



# Tourist Homes/ Short Term Rental Code Review

Prepared for the Planning Commission of the City of New Castle

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# Background

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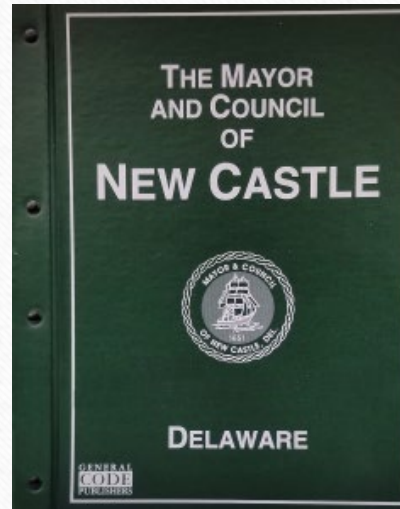
Concerned residents came to city council with concerns of a short-term rental opening on the strand. City council has reviewed the concern and is asking the planning commission to review the city code to evaluate it for potential recommended changes relating to the following questions



# Questions from Council

1. Do we want to regulate short-term rentals, and if so, in what way?
2. Do we want to make a distinction between short-term rentals and more conventional Beds & Breakfast's, and if so, how would we make that distinction?
3. The current Code regulates B&Bs as "rentals". Although the Code for rentals makes no mention of the length of rental contracts, §140-38G and §140-39B would seem to imply long-term rentals as they make provision for an inspection when a new tenant occupies the premises. How do we address?
4. Do we want to create a separate section of the Code for short-term rentals such as Airbnbs, and if so, how would we define "short-term rental" and would this also apply to more conventional B&Bs. How would we distinguish between the two types?
5. Do we want to prohibit any type of B&B in the Historical Residential District?
6. How would we monitor short-term rentals?
7. Do we want to change §230-19 of the Zoning Code to remove "tourist homes" from the list of uses as a matter of right and add B&Bs to the list of uses allowed by special exception, and if so, would that mean all B&Bs or just short-term rentals and what conditions would be imposed for the granting of special exceptions; including:
  - a. the number of rooms to be rented and/or the number of guests allowed in each unit;
  - b. a requirement for the provision of parking that does not unduly disrupt residents' parking;
  - c. requiring the owner to include designated "quiet hours" in the listing and enforce them;
  - d. requiring that the listing specify that parties are prohibited in the rental unit, and requiring the owner to enforce that.
8. If short-term rentals should be registered, and if so, should there be any requirements for registration?

# Existing City of New Castle Code





# Existing Definitions/ Zoning Code Related to Short Term Rental

## § 230-19 Historic Residence District HR.

This district is intended to preserve, promote and protect the historic area now predominantly residential of the City in its colonial form. In order to achieve this intention, architectural review is provided for by this chapter. It is not an exclusive residential district; however, incompatible uses are prohibited.

### A.

The following uses are permitted as a matter of right:

#### (1) Single-family dwellings:

- (a) Detached.
- (b) Semidetached.
- (c) Attached.

#### (2) Two-family dwellings:

- (a) Detached.
- (b) Semidetached.
- (c) Attached.

#### (3) Tourist homes.

#### (4) Parks and playgrounds.

#### (5) Signs subject to the provisions of § 230-37 of this chapter.

#### (6) Public utility rights-of-way and structures in accordance with § 230-38 of this chapter.

#### (7) Accessory uses and structures:

- (a) The renting of one room to nontransient roomers or boarders.
- (b) Other accessory uses and structures clearly incidental and customary to and associated with the permitted use.

[HISTORY: Adopted by The Mayor and Council of New Castle 4-9-1968. Amendments noted where applicable.]

## § 230-1. Definitions.

B. For the purposes of this chapter, certain terms or words used herein shall be interpreted as follows:

**TOURIST HOME** A dwelling in which overnight accommodations in no more than five guest rooms are provided or offered for transient guests for compensation.

# Other Zoning Districts

- § 230-17. Residential District R-2.
- This district is intended to accomplish the same goals as the R-1 District while permitting a slightly higher density and variety of dwelling type.
- A. The following uses are permitted as a matter of right:
  - 1) All uses permitted within the Residential District R-1.
  - 2) Single-family semidetached dwelling.
  - 3) Two-family dwelling.
  - 4) Accessory uses and structures:
    - a) Those permitted in the Residential District R-1.
    - b) **The renting of one room to nontransient roomers or boarders.**
    - c) Customary home occupations as defined in **§ 230-1** of this chapter.
  - 5) Corner stores: limited neighborhood retail establishments serving primarily a pedestrian trade, subject to the following conditions:  
[Added 12-14-2004 by Ord. No. 429]

## § 230-20. Historic Commerce District HC.

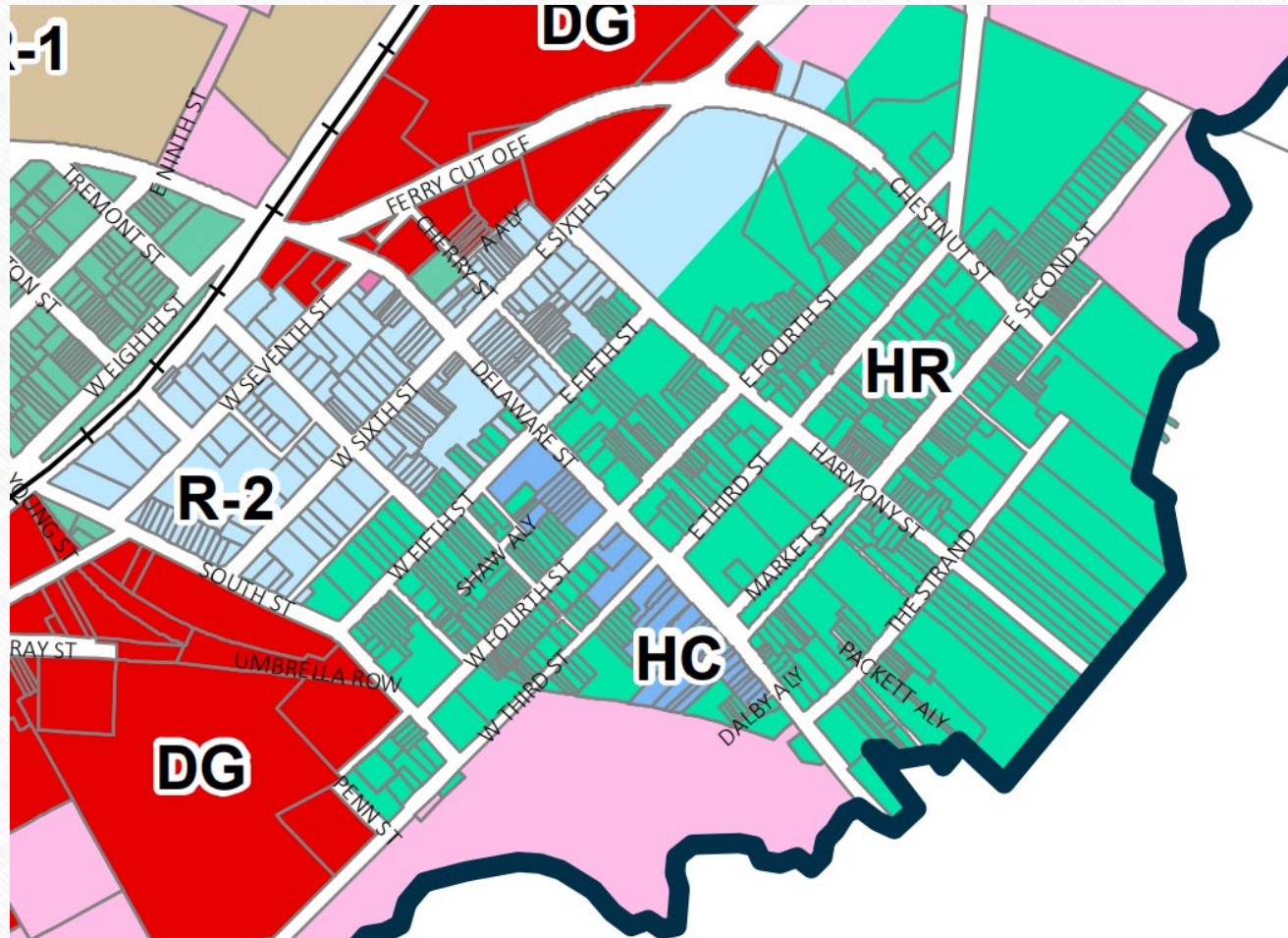
This district is intended to preserve, promote and protect the historic commercial heart of the city. A large portion of the city's commercial activity takes place in this area; a situation which is expected to continue resulting in a living monument to the past. Encroachment of elements not consistent with the colonial period of the city's history is to be prohibited.

A. The following uses are permitted as a matter of right:

- (1) Convenience stores and shops, such as grocery and drugstore.
- (2) Personal service shops, dealing directly with customers; beauty parlor, barbershop, clothes cleaning agency and similar establishments.
- (3) Bakeries.
- (4) Bank and office establishments.
- (5) Eating and drinking establishments.
- (6) Antique shops.
- (7) Jewelry stores.
- (8) Institutions of an educational, religious, medical, charitable, philanthropic or governmental nature.
- (9) Clubs and lodges.
- (10) **Tourist homes.**
- (11) Dwelling units as follows: [Amended 9-7-1982 by Ord. No. 253; 9-6-1983 by Ord. No. 257]
  - (a) Single-family detached, semidetached and attached.
  - (b) Two-family dwellings, detached, semidetached and attached.
  - (c) Multiple dwellings, provided that the greatest dimension in length or depth of a multiple dwelling shall not exceed four times its height. For purposes of this chapter the building length or depth shall be determined by the length or depth of a rectangle enclosing the building area of the building.
- (12) Signs subject to the provision of **§ 230-37** of this chapter.
- (13) Public utility rights-of-way and structures in accordance with **§ 230-38** of this chapter.
- (14) Massage parlors which provide services on and/or off premises, adult bookstores and adult entertainment centers shall not be permitted within 1,000 feet of any property used solely for residential purposes. No massage parlors, adult bookstores and/or adult entertainment centers shall be permitted within 1,500 feet of each other. [Added 6-7-1977 by Ord. No. 224]
- (15) Accessory uses and structures clearly incidental and customary to and associated with the operation of the permitted use.



# Historic Residential District



- HR-Historic Residential
- HC Historic Commercial
- R-1 Residential
- R-2 Residential
- R-3 Residential



## § 140-37. Rental housing business license.

- A. No person shall conduct or operate or cause to be operated, either as owner, lessee, or agent, or in any capacity within the City, any residence for rent (rental property) without having first obtained a rental housing business license from the Public Services Department. The fee for the rental housing business license shall be set from time to time by resolution of the City Council.[Amended 5-10-2011 by Ord. No. 482]
- B. By February 1, 2004, the owner, lessee, or agent of each residential rental property shall have made application for a business license with the Department of Public Services. Such business license shall be renewed annually, by January 1 of each year thereafter and will remain in effect until renewed or until the unit is vacated by the named tenant.[Amended 11-14-2006 by Ord. No. 441]
- C. Penalty for failure to pay license fee. In the event that any person shall fail to pay a license fee when required under this chapter, a penalty of 10% per month on the original fee shall be exacted. All license fees shall be payable before January 31 for the year for which they are issued.[Added 5-10-2011 by Ord. No. 482<sup>1</sup>]
- D. For the purposes of this code the term "person" shall refer to an individual, person, firm, partnership, association, corporation, company, organization or entity of any kind.
- E. No rental business license is required if the tenant is the landlord's parent, son, daughter, sibling, grandchild, grandparent, or in-law, and he or she or his or her family are the sole residents of the rental unit.



## § 140-38. Application for rental housing business license.

- A. Application for a rental housing business license shall be made to the City on forms provided by the Department of Public Services stating the address of the rental property or unit, the owner, agent, and any other person to be accountable for noncompliance, and his or her address, phone number, and date of birth, as well as the information required in Chapter 156 of the City Code.
- B. The City shall maintain records of all business license forms.
- C. Any change of ownership of a rental unit must be reported to the Department of Public Services within one week.
- D. Violation of this § 140-38 of this Code shall be punishable by a fine of not less than \$100 each day that a rental property is not licensed, and each day shall be considered a separate offense.[Amended 5-10-2011 by Ord. No. 482]
- E. A flat fee shall be assessed for each dwelling unit. Such fee shall be set from time to time by resolution of the City Council.[Amended 11-14-2006 by Ord. No. 441; ~~11~~ 8-11-2009 by Ord. No. 465]
- F. At the time the application, written documentation must be supplied by the applicant, denoting the following:[Added 11-14-2006 by Ord. No. 441]
  - 1. Number of bedrooms in the dwelling unit.
  - 2. Area (in square feet) of each dwelling unit.
  - 3. Name of occupying tenants, or a statement that the dwelling unit is vacant.
  - 4. Number of tenants per dwelling unit, if residential.
- G. When vacant dwelling units are filled, information for Subsection F(3) and (4) above shall be submitted to the City within 30 days of new occupancy.[Added 11-14-2006 by Ord. No. 441]
- H. Any agreement, contract, lease or sublease which provides for or permits, allows, contemplates or facilitates occupancy by more persons than permitted in the current ordinance in force shall be deemed as unlawful and is hereby declared to be contrary to public policy.[Added 11-14-2006 by Ord. No. 441]

## § 140-39. Inspections.

- A. On-site inspections will be made by the Code Officer, or authorized deputy, of each newly registered vacant dwelling unit rental housing business license application, prior to occupancy, to assure that said dwelling unit is in compliance with the provisions of this chapter.[Amended 5-10-2011 by Ord. No. 482]
- B. Each dwelling unit is subject to inspection prior to occupancy of a new tenant.[Amended 5-10-2011 by Ord. No. 482]
- C. An additional inspection will be done upon a formal complaint.
- D. The current Property Maintenance Code, as adopted and amended by the Code, will be the guideline for all inspections to determine compliance.
- E. All existing dwellings over 75 years old on January 1, 2007, may use the existing buildings and structures provisions of the applicable IBC or IRC.
- F. The cost for the initial inspection will be included in the rental housing permit fee. Additional inspections to assure compliance, or as required hereunder, will be made at additional cost to the owner for each inspection. The fee for said inspections shall be set from time to time by resolution of the City Council.[Amended 8-11-2009 by Ord. No. 465]
- G. A record of each inspection will be kept on file in the Building Department and maintained until replaced by a new inspection report.
- H. Nothing in this chapter shall preclude that other inspections may be made by the Code Official in the regular performance of his or her duties.
- I. No inspection that is not, in the opinion of the Code Official, an emergency shall be conducted with less than a seven-day written notification to the property owner.



# Current Totals

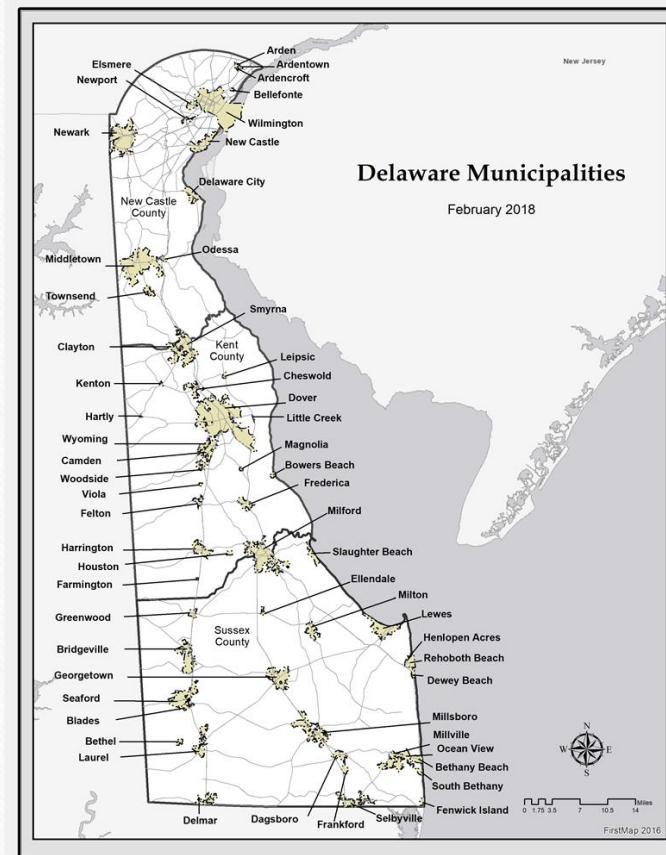
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158 Rental Units in the Historic Residence District

There are currently less than 10 short term rentals in the HRD.

Average Occupancy- 30%- 50% annually

# Delaware Municipalities





# City of Lewes

- **Distinguishes between short-term and long-term rentals**

- **Long-term Rental** means 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 thirty (30) consecutive days. Hotels, motels, and other land uses explicitly defined and regulated in this ordinance separately from long-term rentals are not considered to be long-term rentals
- **Short-term Rental** means 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 thirty (30) consecutive days or less. Hotels, motels, and other land uses explicitly defined and regulated in this ordinance separately from short-term rentals are not considered to be short-term rentals

- **License Requirement:**

- §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.
- §150- 5 Short-term Rental Standards 168 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 171 safety codes at all times including:
    - a. That each short-term rental has working smoke detectors in every bedroom, outside of all sleeping areas, and on all habitable floors;
    - b. That each short-term rental has working carbon monoxide detectors in every dwelling unit with an attached garage or fuel appliances;
    - c. That each short-term rental has a properly maintained and charged fire extinguisher in each short-term rental unit; and
    - d. That each short-term rental has GFCI receptacles within 6 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 twelve 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 non - residential structure.
  - D. The short-term rental property shall meet all applicable requirements of the zoning district in which the property is located.

# City of Lewes Cont'd

- §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 Sidewalk and Property Maintenance
  - 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 202 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 twenty-four (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 (2) hours when 215 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.
- Provisions for licensing & violations/ penalties
- Allowed in all districts, prohibited in accessory structures to a building
- FAQ for all Rentals in the City <https://www.ci.lewes.de.us/DocumentCenter/View/3493/Rental-FAQ--Final--NOV-11182022>



# Town of Milton

- Interestingly enough- Milton City Council asked for a review of short- term rentals as well- they also had a citizen concerned with these types of rentals and they issued this: <https://milton.delaware.gov/files/2025/01/Resolution-2025-001-To-Request-an-Advisory-Report-from-the-Planning-Zoning-Commission-and-to-develop-a-draft-ordinance-to-revive-Town-Code-Chapter-164-related-to-the-regulation-of-Short-Term-Rentals.pdf>
- § 220-6. Definitions.:
  - **VACATION RENTAL:** A dwelling or structure, or part thereof, used to provide sleeping accommodations for compensation.
- Currently treated like any other residential rental.

# Town of Dewey Beach

- **§ 1-16. Definitions.**

- **RENTAL ROOM**

- A room or group of rooms intended for rental to transient guests on a day-to-day or week-to-week basis, but not intended for use or used more than 120 days during any calendar year and not including cooking facilities.

- **TOURIST HOME or ROOMING HOUSE**

- A dwelling having fewer than six rental rooms, without cooking facilities, for transient guests.

- Classifies tourist homes under a home occupation- in the Neighborhood Residential, it is permitted as an accessory use  
<https://ecode360.com/8864261?highlight=home,homes,tourist%20home&searchId=17877779402623897#8864261>



# Town of Odessa

**BED & BREAKFAST.** A dwelling in which one or more persons are lodged on a temporary rent-paying basis with or without meals. This dwelling shall not constitute the legal residence of such person(s).

**ROOMING HOUSE.** A dwelling in which more than two persons are lodged on a continuing rent-paying basis with or without meals. A boarding house shall also be termed a rooming house.

- §80.1 - PERMITTED USES – Single Family Residential:
- 10 - Bed & Breakfast Establishments (hereafter known as "B&B's") - provided that:
  - a. B&B's shall be owner occupied and operated.
  - b. No sleeping accommodations shall be provided other than in designated guest rooms. No more than five guest rooms shall be provided and no more than two adults shall occupy one guest room.
  - c. No guest or family shall stay longer than seven consecutive nights at any one time.
  - d. There shall be no separate kitchen, cooking facilities or any cooking appliances used in guest rooms. Meals shall be served to guests only.
  - e. Other amenities shall be for the benefit of guests only.
  - f. All rules applying to R-1 signage shall apply to B&B's.
  - g. Smoke detectors powered from house current shall be required in all guest rooms.
  - h. A minimum of three full bathrooms, including sink, toilet and bathtub and/or shower shall be provided in each B&B.
  - i. The Zoning Administrator shall enforce all regulations applying to the establishment and operation of B&B's.
  - j. Any violations of this ordinance will result in revocation of license to operate

# Next Steps

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1. Review this presentation and the surrounding municipalities' codes and prepare for the February Planning Commission Meeting
2. Discussion at the next Planning Commission Meeting for possible code considerations for Council

## Potential Options:

1. Do no harm, continue with the current restrictions in the Code
2. Define the types of rentals- short term rentals. Vs. bed and breakfasts
  1. Utilize other Codes as a starting point Lewes / Odessa
3. Define licensing for short vs. long term rentals, based on other Codes
  1. Utilize other Codes as a starting point Lewes / Odessa