, documentation and fees, the Borough Clerk, 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 10 business days.
2. If denied, the applicant shall have seven (7) business days to appeal in writing to the Office of the Business Administrator.
3. Within 30 days thereafter, the Business Administrator or their designee shall hear and provide a written decision on the appeal stating the reason(s) for the decision. Such a decision will be provided to the applicant, with a copy kept on file by the Department of Code Enforcement and Borough Clerk. A permit shall only be issued after all outstanding violations have been abated.

XXX-6. Short Term Rental Operational Requirements.

1. The owner/STRP agent/responsible party shall ensure that the short-term rental is used in a manner that complies with all applicable State and local laws, rules and regulations pertaining to the use and occupancy of a short-term rental.
2. A dwelling unit shall be limited to one single short-term rental contract of less than 28 days, at a time.
3. The owner/STRP agent 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.
4. Transient occupants of the STRP shall comply with all ordinances of the Borough of Red Bank 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/or 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.
5. The owner/STRP agent/responsible party of a STRP shall post the following information in a prominent location within the short-term rental and prospective tenants should provide written acknowledgement of receipt of said materials:
 - a. Owner name: if owner is an entity, the name of a principal in the entity, and phone number for the owner (individual);
 - b. The names and phone numbers for the responsible party and the short-term rental agent, as those terms are defined in this Section;
 - c. The phone numbers for the Red Bank Police Department, the Red Bank Fire Department, the Red Bank Code Enforcement and the Fire Marshall's Office;
 - d. Borough Noise and Nuisance Ordinances.
 - e. The maximum number of parking spaces available on site.
 - f. On-street parking regulations applicable to the adjacent streets.
 - g. Trash and recycling pick-up day, and all applicable rules and regulations regarding trash disposal and recycling; and
 - h. 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 Borough of Red Bank for violations of any applicable ordinances of the Borough of Red Bank.
6. While a STRP is rented, the owner, the short-term rental agent, or the responsible party shall be available 24 hours a day, seven days a 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 Red Bank Police Department, and/or other Borough Departments, and/or neighbors, arising by virtue of the short-term rental of the property.
7. If the STRP is the subject of a substantiated civil and/or criminal the STR permit will be revoked 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.
8. If the Borough receives two complaints in a one-year period concerning excessive vehicles belonging to the transient occupants of a STRP, the short-term rental permit for the property will be revoked.
9. The person offering a dwelling unit for short-term rental use must be the owner of the dwelling unit or the short-term rental property agent. 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. 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.
10. Rentals of amenities. The lease or rental, for any purpose and for any period of time, of any amenity, feature, or accessory that is appurtenant to or associated with any rental unit dwelling (including, but not limited to, a duplex, multiple, or single-family) or residential structure (including, but not limited to, the residential structures), is prohibited. "Amenity, feature, or accessory" shall include,

but is not limited to, swimming pools, pool cabanas, accessory structures, hot tubs, decks, patios, yards, and the like.

XXX-7. Violations and Penalties.

1. A violation of any provision of the within Section(s) may subject STRP owner, Transient Occupants (s), the Short-Term Property Rental Agent, and The Responsible Party or their agents, upon conviction, in the Municipal Court of the Borough of Red Bank or such other court having jurisdiction, be liable to a fine as provided in Chapter 1, General Provisions, Article II, General Penalty. The penalty that shall be imposed for a violation of this article shall be up to a maximum of \$2,500 per violation, per day that the violation exists. Each day that a violation occurs shall be deemed a separate and distinct violation subject to the penalty provisions of this section.
2. Any STRP Owner convicted of three (3) separate violations of any rule in this Ordinance shall be permanently banned from operating a STRP in the Borough of Red Bank.
3. The STRP owner, Transient Occupant(s), the Short-Term Property Rental Agent and the responsible Party or their agents shall have two (2) hours to cure any reported violation. Should the violation not be cured within the two-hour period, a summons will be issued.
4. Any ordinances or parts thereof inconsistent herewith shall be amended and supplemented to conform to the provisions contained herein.
5. If any part of this section is declared unconstitutional or illegal by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.
6. This section shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey, following the required twenty-day period after adoption, as set forth in N.J.S.A. 40:69A181(b).

SECTION TWO: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.

SECTION THREE: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION FOUR: This Ordinance shall take effect immediately upon its passage and adoption according to law.

INTRODUCTION						COUNCILMEMBER	FINAL ADOPTION					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		X				JOHN JACKSON		X	X			
		X				ANGELA MIRANDI			X			
	X	X				JACQUELINE STURDIVANT			X			
			X			KATE TRIGGIANO				X		
X		X				MICHAEL BALLARD	X		X			
		X				EDWARD ZIPPRICH			X			
						MAYOR WILLIAM PORTMAN						
Introduced: January 25, 2023			I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Red Bank, County of Union, State of New Jersey on the aforementioned date.									
Final Adoption: February 8, 2023			 Laura Reinertsen, Borough Clerk									

02/13/2023 – Vetoed by Mayor Portman

03/03/2023 – Veto overturned Resolution 23-73

