

City of Lewes, DE
Friday, January 24, 2025

Chapter 150. Rental Licensing

[HISTORY: Adopted by the City Council of the City of Lewes 10-10-2022.^[1] Amendments noted where applicable.]

[1] *Editor's Note: This ordinance provided in Sections 2 and 3 shall take effect for the license year beginning January 1, 2023, and shall not impair any rental contract in effect prior to January 1, 2023.*

Article I. General Provisions

§ 150-1. Purpose.

The Mayor and City Council find and determine as follows:

- A. Residential dwellings have long been used for short-term and long-term rental purposes and are an important part of the local tourism economy; however, short-term rental uses may have adverse impacts that can best be addressed through appropriate regulations.
- B. The regulation of residential rentals, including the differentiation between short-term and long-term rentals, will help preserve and protect the City's neighborhoods, provide standards and procedures for residential rentals, educate prospective short-term renters on City regulations and expected behaviors, and support the City's core values established in City Code § 197-3.
- C. The purpose of this chapter is to establish licensing requirement and regulations for use of residential rentals thereby enabling the City to preserve the public health, safety, and welfare.
- D. This chapter does not regulate hotels, motels, inns, and bed-and-breakfasts, as defined herein and in City Code Chapter 197, Zoning.

§ 150-2. Definitions.

For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

BEDROOM

A room or space designed to be used for sleeping purposes with two means of egress (one of which may be a window that meets egress requirements of the currently enforced edition of the International Residential Code). Spaces used for eating or cooking, bathrooms, toilet rooms, closets, halls, storage or utility rooms and similar uses are not considered bedrooms.

COMMERCIAL/FUNDRAISING ACTIVITY

An activity or occurrence primarily for the exchange of goods or services for financial gain or for seeking financial support for a charity, cause, or organization, including, but not limited to, the sale of merchandise, food or beverages, parties, weddings, paid performances, and any other similar activity.

DWELLING UNIT

A group of rooms located within a building and forming a single independent habitable unit with facilities which are used or intended to be used for and having permanent provisions for living, sleeping, sanitation, cooking, and eating purposes. A dwelling unit, however, shall not include a bed-and-breakfast, cabin court, hotel or motel, and lodging house as those terms are defined and regulated under the City Code, Chapter **197**, Zoning Ordinance.

GOOD NEIGHBOR BROCHURE

A document prepared by the City that summarizes the general rules of conduct, consideration, and respect, including without limitation, provisions of the Municipal Code of the City of Lewes, Delaware, applicable to renters and residents of the City.

GROSS RECEIPTS RENTAL TAX

As found in City Code, Chapter **172**, Article **II**, Taxation, Gross Receipts Rental Tax.

LICENSE HOLDER

The person who applies for and receives a short-term or long-term rental license from the City of Lewes. A license holder is the owner of the dwelling unit where the rental is located.

LOCAL CONTACT

The individual designated by the license holder to meet or satisfy obligations under this chapter and to serve as the contact person for issues relating to a rental. The designated contact must be available 24 hours a day to accept telephone calls from the City and, if requested by the City, respond physically to the rental within a reasonable time period, not to exceed two hours when the rental is rented and occupied.

LONG-TERM RENTAL

All or any portion thereof of a residential dwelling unit used as a place regularly rented for dwelling, lodging, or sleeping purposes to one party with a duration of occupancy of greater than 30 consecutive days. Hotels, motels, and other land uses explicitly defined and regulated in this chapter separately from long-term rentals are not considered to be long-term rentals.

MAXIMUM OCCUPANCY

The maximum number of allowable overnight occupants for a rental, as established in § **150-5**, Short-term rental standards, of this chapter.

NEIGHBORS

The owners and occupants of property that are contiguous to the premises on which the rental is located and the property that is separated from the premises on which the rental is located by a public or private road. For the purpose of this definition, a property is separated from the premises on which the rental is located by a public or private road if any portion of the property, as measured between the property's side lot lines as extended to the center of the road, is contiguous with the premises on which the rental is located, as measured between the premises' side lot lines as extended to the center of the road.

OCCUPANCY LIMIT

The overnight occupancy of a residential rental shall not exceed the sum of two persons per bedroom plus an additional two persons. Children 12 years of age and younger shall not be counted towards the overall number of occupants.

OCCUPANT

An individual living in, sleeping in, or otherwise having possession of a rental.

OWNER

Any person holding legal or equitable title to a property or to real improvements upon a property solely, jointly, by the entireties, in common, or as a land contract vendee.

PERSON

An individual, firm, corporation, association, partnership, limited-liability company, or other legal entity.

PREMISES

A lot, parcel, tract, or plot of land together with the buildings and structures on them.

PROPERTY

Land, firmly attached structures, and integrated equipment (such as light fixtures or a well pump), and anything growing on the land.

SHORT-TERM RENTAL

All or any portion thereof of a residential dwelling unit which is advertised or held out to the public as a place regularly rented for dwelling, lodging or sleeping purposes to one party with a duration of occupancy of 30 consecutive days or less. Hotels, motels, and other land uses explicitly defined and regulated in this chapter separately from short-term rentals are not considered to be short-term rentals.

VIOLATION

A written notice issued by the Planning and Building Department advising the license holder and/or the local agent of a violation of this chapter.

§ 150-3. License required.

- A. The owner of any long-term or short-term rental shall obtain the appropriate rental license from the City of Lewes prior to engaging in rental of the property, in accordance with the license application procedure and criteria set forth in this chapter.
- B. Any license issued pursuant to this chapter is nontransferable.
- C. The license year shall begin with January 1 and end with December 31 of each calendar year. License fees shall be due and payable to the City of Lewes no later than February 1 of the current license year. The owner, firm or corporation which has not previously rented the property but commences to do so partway through a license year shall pay the following license fees pursuant to the following schedule:
 - (1) For any period of three or more months in a license year: 100% of the applicable annual license fee.
 - (2) For any period shorter than three months of the license year: 50% of the applicable annual license fee.
- D. In the first year of implementation of this chapter, calendar year 2023, the following shall be completed by the property owner:
 - (1) A completed rental license application.
 - (2) Payment of gross receipts rental tax on revenues collected in calendar year 2022.
- E. License renewals shall be obtained in a substantially similar form and manner as the initial license, and shall also require:
 - (1) A new attestation of all information as outlined in § 150-7, Short-term rental license application, or § 150-14, Long-term rental license application;
 - (2) An attestation that the applicant has not had a rental license revoked in the last year; and
 - (3) Proof of payment of all applicable taxes for the previous year.
 - (a) The gross receipts rental tax, a rate established by Mayor and City Council, shall be remitted on or before the following February 1.

- F. The rental license fees shall be as approved by the Mayor and City Council and indicated in the fee schedules maintained by the City of Lewes.
- G. The license holder shall remit in a timely manner all applicable city, state, and federal taxes and City fees owed in connection with the rental.

Article II. Short-Term Rentals

§ 150-4. Short-term rental use.

All the required approvals shall be obtained prior to establishment of the use. Short-term rentals are a permitted use only as permitted in accordance with City Code, Chapter **197**, Zoning, Attachment-1 Table of Permitted Uses and Structures, and only pursuant to a valid short-term rental license issued in accordance with this section by the Planning and Building Department. Any additional requirements of the state shall also be required to be satisfied.

§ 150-5. Short-term rental standards.

Short-term rentals, as defined in § **150-2**, Definitions, shall be subject to the following general requirements:

- A. Short-term rental dwellings shall meet all applicable building, health, fire, and related safety codes at all times, including:
 - (1) That each short-term rental has working smoke detectors in every bedroom, outside of all sleeping areas, and on all habitable floors;
 - (2) That each short-term rental has working carbon monoxide detectors in every dwelling unit with an attached garage or fuel appliances;
 - (3) That each short-term rental has a properly maintained and charged fire extinguisher in each short-term rental unit; and
 - (4) That each short-term rental has GFCI receptacles within six feet of the outside edge of any sink.
- B. The overnight occupancy of a short-term rental shall not exceed the sum of two persons per bedroom, as defined in § **150-2**, Definitions, plus an additional two persons. Children 12 years of age and younger shall not be counted towards the overall number of occupants.
- C. Short-term rentals shall not be operated outdoors, in a recreational vehicle, or any nonresidential structure.
- D. The short-term rental property shall meet all applicable requirements of the zoning district in which the property is located.

§ 150-6. Short-term rental operation.

- A. Use of the short-term rentals to host commercial activities shall be prohibited.
- B. It shall be the responsibility of the property owner or authorized agent to ensure short-term rental guests comply with the requirements of City Code, Chapters **132**, Noise; Chapter **106**, Garbage, Rubbish and Refuse; and Chapter **167**, Streets and Sidewalks.
- C. Good Neighbor Brochures will be available to every renter.

- D. All advertising for any short-term rental, including electronic advertising on short-term rental websites, shall include the identification number of the short-term rental.
- E. The license holder shall maintain records of all short-term rental booking dates and associated rental income and shall provide it to the City in conjunction with an annual City gross receipts rental tax remittance.
- F. The City shall limit the use of the short-term rental booking records collected under Subsection **E** to confirm compliance with the provisions of Chapter **172**, Taxation, Article **II**, Gross Receipts Rental Tax. The short-term rental booking records shall only be provided to a third party when required by law.
- G. All short-term rental license holders shall comply with the provisions of any city, county, state, or federal disaster or emergency orders.
- H. The following information shall be made conspicuously visible inside the dwelling: the property's rental identification number and information on maximum occupancy, location of any off-street parking on the property if such off-street parking exists, contact information for the property owner or local representative, emergency numbers, and waste and recycling pickup schedule.
- I. The designated local contact person shall be available 24 hours a day to accept telephone calls from the City and, if requested by the City, respond physically to the short-term rental within a reasonable time period, not to exceed two hours when the short-term rental is rented and occupied. Upon request by the contact person, the City will accompany the contact person to the short-term rental dwelling.

§ 150-7. Short-term rental license application.

- A. An applicant for a short-term rental license shall submit to the following requirements and documentation:
 - (1) The name, address, phone number and email contact information of the applicant and the address of the property being applied for.
 - (2) Attest to the following and furnish the necessary documentation upon request of the Planning and Building Department:
 - (a) That the applicant has an ownership interest in the property being applied for;
 - (b) That each short-term rental has the required safety equipment including: working smoke detectors in every bedroom, outside sleeping area, and on all habitable floors; working carbon monoxide detectors in every dwelling unit with an attached garage or fuel appliances; a properly maintained and charged fire extinguisher; and GFCI receptacles within six feet of the outside edge of any sink;
 - (c) That the property has no outstanding taxes, fees, or City liens, outside of a mortgage;
 - (d) That the property is not subject to any contractual restrictions precluding its use as a short-term rental, including, but not limited to, homeowner association agreements, condominium bylaws, or restrictive covenants;
 - (e) That the applicant consents to the inspection of the short-term rental by the Planning and Building Department to confirm attestations of all application information and license requirements, as described in § **150-7A(2)**;
 - (f) That in each short-term rental there is a document that provides the property's rental identification number and information on maximum occupancy, location of off-street parking on the property if such off-street parking exists, contact information for the property owner or local representative, emergency numbers, and waste and recycling pickup schedule. This document shall be conspicuously visible within the unit; and

- (g) That the Good Neighbor Brochure will be provided to every renter and maintained in the home by the owner, their agent or local contact.
- B. By obtaining a license the property owner agrees to allow the Planning and Building Department the right to inspect a short-term rental to confirm attestations of all application information and license requirements. Inspections shall be performed at an agreed upon time with no less than 48 hours prior notice, except in the case of an immediate threat to public safety. Nonresponse to or refusal of an inspection shall be grounds for the suspension of a short-term rental license.
- C. Any fraud, material misrepresentations, or false statements contained in the attestations, required documentation, or correlating application materials shall be grounds for immediate revocation of a short-term rental license. Furthermore, all requirements herein shall be continuously maintained throughout the duration of the license.

§ 150-8. Short-term rental license issuance.

- A. Upon satisfactory submission of the required attestations and requested documentation herein, the Planning and Building Department shall issue a short-term rental license. Said license shall contain:
 - (1) The address of the short-term rental;
 - (2) The license holder's name;
 - (3) The rental identification number, and rental limitations, including maximum occupancy; and
 - (4) Contact information (name, primary phone number and email) for complaints by guests, of a local contact person who shall be available 24 hours a day to accept telephone calls from City personnel and, when requested by the City, respond physically to the short-term rental within a reasonable time period, not to exceed two hours, when the property is rented and occupied. Upon request by the local contact, the City will accompany the contact person to the short-term rental dwelling.

§ 150-9. Short-term rental violations and penalties.

- A. Any violation of this article and the correlating provisions in the City Code may subject a violator to any remedy, legal or equitable, available to the City.
- B. License violations include:
 - (1) Operating a short-term rental without a valid short-term rental license;
 - (2) Advertisement or rental of a short-term rental without proper licensing;
 - (3) Failure to include the rental identification number of a short-term rental unit in any advertisement or listing;
 - (4) Advertising a short-term rental outside the permitted scope of a short-term rental license; and
 - (5) Failure to remit all applicable taxes.
- C. Operation violations include:
 - (1) Use of the short-term rental for commercial/fundraising activities;
 - (2) Failure to provide the Good Neighbor Brochure;
 - (3) Failure to maintain required records;
 - (4) Failure to ensure short-term rental guests comply with the requirements of City Code, Chapters **132**, Noise; Chapter **106**, Garbage, Rubbish and Refuse; and Chapter **167**, Streets and

Sidewalks;

- (5) Nonresponse to or refusal of an inspection;
 - (6) Failure to make conspicuously visible the information required in § **150-6G**;
 - (7) Failure of local contact person to satisfactorily respond to or resolve complaints;
 - (8) Failure to comply with any disaster or emergency orders; and
 - (9) Disorderly dwelling.
- D. The short-term rental license fines shall be as approved by the Mayor and City Council and indicated in the schedules maintained by the City of Lewes. The following penalties shall apply to notices of violation:
- (1) For license violations:
 - (a) First violation of an offense: written warning;
 - (b) Second violation of the same offense: fine;
 - (c) Third and subsequent violation of the same offense or the sum of six violations of more than one type of offense during the term of the rental license: fine and immediate revocation of short-term rental license.
 - (2) For operation violations:
 - (a) First violation of an offense: written warning;
 - (b) Second violation of the same offense: fine;
 - (c) Third and subsequent violation of the same offense or the sum of six violations of more than one type of offense during the term of the rental license: fine and immediate revocation of short-term rental license.
 - (3) Three repeat violations of this article during the term of the rental license or the sum of six notices of violation during the term of the rental license or any revocation of a short-term license shall be grounds for denial of a short-term license issuance or renewal for 12 months from the date of revocation.
- E. Each day a violation continues unresolved will constitute a separate violation.
- (1) Nothing contained herein shall be construed to limit the legal remedies available to any other person for the correction of violations of this article and the correlating provisions in the City Code.

§ 150-10. Short-term rental complaint procedure.

- A. Any person having a complaint regarding any alleged violation or violations of this article for a short-term rental shall call the Planning and Building Department at City Hall, Monday through Friday, excluding weekends and holidays. For weekends, holidays, and outside office hours, any person having a complaint should contact the Police Department.
- B. If the complainant feels the property owner or the authorized agent failed to satisfactorily resolve a complaint, the complainant shall notify the City Manager, in writing. The City Manager will investigate the complaint, and if deemed accurate, will authorize the Planning and Building Department to issue a notice of violation to the property owner or the authorized agent.

Article III. Long-Term Rentals

§ 150-11. Long-term rental use.

All the required approvals shall be obtained prior to establishment of the use. Long-term rentals are a permitted use only as permitted in accordance with City Code, Chapter **197**, Zoning, Attachment 1-Table of Permitted Uses and Structures, and only pursuant to a valid long-term rental license issued in accordance with this section by the Planning and Building Department. Any additional requirements of the state shall also be required to be satisfied.

§ 150-12. Long-term rental standards.

Long-term rentals, as defined in § **150-2**, Definitions, shall be subject to the following general requirements:

- A. Long-term rental dwellings shall meet all applicable building, health, fire, and related safety codes at all times including:
 - (1) That each long-term rental has working smoke detectors in every bedroom, outside of all sleeping areas, and on all habitable floors;
 - (2) That each long-term rental has working carbon monoxide detectors in every dwelling unit with an attached garage or fuel appliances.
 - (3) That each long-term rental has a properly maintained and charged fire extinguisher in each long-term rental unit; and
 - (4) That each long-term rental has GFCI receptacles within six feet of the outside edge of any sink.
- B. Long-term rentals shall not be operated outdoors, in a recreational vehicle, or any nonresidential structure; and
- C. The long-term rental property shall meet all applicable requirements of the zoning district in which the property is located.

§ 150-13. Long-term rentals operation.

- A. Use of the long-term rentals to host commercial/fundraising activities shall be prohibited.
- B. It shall be the responsibility of the property owner or authorized agent to ensure long-term renters comply with the requirements of City Code, Chapters **132**, Noise; Chapter **106**, Garbage, Rubbish and Refuse; and Chapter **167**, Streets and Sidewalks.
- C. Good Neighbor Brochures will be available to every renter.
- D. All advertising for any long-term rental, including electronic advertising on long-term rental websites, shall include the identification number of the long-term rental.
- E. The license holder shall maintain records of all long-term rental booking dates and associated rental income and provide it to the City in conjunction with an annual City gross receipts rental tax remittance.
- F. The City shall limit the use the long-term rental booking records collected under Subsection **E** to confirm compliance with the provisions of Chapter **172**, Taxation, Article **II**, Gross Receipts Rental Tax. The long-term rental booking records shall only be provided to a third party when required by law.

- G. All long-term rental license holders shall comply with provisions of any city, county, state, or federal disaster or emergency orders.

§ 150-14. Long-term rental license application.

- A. An applicant for a long-term rental license shall submit to the following requirements and documentation:
- (1) The name, address, phone number and email contact information of the applicant and the address of the property being applied for.
 - (2) Attest to the following and furnish the necessary documentation upon request of the Planning and Building Department:
 - (a) That the applicant has an ownership interest in the property being applied for;
 - (b) That each long-term rental has the required safety equipment including: working smoke detectors in every bedroom, outside sleeping area, and on all habitable floors; working carbon monoxide detectors in every dwelling unit with an attached garage or fuel appliances; a properly maintained and charged fire extinguisher; and GFCI receptacles within six feet of the outside edge of any sink;
 - (c) That the property has no outstanding taxes, fees, or City liens, outside of a mortgage; and
 - (d) That the property is not subject to any contractual restrictions precluding its use as a long-term rental, including, but not limited to, homeowner association agreements, condominium bylaws, or restrictive covenants.
 - (e) That the applicant consents to the inspection of the long-term rental by the Planning and Building Department to confirm attestations of all application information and license requirements, as described in § **150-14A(2)**.
 - (f) That the Good Neighbor Brochure will be provided to every renter.
- B. By obtaining a license the property owner agrees to allow the Planning and Building Department the right to inspect a long-term rental to confirm attestations of all application information and license requirements. Inspections shall be performed at an agreed upon time with no less than 48 hours prior notice, except in the case of an immediate threat to public safety. Nonresponse to or refusal of an inspection shall be grounds for the suspension of a long-term rental license.
- C. Any fraud, material misrepresentations, or false statements contained in the attestations, required documentation, or correlating application materials shall be grounds for immediate revocation of a long-term rental license. Furthermore, all requirements herein shall be continuously maintained throughout the duration of the license.

§ 150-15. Long-term rental license issuance.

- A. Upon satisfactory submission of the required attestations and requested documentation herein, the Planning and Building Department shall issue a long-term rental license. Said license shall contain:
- (1) The address of the long-term rental;
 - (2) The license holder's name;
 - (3) The rental identification number and any rental limitations.

§ 150-16. Long-term rental violations and penalties.

- A. Any violation of this article and the correlating provisions in the City Code may subject a violator to any remedy, legal or equitable, available to the City.
- B. License violations include:
 - (1) Operation of a long-term rental without proper a valid long-term rental license;
 - (2) Advertisement or rental of a long-term rental without proper licensing;
 - (3) Failure to include the rental identification number of a long-term rental unit in any advertising or listing;
 - (4) Advertising a long-term rental outside the permitted scope of a long-term rental license; and
 - (5) Failure to remit all applicable taxes.
- C. Operation violations include:
 - (1) Use of a long-term rental for commercial/fundraising activities;
 - (2) Failure to provide the Good Neighbor Brochure;
 - (3) Failure to maintain required records;
 - (4) Failure to ensure long-term renters comply with the requirements of City Code, Chapter **132**, Noise; Chapter **106**, Garbage, Rubbish and Refuse; and Chapter **167**, Streets and Sidewalks;
 - (5) Nonresponse to or refusal of an inspection.
- D. The long-term rental license fines shall be as approved by the Mayor and City Council and indicated in the schedules maintained by the City of Lewes. The following penalties shall apply to notices of violation:
 - (1) For license violations:
 - (a) First violation of an offense: written warning;
 - (b) Second violation of the same offense: fine;
 - (c) Third and subsequent violation of the same offense or the sum of six violations of more than one type of offense during the term of the rental license: fine and immediate revocation of long-term rental license.
 - (2) For operation violations:
 - (a) First violation of offense: written warning;
 - (b) Second violation the same offense: fine;
 - (c) Third and subsequent violation of the same offense or the sum of six violations of more than one type of offense during the term of the rental license: fine and immediate revocation of long-term rental license.
 - (3) Three repeat violations of this article during the term of the rental license or the sum of six notices of violation during the term of the rental license or any revocation of a long-term license shall be grounds for denial of a long-term license issuance or renewal for 12 months from the date of revocation.
- E. Each day a violation continues unresolved will constitute a separate violation.
 - (1) Nothing contained herein shall be construed to limit the legal remedies available to any other person for the correction of violations of this article and the correlating provisions in the City Code.

§ 150-17. Long-term rental complaint procedure.

- A. Any person having a complaint regarding any alleged violation or violations of this article for a long-term rental shall call the Planning and Building Department at City Hall, Monday through Friday, excluding weekends and holidays. For weekends, holidays, and outside office hours, any person having a complaint should contact the Police Department.
- B. If the complainant feels the property owner or the authorized agent failed to satisfactorily resolve a complaint, the complainant shall notify the City Manager, in writing. The City Manager will investigate the complaint, and if deemed accurate, will authorize the Planning and Building Department to issue a notice of violation to the property owner or the authorized agent.

Article IV. Appeals

§ 150-18. Appeals.

- A. Appeals to the Board of Adjustment, as provided for in Chapter **197**, Zoning, may be taken by any person aggrieved by a decision of the Planning and Building Department relative to the revocation or denial of a rental license under this chapter. Such appeals shall be taken within 20 days by filing, with the Planning and Building Department and with the City Manager, a notice of appeal specifying therein the grounds of the appeal, along with a fee of \$1,250. Within five business days following receipt of the notice of appeal, the Planning and Building Department shall transmit to the City Manager all of the papers constituting the record upon which the decision appealed from was taken. The City Manager shall transmit said notice of appeal and record to the Chairperson of the Board of Adjustment. Not later than 30 days following receipt of the notice of appeal and record by the City Manager, the Board of Adjustment Chairperson shall set a time, date, and place for the hearing of the appeal. All meetings of the Board of Adjustment shall be open to the members of the general public. The Board of Adjustment shall keep minutes and records of its proceedings, showing the evidence received at the hearing, the vote of each member upon each question considered or indicating the absence of a member or failure of a member to vote, if such was the case. In the event every question considered is decided in favor of the appellant, the fee of \$1,250 shall be returned to the appellant.
- B. An appeal under this chapter shall stay all proceedings in the action appealed from the Planning and Building Department relative to the revocation or denial of a rental license under this Chapter. The stay will expire upon the issuance of a decision by the Board of Adjustments.