

CITY OF NEW CASTLE PLANNING COMMISSION
New Castle Senior Center
400 South Street
New Castle, DE 19720
Monday, March 10, 2025
7:00 p.m.

Agenda

1. Roll Call
2. Approval of Minutes
3. Discussion of Short-term rentals and tourist homes and potential recommendations
 - a. Presentation by Planning Commission member Cynthia Batty regarding short term rentals/ tourist homes (15 minutes)
 - b. Presentation by Planning Commission member Stephen Franklin regarding short term rentals/ tourist homes (15 minutes)
 - c. Discussion regarding potential path forward on recommendations for short term rentals/ tourist homes led by City Solicitor Max Walton
4. Public Comments as related to agenda items. Three minutes per person with a maximum of one hour of public comment.

If you are unable to attend questions and comments will be taken via email up to 3:00 p.m. on Monday March 10, 2025 at info@newcastlecity.delaware.gov.

New Castle City Planning Commission Meeting
Minutes
1 Municipal Boulevard, New Castle, DE
November 21, 2024 – 7:00 p.m.

Members Present: Margo Reign, Chair
Brie Rivera
Kristin Zumar
David Majewski
Stephen Franklin
Tamara Stoner

Absent: Timothy Gibbs

Also Present: Antonina Tantillo, City Administrator
Christopher J. Rogers, City Planner
Max Walton, City Solicitor

Ms. Reign called the January 27, 2025 Planning Commission meeting to order at 7:00 p.m. Roll call followed and a quorum to conduct business was declared.

Minutes

A motion to approve the minutes of the November 21, 2024, Planning Commission meeting as presented was made by Ms. Rivera, seconded by Mr. Majewski, and unanimously carried. Ms. Batty abstained from the vote.

Election of Planning Commission Officers

Chairperson

Ms. Margo Reign was nominated for the office of Chair of the Planning Commission. There being no additional nominations, Ms. Reign called for a motion to close the nominations.

A motion to close the nominations was made by Mr. Majewski. The motion was seconded and passed unanimously.

A motion to appoint Margo Reign as Chair of the Planning Commission was made seconded and passed unanimously.

Vice-Chairperson

Ms. Brie Rivera was nominated for the office of Vice-Chair of the Planning Commission.

A motion to appoint Brie Rivera as Vice-Chair of the Planning Commission was made by Ms. Reign. The motion was seconded by Mr. Franklin and passed unanimously.

Presentation by City Solicitor and City Planner regarding tourist home potential regulation request from City Council

Mr. Walton stated that in response to residents' concerns of a short-term rental opening on The Strand, City Council tasked the Planning Commission to review the City Code to evaluate it for potential recommended changes relating to specific questions posed by 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 (B&Bs), and if so, how should we make that distinction?
3. The current Code regulates B&Bs as "rentals".
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 (the current Code requires one (1) off-street parking space per bedroom);
 - 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?

Mr. Walton reviewed existing definitions in the Zoning Code related to short-term rentals. He noted that there are 158 rental units total in the Historic Residential District. Ten or less are short-term rentals and the average occupancy is 30%-50%.

The City provided a list of several towns in Delaware that have provisions for short-term and long-term rentals and rental requirements to the Planning Commission. Mr. Walton noted that the town of Milton is also reviewing short-term rentals. He recommended that the Planning Commission review the documents provided by the City and discuss possible considerations for City Council. Mr. Walton noted that the Court has struck down similar short-term rentals where they say it is an "arbitrary and capricious governmental action".

Mr. Walton stated that the options available to the Planning Commission are:

1. Do nothing and go by the current Code restrictions.
2. Define uses of short- and long-term rentals and B&Bs and define licensing for short-term rentals.

Mr. Walton stated that Ms. Batty's presentation is excellent and contained very good examples. He did not, however, recommend instituting a moratorium suggesting, rather, that the Planning

Commission draft an Ordinance for Council consideration. Mr. Walton explained that the Ordinance would be discussed at public meetings where public comment would be heard. He suggested a process:

- At the February meeting, the Commissioners would discuss the matter.
- Mr. Walton would draft an Ordinance based on that discussion.
- At the March meeting the Commissioners would review the draft Ordinance and make changes as necessary.

Ms. Batty noted her concern that the public would not have sufficient input; and Mr. Walton stated that the Planning Commission can hold public meetings, but suggested that those meetings should be based on a draft document. Ms. Zumar suggested that the Commissioners take the public comment from the present meeting, review the documentation presented to them, and craft a working draft document at the February meeting based on the direction the Commissioners decide; and give the community the opportunity to comment throughout the entire process before a final document is crafted.

In response to question from Ms. Batty regarding Mr. Walton's statement at the November Council meeting that existing B&Bs should be grandfathered, Mr. Walton explained that existing B&Bs would have to conform to newer regulations and explained the Doctrine of Vested Rights. A discussion of existing B&Bs ensued during which Mr. Walton stated that each zoning district must be consistent.

Mr. Walton recapped the plan going forward:

1. The Commissioners will review the data provided and comments from the public.
2. At the February meeting the Commissioners will discuss the matter.
3. Mr. Walton will draft a document to start with.

At Ms. Batty's request, Ms. Tantillo will have all meeting materials put on the city website, and will provide rental license information for existing B&Bs in the city to the Commissioners. In response to a question from Ms. Reign, Ms. Tantillo stated that there have been no complaints that she is aware regarding short-term rentals.

Discussion of Comp Plan Chapters 1-3, 7, 11 and 14

In response to a question from Ms. Zumar, Mr. Rogers explained that an Ordinance is the regulation that can be based on language in the Comprehensive Plan (CP), but when a change is made to the Zoning Ordinance it is not reflected in the CP. Rather, the CP sets the blueprint for land use and transportation and the Zoning Ordinance and Subdivision Regulations are the two primary land development Ordinances that implement the CP. Ms. Tantillo noted that the Commissioners could update them at the five-year review, but it is more typically updated at the 10-year review.

In response to a question from Ms. Zumar, Mr. Rogers noted that the most recent Census data can be obtained and then the Commissioners can determine if the change in the demographics warrants a rethinking of certain themes of the CP. Ms. Reign also noted that updated information can be obtained from the University of Delaware. Mr. Rogers noted that the

Delaware Population Consortium uses Census data to do projections that are often used in a CP. He added that it is difficult to make population or housing projections on a relatively small geographical area like New Castle.

In response to a question from Ms. Batty, Mr. Rogers stated that the CP does not need to be revised or updated to specifically include accessory dwelling units (ADU) and the lack of reference to an ADU Ordinance in the CP does not mean that such an Ordinance could not be passed.

Mses. Tantillo and Reign will work on obtaining updated Census information.

During the discussion of Chapters 1-3, 7, 11 and 14 the Commissioners made recommendations of things that should be updated in the CP. The majority of items will be addressed at the 10-year review.

Chapter 1

- Update some Zoning information to take into account zoning changes to Light Industrial. (10-year)
- Revise the manner in which presentations referenced on page 6 are displayed.
- Can we get a copy of the State Planning and Land Use checklist, as referenced to on page 7.
- Ms. Tantillo will check with WILMAPCO regarding city representation at meetings.

Chapter 2

- Look carefully at the aging population. (10-year)

Chapter 3

- Term limits of Boards and Commission members ~~Commissioners~~ should be noted on page 24.
- Schools and Places of Worship should be updated and addresses verified on pages 34 and 35.
- The frequency/ number of meetings of each Board and Commission should be identified for consistency meetings are held.

Chapter 7

- Bike amenity on the Markel Trail needs to be updated. (10-year)
- Additional bike lanes should be added/ discussed on page 68.
- Avelo Air Services should be added on page 70.
- It should be noted that the WILMAPCO Transportation Plan. Identified on page 74 is out of date.
- Stop Sign Improvements on page 79 should be included.

Chapter 11

- Demographic info should be updated.
- Goals and strategies for housing should also be updated.

Chapter 14

- No recommendations.

Ms. Reign recommended that Land Use should be discussed at the February meeting prior to discussing the Airbnb issue. Mr. Rogers explained that the CP took the existing zoning districts and the existing zoning map that was in place and grouped them into general land use categories; and there is not a different vision in the current CP as exists in zoning today because the Commissioners felt that the existing zoning was a good Future Land Use plan.

Public Comment

Carol Vukelich – 33 The Strand

Ms. Vukelich spoke in opposition to tourist home short-term rentals in the Historic Residential District. She made two recommendations:

1. That tourist home short-term rentals be permitted only in the Historic Commercial District.
2. That “traditional” B&B short-term rentals be permitted in the Historic Residential District and in the Historic Commercial District.

Ron Stack – 104 East 3rd Street

Mr. Stack spoke in opposition to tourist home short-term rentals in the Historic Residential District. He stated that homeowners are opposed to permitting whole home rentals in the Historic Residential District, opining that it creates the loss of a community feel, the loss of affordable rental housing, and a decrease in property values; and went on to provide statistics to support this.

Adrian Alganaraz – 106 East 3rd Street

Mr. Alganaraz spoke in opposition to tourist home short-term rentals in the Historic Residential District, and recommended that the definition of “tourist home” be revised and that a clear definition of “Bed & Breakfast” be provided. Mr. Alganaraz went on to note the key difference between “tourist or whole home rental” and “Bed & Breakfast” being that the homeowner is required to be in residence for a Bed & Breakfast.

Lori Williams – 30 The Strand

Ms. Williams spoke in opposition to tourist home short-term rentals in the Historic Residential District. She noted regulations that are being recommended for tourist homes in the Historic Commercial District:

- The home must be the owner’s primary residence.
- The homeowner must be present in the home when the property houses paying guests
- Limits on the total number of days per year rooms can be rented.
- Limits on the number of guests per stay.
- Limit on the number of consecutive days a guest may stay.
- Homeowners must be responsible for ensuring that guests adhere to all city regulations
- Mandatory safety requirements must be met before licenses or permits are issued.

Additional regulations to consider:

- Number of off-street parking spaces required is specified.
- Homeowner or property manager must be immediately available to address problems.

- Property owner and property manager must be residents of the city.
- Limit the number of tourist homes a property manager may manage.

John Reaves – 15 East 2nd Street

Mr. Reaves spoke in support of tourist home short-term rentals in the Historic Residential District. He noted that in response to a survey in the last Comprehensive Plan three uses were scored more by a majority of respondents: stores and restaurants (70%) and arts and entertainment (60%). These are critical desires for the community for land use and should be a high priority of a planning agenda. He opined that guest rooms are a critical infrastructure for the amenities in New Castle, and questioned if, in fact, New Castle has enough guest rooms.

Phil Gross – 1301 13th Street

Mr. Gross opined that:

- Tourist home short-term rentals should be owner-occupied and no one should be allowed to stay at the house without the owner in residence.
- Anything that is passed by the City Council should be retroactive.
- No campers, motor homes or commercial vehicles should be allowed in a residential area.

David Brundage

Ms. Reign read a comment submitted by Mr. Brundage in opposition to tourist home short-term rentals in the Historic Residential District.

There being no further business to discuss, Ms. Reign called for a motion to adjourn.

A motion to adjourn was made by Ms. Rivera and seconded by Ms. Zumar. The motion passed unanimously and the meeting adjourned at 8:51 p.m.

Respectfully submitted,

Kathleen R. Weirich
City Stenographer

This presentation assumes you are all familiar with the original research paper dated January 9, 2025, which has been available for over a month.

Short-term Rental Recommendation

PREPARED AT THE REQUEST OF THE PLANNING COMMISSION
FOR THE RESIDENTS OF THE CITY OF NEW CASTLE AND THE PLANNING COMMISSION

March 10, 2025
Cynthia Batty, Design Intelligence

Please note: This document has been prepared with public sources (to the extent) and data provided through a FOIA by the City of New Castle. While the information contained herein is about legal issues, it is not intended as legal advice or as a substitute for the particularized advice of your own counsel. Anyone seeking specific legal advice or assistance should retain an attorney.

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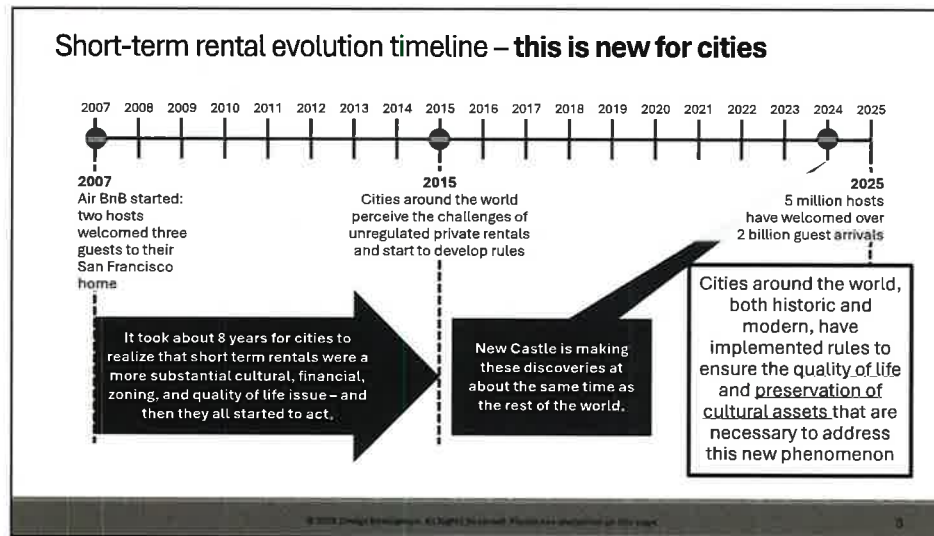
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Contents

- Historic levelset
- What other places are finding
- New Castle is unique and needs a unique solution
- Today's known short-term rentals in New Castle
- New Castle does not have a "tourist" problem
- The questions and the levers
- The recommendation
- The Terry House
- Definitions
- Costs to taxpayers

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Restrictions on short-term rentals in residential areas are globally rapidly increasing, as the devastation to residential quality of life (for both owners and long-term renters) and property values has become clear.

Elin Kentnor experience in France
This year spent time in Uzès, France (population 9,300 in 2022). Over the last 10 years watched the city hollowed out with short-term rentals, to the point that in off-season few restaurants and shops open, few residents visible on the streets. Then visited another similar village, Chateauneuf-du-Pape (population 2,045 in 2022) to taste wines. It was a ghost town. They did find a nice restaurant for lunch but passed few people on the street. The one wine tasting room open told them that all the vintners go to wine markets now during the off-season, because there are no visitors in town and fewer locals can afford to live there, much less buy the wine.

Spain blocks all short-term rentals nationwide for 3 years: creating issues with overcrowding, water use, and housing affordability in the country
<https://www.planetcalifornia.com/news/2025/01/134023-+psa+no+rental+reg+3+years+short-term+rentals>

Substantial regulation in New York City, Los Angeles, San Francisco, Chicago, Steamboat Springs, Seattle, Weehawken, Dallas, Charleston, States of Florida, Kentucky, Maine Alaska, etc. etc. etc.
Google search...

New regulations in Wilmington, Dover, Lewes, etc. – some extremely restrictive
Google search...

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The Historic Area of New Castle is a unique place and needs its own solution – and the rest of New Castle has interest as well.

We are not Lewes. We are not Wilmington. We are not Charleston. We are not Spain.

This is why regulation of short-term rentals is done by zone, in individual cities.

And we now know our City is not tracking and managing Tourist Homes today, nor tracking fires or other safety violations or disturbances.

The City of New Castle does not have a separate license for "Tourist Homes" today – they are licensed as rentals like all other rentals. The City is not able to say how many Tourist Homes have been licensed, or whether the tourist homes meet the legal requirement of one parking place per bedroom.

Per a FOIA to the City of New Castle,
February 2, 2025

The Good-Will Fire Department declined to provide any information about the fire at the unlicensed Tourist Home (mentioned in the January Planning Commission meeting) that was located outside the Historic Zones, stating that they were a private corporation and not subject to FOIA.

Per a FOIA to the Good-Will Fire Company
No. 1, Station 18, February 18, 2025

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New Castle Short-term Rentals Today – not many, different by zone

**Historic Area: 3 in Historic Commerce area, 1 in Historic Residential, apartments, concentrated on Delaware Street
Average price per night: \$149**

https://www.airbnb.com/rooms/610296484079837444?check_in=2025-04-04&check_out=2025-04-06&search_mode=regular_search&source_impression_id=p3_1741370918_P3UT-c1n1Ap1QeT_Aprevious_page_section_name=1000&federated_search_id=6cd4ee10-2c53-4c68-9511-8881753f9552
Dwayne Foster 3 guests: 1 bedroom: 2 beds: 1 bath \$128 night

https://www.airbnb.com/rooms/622936764299554328?from_hosting=true&check_in=2025-04-04&check_out=2025-04-06&source_impression_id=p3_1741370626_P3qeyvWWhcWg
James Egerton. \$160 a night. One bedroom.

https://www.airbnb.com/rooms/8723936784298954328?check_in=2025-04-04&check_out=2025-04-06&location=New%20Castle%20DE&search_mode=regular_search&source_impression_id=p3_1741371720_P3u3Q2t1eUjU578previous_page_section_name=1001&federated_search_id=6cd4ee10-2c53-4c68-9511-8881753f9552
James Egerton Entire rental unit in New Castle, Delaware 2 guests 1 bedroom 1 bed 1 bath \$175 night

https://www.airbnb.com/rooms/876390852965175010?check_in=2025-04-04&check_out=2025-04-06&search_mode=regular_search&source_impression_id=p3_1741370518_P3u6x2lB19
John (Wyk) Entire rental unit in New Castle, Delaware 2 guests 1 bedroom: 1 bed: 1 bath \$134 night

Source – AirBnB website on March 7, 2025 and calculations in my document Short term rental data 2025-03-09 v1

**Greater New Castle: 3 spread around, in private homes, not in compliance with code
Average price per night: \$54**

https://www.airbnb.com/rooms/48575720?check_in=2025-04-04&check_out=2025-04-06&search_mode=regular_search&category_tag=Tag%3A8678&photo_id=1144196491&source_impression_id=p3_1741371582_P3u2Z6Lz0UpaVfYk&previous_page_section_name=1000&federated_search_id=6cd4ee10-2c53-4c68-9511-8881753f9552
Hosted by Randy Room in New Castle, Delaware 2 queen beds Private attached bathroom \$58 night

https://www.airbnb.com/rooms/48120995?check_in=2025-04-04&check_out=2025-04-06&search_mode=regular_search&category_tag=Tag%3A8678&photo_id=1132006803&source_impression_id=p3_1741370918_P3w_A4K3GwHVL1&previous_page_section_name=1000&federated_search_id=6cd4ee10-2c53-4c68-9511-8881753f9552
Stay with John And Sheila Room in New Castle, Delaware 1 double bed Shared bathroom \$47 night

https://www.airbnb.com/rooms/48575720?check_in=2025-04-04&check_out=2025-04-06&search_mode=regular_search&category_tag=Tag%3A8678&photo_id=1144196491&source_impression_id=p3_1741371582_P3u2Z6Lz0UpaVfYk&previous_page_section_name=1000&federated_search_id=6cd4ee10-2c53-4c68-9511-8881753f9552
Hosted by Randy Room in New Castle, Delaware 2 queen beds Private attached bathroom \$58 night

There may be more, legal and illegal.
Finding them is a full-time job.

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Historic New Castle does not have a tourism problem.

We have a museum attendance problem, which is a different problem that affects all museums globally after Covid.

Restaurant Patron Mix – local New Castle versus out-of-town patrons	Spirit of Christmas attendance – December 14, 2025
Nearly three-quarters of patrons are from outside New Castle.	Total attendance ~5,000 people
Suzette Singh, Zolli's Jazz Cucina Friday & Saturday - 65-70% out of town Restaurant week - 90% out of town, Wednesday to Saturday	House Tour Ticket Sales Online as of the Event Day: 1011*, SoC organizers estimate total ticket sales for house tours at 1,100. It was estimated that there were around 5,000 people who came to town that day. This is based on the feedback from the shuttle bus drivers and parking lot attendants.**
Justin Day, Jessop's Tavern I would agree with Suzette numbers. We were probably more like 85-90% out of town for the Restaurant week.	Source: * 2024SOC_HouseTourPurchases_AscOf12.14.24_9am_Redacted.xlsx, downloaded from Zefly, Spirit of Christmas ticketing platform ** Spirit of Christmas organizers Tara Hayward-Olivas and Bernadette Flaim
Dwayne Foster, The Mercury Café and Tea House I've had a ton of people come over from the Terry house and other bnb's for breakfast recently. They are all out of towners. It's been pretty nice actually to boost breakfast sales. We have an agreement to send people each others way. I have a nice mix, not sure the percentage. Locals 50/50 weekdays and out of towners heavy on the weekends.	
Marcy Randazzo, All Good Things I'd estimate 70% out of town customers vs 30% in town. Spirit of Christmas, Separation Day, May Market all bring in great sales in that order. Market on Green not so much at old location do not know in current location. We do get substantial business from customers staying in Air BnBs.	
Source – CB asked all these businesses and individuals for their experiences and percentages between March 6-9, 2025.	

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Questions the Planning Commission must address

These are the issues that we need to make recommendations upon.

Should the Historic Commercial zone have different regulations than the Historic Residence zone?	Yes; there is a dense population of rental units today in the Commercial zone which need careful regulation to ensure that our long-term renter ecosystem is not damaged
What regulations would make the most residents in the city comfortable and happy if there were an increasing prevalence of short-term rentals in our Historic District?	Developed by zone based on the nature of the zone; residential should feel like residential, commercial can be more commercial in nature
If we recommend to continue with regulated short-term rentals, should that be extended to the rest of the City as well?	Yes, though we need to engage more with these residents outside the Historic area to gain their input; few of them are engaged with what is seen as a Historic Area problem today

8

The playbook for short-term rental regulation

There are many levers that are in use across the United States and around the world for managing short-term rentals. These restrictions are tied to zone where regulation is in place.

Identified in the study of 27+ short-term rental regulations published January 9, 2025 by C. Batty, in order of prevalence	
Restrictions on number of days per year for rentals	Temporary structures
Have a permit for short-term rental	Affected housing
Owners must live in the property at the time of the Air BnB rental	Restrictions on number of rooms let
Banned or soon to ban most Air BnBs, or heavy restrictions	New Castle current code
Zoning restrictions	Restriction requiring a Tourist House to have one off-street parking place per bedroom
Cap on total short-term rental properties	Other levers observed in this process:
License for second homes	Maximum number of days rental to one person (usually 31 or less)
Occupancy restrictions	Limit number of adults per bedroom
Collect taxes	Limit to two bedrooms
Parties expressly forbidden	Restriction on kitchen access
Fines for violations	Fire inspections
Approval from landlord for renter to rent out	Annual licensing and inspection
Owner income cap	Local caretaker to immediately address problems
Ban on corporate ownership	Insurance indemnification of the City and taxpayers for guest claims
Limit per area (i.e., block)	And on and on and on . . .

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Historic Commercial zone – allow short-term rentals

All of these provisions except parking would be new to the code and specific to the Historic Commercial zone.

Recommended Code Requirement	Why
Have a permit/license for a defined short-term rental (no more than 31 days to a guest) which includes annual renewal and annual fire inspection	The city and its residents must have awareness of such activity to ensure safety and security, and potentially to collect fees and impose fines
Local caretaker to immediately address problems	This is a standard requirement for a commercial short-term rental which is not owner-occupied
Ban on corporate ownership (single-proprietor LLC excepted)	Individuals are free to exploit their property, but the city is not encumbered with corporations who will be less engaged and compliant
Fines for violations (failure to permit and inspect, noise, fire safety, parking rules, etc. as defined in city code)	Ensures effective permitting and fire safety
Apartment or home only, no use of temporary structures	Prevents abuse of renter/guests, safety for neighborhood and guests
Occupancy restrictions – no more than 2 adults per bedroom, children under 12 are free	Current Tourist Home rentals allow up to 20 people – this is untenable in our tiny city. However, families are very welcome.
Restrictions on number of rooms let – maximum 2 bedrooms, 4 adults	Standard residence restriction
Restriction requiring a Tourist House to have one off-street parking place per bedroom, which does not include using a municipal parking lot	This existing New Castle code requirement helps to ensure
Indemnification of the City and taxpayers for guest mishaps of any kind	It is not clear how this can be done but it is a requirement
Maybe	
Collect taxes	See notes on how the City would have to manage this.
Restriction on kitchen access	If the objective of allowing short-term rentals is to increase tourism and use of our businesses, allowing short-term rentals to cook for themselves is against that philosophical objective. However, if we can let go of that idea, then kitchen access would be fine.

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Historic Residence zone – allow owner-occupied short-term rentals	
All of these provisions would be new to the code and specific to the Historic Residence zone. Potentially could provide lower-cost rentals for interested guests.	
Recommended Code Requirement	Why
Have a permit/license for a defined short-term rental (no more than 31 days to a guest) which includes annual renewal and annual fire inspection	The city and its residents must have awareness of such activity to ensure safety and security, and potentially to collect fees and impose fines
Owner-occupied, owner must be present when room(s) rented to guests	The residence district is not a business district. If a rental is not owner-occupied it is a business, which is inappropriate for a residential district. Addresses the "constitutional rights" matter – owner may obtain a license for short-term rental. Note: Off-street parking requirement is not present in this recommendation, as the owner might have overnight guests without such arrangements.
Fines for violations (failure to permit and inspect, noise, fire safety, etc. as defined in city code)	Ensures effective permitting and fire safety
Apartment or home only, no use of temporary structures	Prevents abuse of renters/guests, safety for neighborhood and guests
Occupancy restrictions – no more than 2 adults per bedroom, children under 12 are free	Current Tourist Home rentals allow up to 20 people – this is untenable in our tiny city. However, families are very welcome.
Restrictions on number of rooms let – maximum 2 bedrooms, 4 adults	Standard residence restriction
Indemnification of the City and taxpayers for guest mishaps of any kind	It is not clear how this can be done but it is a requirement
Maybe	
Collect taxes	See notes on how the City would have to manage this.
Restriction on kitchen access	If the objective of allowing short-term rentals is to increase tourism and use of our businesses, allowing short-term rentals to cook for themselves is against that philosophical objective. However, if we can let go of that idea, then kitchen access would be fine.
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New Castle Residential zones – allow owner-occupied short-term rentals	
All of these provisions would be new to the code and the same as Historic Residence zone. There are many positive reasons to allow this, including income generation, and lower-cost temporary options for people who need them.	
Recommended Code Requirement	Why
Have a permit/license for a defined short-term rental (no more than 31 days to a guest) which includes annual renewal and annual fire inspection	The city and its residents must have awareness of such activity to ensure safety and security, and potentially to collect fees and impose fines
Owner-occupied, owner must be present when room(s) rented to guests	The residence district is not a business district. If a rental is not owner-occupied it is a business, which is inappropriate for a residential district. Note: Off-street parking requirement is not present in this recommendation, as the owner might have overnight guests without such arrangements.
Fines for violations (failure to permit and inspect, noise, fire safety, etc. as defined in city code)	Ensures effective permitting and fire safety
Apartment or home only, no use of temporary structures	Prevents abuse of renters/guests, safety for neighborhood and guests
Occupancy restrictions – no more than 2 adults per bedroom, children under 12 are free	Current Tourist Home rentals allow up to 20 people – this is untenable in our tiny city. However, families are very welcome.
Restrictions on number of rooms let – maximum 2 bedrooms, 4 adults	Standard residence restriction
Indemnification of the City and taxpayers for guest mishaps of any kind	It is not clear how this can be done but it is a requirement
Maybe	
Collect taxes	See notes on how the City would have to manage this.
Restriction on kitchen access	If the objective of allowing short-term rentals is to increase tourism and use of our businesses, allowing short-term rentals to cook for themselves is against that philosophical objective. However, if we can let go of that idea, then kitchen access would be fine.
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The Terry House – built in 1851, has been a rooming house/hotel for over 100 years

This treasure in our city must not be damaged by our efforts to manage short-term rentals. Currently the Terry House is licensed as a Tourist Home (because there is no other form of license in our code), which is inappropriate for what it is.

Care must be taken to not place the Terry House into a heavily-taxed Delaware definition if possible.

The Terry House history:

1914 – The New Castle Century Club acquired the building and used the lower story for club purposes, and the second and third floors as apartments.

1951 – the Club sold the building due to high costs of maintenance and moved to smaller quarters on Fourth Street. George and Bessie Williams purchased the building for \$25,000. It was used as their residence and as a rooming house.

1985 – The house was purchased in and renovated into the current arrangement as a Bed and Breakfast.

2020s – in a process of complete renovation of the entire building to its former glory and greater, adding value to our historic area. Provides 7 hotel rooms for guests.



The Terry House Bed and Breakfast
Historic New Castle, Delaware
James Egerton Deemer, Innkeeper
130 Delaware Street
Historic New Castle, DE 19720
<https://www.terryhouse.com/history.htm>

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Definitions in the New Castle code would have to be updated

Recommendations:

- Update definitions to add "short-term rental" and use definition to define some of the requirements noted in these recommendations, which would allow shorter code lines for the different zones.
 - A rental of an approved dwelling or part of a dwelling which does not exceed 31 days
 - In the Historic Residence zone and greater New Castle city residential zones, no parking requirement, must be owner-occupied when rented
 - In the Historic Commerce zone, one off-street parking per bedroom of rental unit, in-city caretaker required at all times
 - No more than 2 bedrooms and/or 4 persons may occupy; children under 12 are not counted
 - City and taxpayers 100% indemnified through insurance for guest mishaps, injuries or other problems.
- Remove antiquated designation of "Tourist House" from City code
- Remove "Rooming House" and "Boarding House" from City code, with exception noted for recovery-type group homes which currently don't fit any of these designations. Solicitor to advise.
- Add a definition for "Hotel" to provide a proper designation for the Terry House.
 - Require in the definition that any new Hotel would have to be approved by the Board of Adjustment who would set requirements for parking and perhaps other conditions.
 - Waive parking for Terry House permanently in recognition of its historic standing.
- Clean up the code for all the references to Tourist Homes and parking requirements scattered throughout and consolidate all these definitions and codes into one section, name of section TBD.

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Considerations for the City and its taxpayers

Licensing, inspecting, monitoring, and taxing short-term rentals has a cost. For the time being, the City Taxpayer is bearing that cost. Fees and penalties can offset this; however it will require a dedicated part of a City employee to manage, and we don't have enough people today to enforce codes (and have not had for more than a year).

- A City employee will be charged with a monthly review (at least) of all short-term rental websites to identify illegal short-term rentals (there are three today, for example)
 - Then pursue them and fine them and collect the fine – not easy, cheap or quick
 - Scoffers will have to be followed up with legal action, not cheap
 - This should be a standing report to City Council, who will need to monitor the process in case of additional code requirements
- Fee structure for licenses, inspection and failure to license, as well as other violations, must be created. This fee structure must help pay for the level of effort to regulate the short-term rentals (and hotels, if we add that designation)
- A process and identity of license, rules regarding display of license, and fee collection must be developed
 - A proposed short-term rental must be inspected before being licensed
 - Fire department should have an inspection process specific to short-term rentals and a certification of some sort that can be displayed and filed with the City
 - All data reported monthly to the City Council for first two years to monitor effectiveness of this code revision
- While some city-level jurisdictions have attempted to levy taxes on short-term rentals, many have also found that collecting the taxes is more difficult and expensive than the tax yield
 - One path could be to make the online system (AirBnB, VRBO, others) collect the taxes on behalf of the City and pay them to the City – other jurisdictions do this however it may be complex to set up
- The effect on costs for Police and Fire are not known and could be significant if the incidence of short-term rentals were to significantly increase

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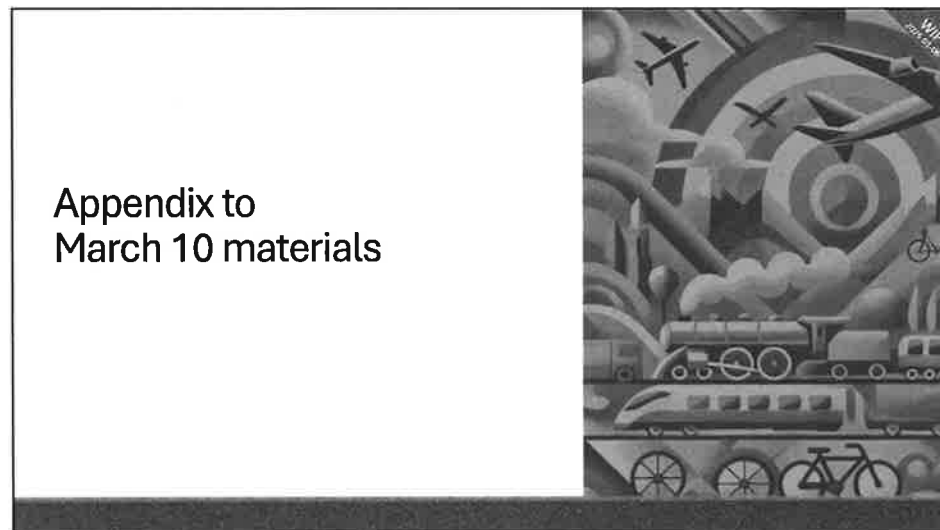
Thank you for listening
and engaging!

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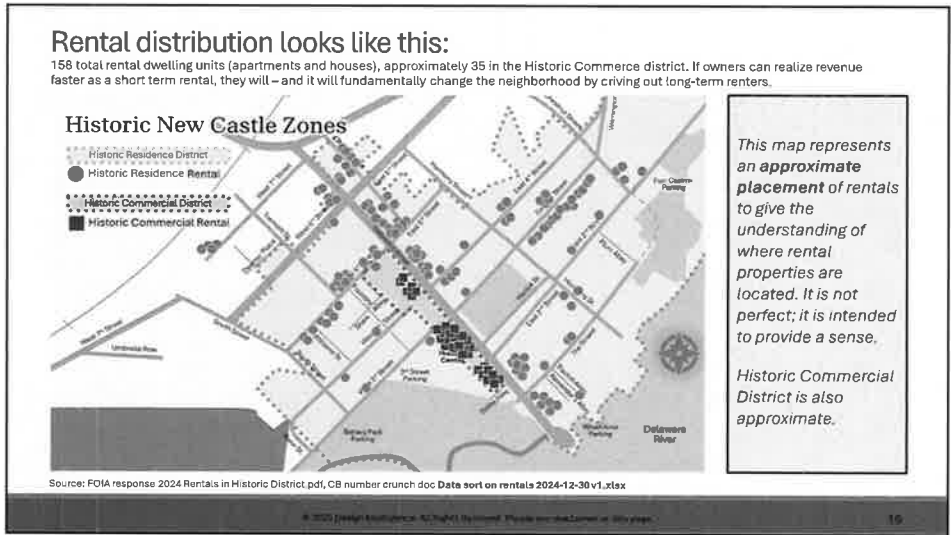
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Delaware state definitions – need to pin down hotel definition also

Title 30	Chapter 62	Section 6201
<p>https://delcode.delaware.gov/title30/c062/#6201</p> <p>84 Del. Laws, c. 474, § 2: § 6201. Definitions [For application of this section, see 84 Del. Laws, c. 474, § 7].</p> <p>As used in this chapter:</p> <p>(1) "Accommodations intermediary" means as defined in § 2301 of this title.</p> <p>(2) "Rent" means the consideration received for occupancy, valued in money, whether received in money or otherwise. "Rent" does not include the following:</p> <ul style="list-style-type: none">a. Municipal taxes, if any.b. Linen rental fees.c. Cleaning fees.d. Insurance fees.e. Security deposits.f. Other add-on fees not usually considered part of the rent.g. Money received from a month-to-month holdover lease. <p>(3) "Short-term rental" means a house, duplex, multi-plex, apartment, condominium, houseboat, trailer, or other residential dwelling unit where a tourist or transient guest, for consideration, rents sleeping or living accommodations for no more than 31 consecutive nights. "Short-term rental" does not include the following:</p> <ul style="list-style-type: none">a. Hotels, motels, and tourist homes as defined under § 2301 of this title.b. Rooms, groups of rooms, or other spaces used for assembly.c. Dormitories or other residential facilities of educational or vocational institutions.d. Healthcare facilities licensed by the State.e. Campsites, cabins, or similar facilities in campgrounds.f. Overnight camps for adults or children.g. A rental arranged directly by the property owner, on a casual and isolated basis, that meets all the following qualifications:<ul style="list-style-type: none">1. The rent is substantially below market rates.2. The property is used as a rental for no more than 10 nights in aggregate per calendar year.		

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Supplement to Stephen Franklin's presentation.

Excerpts of United States Constitution

Fourth Amendment

The right of the people to be secure in their persons, houses, papers, and effects, **against unreasonable searches and seizures**, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Fifth Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, **nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.**

Inverse Condemnation

An instance where the government has taken property or impacted property rights without utilizing the condemnation process and, therefore, without providing just compensation for the taking.

Inverse condemnation applies both to physical invasions of private property and to so-called "regulatory takings" – those instances in which the government has regulated the use of property in a manner so as to constitute a constructive taking thereof (*Pennsylvania Coal Co v. Mahon*, 1922)



Current Issues in Tourism: Short Term Rentals

Efficacy and Solutions

Prepared for New Castle Planning Commission | Stephen Franklin, Ed.D.

City of New Castle, Delaware

- First and foremost Historic New Castle *is* a tourist community.
 - We are not a beach front community, and therefore do not experience many of the challenges real or perceived, associated with those communities. But we are a tourist community.
- Historical Product (not sun, sand and revelry)
 - Our draw is historical context, the early birth of our nation.
 - We are not a party destination, nor do we draw that crowd on a consistent basis.
 - Our draw are “cultural tourists” (Angel & Doganer, 2020, p 66)
- Historical Immersion
 - The best way to experience Historical New Castle is to immerse yourself in its history and uniqueness. (*i.e. live like a local...at least temporarily*)
 - With no hotels and only one official Bed & Breakfast, short-term rentals (STRs) provide a viable solution.

Stated Concerns of Historic District Residents

regarding Short-Term Rentals (based upon November 12, 2024 City Council minutes)

- Permit short-term rentals only in Historic Commercial District.
 - Loss of community feel
 - Loss of affordable rental housing
 - Decrease in property values
 - Parking concerns
- Revise Zoning Code to provide clear definition of short-term rental, and remove tourist home terminology as “a matter of right”.

Stated Concerns of Historic District Residents cont’d.

- Loss of community feel
 - The extant literature researching short-term rental impact across U.S. and European cities, large and small, does not support this claim.
 - The majority of New Castle’s tourism is event based: **Day in Old New Castle, Separation Day, Spirit of Christmas, Art on the Green, etc.**
 - *“Travelers look to explore areas outside the beaten path and interact with locals to understand and educate themselves with the culture, historical heritage and traditions of a city” (Gisolf, M., 2020, p 958) (Angel & Donager, 2020, p 66) (Nieuwland & van Melik, 2020, p 811) (Bed and Breakfast Industry Report, 2024, p 13)*

Stated Concerns of Historic District Residents cont'd.

▪ Loss of Affordable Rental Housing

- Industry trends report STR occupancy is 62.9%. This includes traditional hotels and STRs
 - ❖ The current rate of occupancy in New Castle is between 30-50% (based upon city data and conversation with STR owners in New Castle)
- “Trends show that cities with more than 5% of housing stock in STRs may experience impact on housing supply” (DiNatale, Lewis & Parker, 2018, p 413)
- “STRs often provide prospective or existing residents in search of long term homes, a preview rental (Ellen, 2015)
- “Cities where the criticism of short term rentals as a cause of rent increase is often louder regardless of the actual rent increase” (Furukawa & Onuki, 2019 p 1)

Stated Concerns of Historic District Residents cont'd.

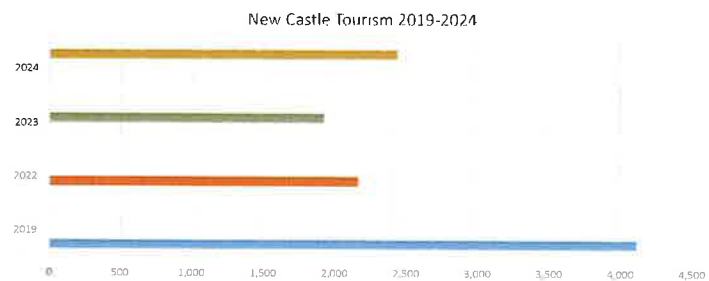
▪ Decrease in Property Values

- House sharing allows owners to share some of the benefits of property ownership while shifting some of the burdens of ownership- particularly the economic burdens.
- Personal service sets STRs apart from hotels and other types of corporate lodging. STRs are generally owner operated, and owners typically live-on premise and act as host to guests.
- Association of Lodging Professionals reports 79% of STR live on the premises. (2024, p 7)
- Over 70% of BNBs are owned by couples. (Bed and Breakfast Industry Report, 2024, p 13)
- “Such exchanges can actually help to preserve property values by providing income to homeowners that can be used to offset mortgage or maintenance costs...if homeowners are able to do so, they are more likely to be able to maintain their homes in the short term, not defer maintenance, and in the long-term to maintain ownership” (Jefferson-Jones, 2013, p 12), (Angel & Ogozner, 2020, p 69), (Firm, Leung, & Weigman, 2017, p 2-4)
- Parking Concerns: N/A

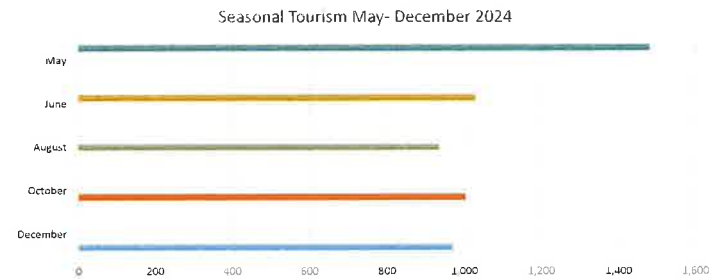
Realities and Possible Solutions

- Policies that curtail short-term rental housing are of a bygone era and often without warrant as it relates to perceived negatives.
- The literature shows STRs can positively impact government revenue, increase tourism-related activity, and provide income to hosts.
- Studies repeatedly show that “cultural tourists” tend to spend more per day, stay longer, and visit more often.
- Though many cultural tourists are baby boomers, there is growth in the millennial demographic. 73% of millennials prefer to travel to a destination filled with art, culture and history.

Realities and Possible Solutions



Realities and Possible Solutions



Realities and Possible Solutions

- Not as lucrative as many believe.
- There are a total of **7 BNBs** in the State of Delaware. **Only 1 is located in New Castle**
- Running a STR is labor-intensive. Demand varies by season and day of the week.
- In many cases, the owners perform the bulk of the work themselves to reduce labor costs and increase profit margins. STR owners must find the right balance of self-work and hiring to provide a positive guest experience and avoid burnout while keeping labor costs low.
- These factors contribute to density controls, and prevent the "hotelization of neighborhoods." (Bed and Breakfast Industry Report, 2024, p. 13-18)

Possible Solutions

- Quantitative limitation on the number of STR licenses.
 - Currently there are 12 licensed STRs in New Castle
- Establish clear guidelines and requirements for each STR dwelling.
- Develop a Common Sense and Enforceable ordinance.
- Enforcement done on-line. (To advertise a STR requires listing a license number).
- Fines for unlicensed STR.
- Tread lightly on public policies that impinge on “a matter of right”.
 - Such policies are in violation of 4th and 5th amendment rights
 - Invokes “inverse condemnation”

Decision Tree For Short Term Rentals and Bed and Breakfasts

A. Baseline Questions

Do you desire to recommend changing any of the current laws regarding short term rentals or tourist homes? Yes/No?

Do you recommend banning short-term rentals in all districts? Yes/No?

Do you desire to recommend defining tourist homes/ traditional bed and breakfasts/ and short-term rentals differently? Yes/No?

Is there a particular jurisdiction's short term rental ordinance that you like and would want to use as a model for New Castle's ordinance? What jurisdiction?

B. Definitional Recommendations

What is the recommended definition of a short term rental?

Definition #1 – All or any portion thereof of a residential dwelling unity 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.

Definition #2 – A house, duplex, apartment, condominium, or other residential dwelling unity where a tourist or transient guest rents sleeping or living accommodations of less than 31 days.

Others?

What is the recommended definition of a traditional bed and breakfast?

Definition #1 – An owner occupied and operated establishment, that provides sleeping accommodations in less than five designated guest rooms, with no more than two adults in the same guest room, where no family or guest stays more than 7 nights, and where no separate cooking facilities are provided.

Others?

What is the recommended definition of a tourist home?

Current definition: A dwelling in which overnight accommodations in no more than five guest rooms are provided or offered for transient guests for compensation.

- I recommend eliminating tourist homes if you are separately defining short term rentals and bed and breakfasts.

C. Rental Limitations

Short Term Rental

Bed and Breakfast

Rents 7 days or less?

Rents 14 days or less?

Rents 30 days or less?

All districts? Yes/No?

AH?

R1?

R2?

R3?

HR?

HC?

RC?

DG?

Others?

Multi-Family Housing?

Condos?

Apartments?

Limit to a percentage of a district?

What is the percentage?

In what districts?

D. Parking Requirements

Short Term Rentals

Bed and Breakfast

1 Parking space per rental (SF)?

2 Parking spaces per rental (SF)?

1 parking space per bedroom?

E. Licensing Requirements

Short Term Rentals

Bed and Breakfast

Business license?

Rental license?

New License?

Fee?

Approval process?

Hours limitations?

F. Use Limitations

Short Term Rentals

Bed and Breakfast

60 days per year?

90 days per year?

180 days per year?

270 days per year?

No limitations?

G. Inspections

Short Term Rentals

Bed and Breakfast

No inspections?

A fire safety inspection?

A full rental inspection?

Other?

Before occupancy or licensure?

Yearly?

Every two years?

Every three years?

H. Other Considerations/Ideas

TBD

ARTICLE VIII
USE REQUIREMENTS BY DISTRICTS

SECTION 80. R-1 SINGLE-FAMILY RESIDENTIAL

The regulations of this district are intended to insure that residential development will occur as a low density neighborhood consisting of single-family residences along with limited home occupations and private and public community uses to provide a healthful environment.

80.1 - PERMITTED USES

The following uses shall be permitted by right:

- 1 - Single-family detached dwellings.
- 2 - Churches and other places of worship and Sunday School buildings.
- 3 - Libraries and museum(s).
- 4 - Public and private elementary schools, home day-care, kindergartens, preschools and day nursery schools.
- 5 - Public and private parks, playgrounds and similar recreational uses operated only on a non-commercial basis, provided that no building for such a purpose shall be constructed closer to any property line than one hundred (100) feet.
- 6 - Private garages.
- 7 - Municipal and public service facilities including Town Hall; Public safety facilities such as fire and police stations, rescue squad headquarters, civil defense centers, provided that:
 - (a) All vehicles and equipment shall be stored indoors.
 - (b) All buildings shall be set back at least one-hundred (100) feet from all property lines and shall be properly landscaped.
- 8 - Public works and public utility facilities such as transformer stations, pumping stations, telephone exchanges, sewage and water treatment plants, provided that:
 - (a) Such facilities are essential to the service of the community.
 - (b) No vehicles or materials shall be stored on the premises and no offices shall be permitted.

- (c) All buildings shall be set back at least one hundred (100) feet from all property lines and shall be properly landscaped.
- (d) All dangerous apparatus shall be enclosed by an approved security fence at least six (6) feet in height.

9 - Home Occupation - provided that:

- (a) A resident or a resident member of the family shall be employed.
- (b) Such occupations shall include, but not be limited to, dressing and tailoring, ceramics, furniture refinishing, repair and upholstering, custom-made cabinets and furniture, cosmetics, leather crafts and clock repair.
- (c) No materials, products or equipment shall be stored outside a building or structure.
- (d) The Zoning Administrator shall enforce all regulations applying to home occupations.
- (e) Any violations of this ordinance will result in revocation of license to operate.

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.

80.2 - RESTRICTIONS TO PERMITTED USES

- (a) No permitted use shall alter the residential character of the structure and/or structures.
- (b) Accessory structures shall be located in the rear yard five (5) feet or more from the side and/or rear property line.
- (c) No uses shall generate excessive noise, smoke, dust, smell, or other conditions detrimental to the character of the surrounding area.

80.3 - PERMITTED SIGNS

The following signs (see Section 31 - Definitions) are permitted:

- 1 - Signs to regulate traffic.
- 2 - Signs required to be posted by law.
- 3 - Warning signs.
- 4 - Signs established by governmental agencies.
- 5 - Signs indicating bus stops, taxi stands and similar transportation facilities.
- 6 - One professional sign for each such use. Such signs shall not exceed two (2) square feet in area, be motionless and may be illuminated by light cast upon the sign from a concealed exterior light source only.
- 7 - One real estate sign, no larger than nine (9) square feet in area, advertising the sale, lease or rental of such property.
- 8 - One temporary sign per subdivision indicating the sale of property within such subdivision. No such sign shall be larger than twelve (12) square feet in area.
- 9 - One sign or bulletin board not exceeding twelve (12) square feet in area upon the premises of a church or other institution for the purpose of displaying the name of such church or institution, and other related information.

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.

The City of Lewes



Rental Licensing Program

Frequently Asked Questions

1. When was the new ordinance adopted?

The ordinance was adopted by the Mayor and City Council during their meeting on October 10, 2022.

2. When does the ordinance go into effect?

The ordinance goes into effect on January 1, 2023.

3. How do I obtain a Residential Rental License Application?

The Residential Rental License Application can be found on the city's website under "How Do I Apply For". Complete and submit the application form to the City of Lewes attention Licensing, P.O. Box 227, Lewes, DE 19958. For questions, please contact 302-645-7777 ext. 124.

4. Does the ordinance impact a current rental contract?

This ordinance shall not impair any rental contract in effect prior to January 1, 2023.

5. Why has the City of Lewes adopted new rental regulations?

The City of Lewes has experienced increases in tourism, changes in the rental industry, growth of unlicensed rentals, and difficulties in enforcing past regulations.

6. How were these regulations developed?

The Mayor and City Council appointed a 5-member Short Term Rental Ad Hoc Committee in March of 2022. Over several months of work that included eight public meetings, this group analyzed all aspects of renting in Lewes. The Committee concluded its work by recommending policy changes to the City's regulations.

On October 3, 2022, Mayor and City Council held a public hearing to obtain public comments. Councilmembers studied the issues in detail, made changes, and adopted the Ordinances on October 10, 2022. The new ordinances can be found by going to <https://www.ci.lewes.de.us/352/Short-Term-Rentals>

7. What is stated in the new regulations?

These regulations provide clarification between short-term and long-term rentals. They also provide additional eligibility, licensing, safety, and owner compliance requirements to protect the quality of life for residents and visitors alike.

8. How are these regulations different than the previous ordinances?

These new ordinances were developed under a collaborative process involving multiple public input opportunities and representatives of all areas of the city. There are now more stringent licensing, safety, and owner compliance requirements. A variety of new enforcement tools are available to the city under the new ordinances.

9. How is enforcement addressed in the regulations?

The regulations have been carefully crafted to allow the City multiple avenues of enforcement for renters. They broaden what qualifies as a violation and allow for effectively targeted enforcement via specific categories. In addition, the City will continue to engage a company to identify properties within the city that are rented via web-based platforms to facilitate better rental licensing enforcement.

10. If I currently operate a rental, will I be allowed to continue?

Currently, operating rentals will be allowed to continue if they meet the criteria in the new ordinance.

11. What if I suspect a rental is unlicensed?

Please contact the Planning & Building Department at 302-645-7777 ext. 124 to report a suspected unlicensed rental.

12. What is a Short-Term Rental?

Under the new regulation, a short-term rental (STR) is defined as all or any portion thereof of a residential dwelling unit that 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.

13. Is a Vacation Rental the same as a Short-Term Rental?

Yes, if you are renting the property with a duration of occupancy of thirty (30) consecutive days or less.

14. Where are Short Term Rentals allowed in the City?

Short-term rentals are licensed in all areas of the City of Lewes.

15. Can an accessory structure be rented as a short-term rental?

No. Short-term rentals shall not be operated outdoors, in a recreational vehicle, or in any non-residential structure.

16. Who needs to apply for a rental license?

The owner of any long-term or short-term rental shall obtain the appropriate rental license from the City of Lewes prior to renting the property.

17. What are the fees for a rental license, license violation, and operational violation?

License Fee per rental unit –

Annual License Fee Short-term Rental	=	\$200.00
Annual License Fee Long-term Rental	=	\$200.00

***License Violations –**

First Violation Notice	=	Written Warning
Second Violation Notice	=	\$250.00
Third Violation Notice	=	\$500.00 and suspension of rental license for 12 months from date of violation

***Operational Violations –**

First Violation Notice	=	Written Warning
Second Violation Notice	=	\$250.00
Third Violation Notice	=	\$500.00 and suspension of rental license for 12 months from date of violation

**Note: For violations not paid within 30 days of issuance, the fine amount will be doubled.*

18. What are the general safety requirements?

- Rental dwellings shall meet all applicable building, health, fire, and related safety codes including:
 - That each rental has working smoke detectors in every bedroom, outside sleeping area, and on all habitable floors;
 - That each rental unit has working carbon monoxide detectors in every dwelling unit with an attached garage or fuel appliance;
 - That each rental has a properly maintained and charged fire extinguisher in each short-term rental unit;
 - That each rental has GFCI receptacles within 6 feet of the outside edge of any sink.
- The overnight occupancy of a short-term rental shall not exceed the sum of two persons per bedroom plus an additional two persons. Children aged 12 and younger shall not be counted towards the overall number of occupants.
- Rentals shall not be operated outdoors, in an accessory structure, in a recreational vehicle, or any non-residential structure.
- The rental property shall meet all applicable requirements of the zone in which it is located.

19. Is an inspection required of the rental prior to license issuance?

By obtaining a license the property owner agrees to allow the Planning and Building Department the right to inspect a 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.

20. What information is required to process an application for a Rental License?

By no later than February 1st, submit a completed rental license application along with the annual license fee and remit the Gross Rental Receipts Tax (GRRT) for the previous year payment to the City of Lewes.

21. When do I need to renew my Rental License?

A newly issued license is valid for one calendar year and is not automatically renewed. License renewals will be in a substantially similar form and manner as the initial license. A new attestation of all information will be required as well as proof of payment of all applicable taxes for the previous year.

22. How many guests are allowed to stay in an STR?

"Maximum occupancy" means the maximum number of allowable occupants and the overnight guests of those occupants for a short-term rental, as established in Section §150-5 of the ordinance.

The "Occupancy Limit" is based upon the number of bedrooms in the dwelling. The overnight occupancy of a residential rental shall not exceed the sum of two persons per bedroom plus an additional two persons. Children aged 12 and younger shall not be counted towards the overall number of occupants.

A "Bedroom" is defined as 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.) Spaces used for eating or cooking, bathrooms, toilet rooms, closets, halls, storage or utility rooms and similar uses are not considered Bedrooms.

23. Does an owner have to be present during a rental?

An owner does not have to be present for the duration of their guests' stay. However, a "local contact" must be available. Local contact means the individual designated by the license holder to perform obligations under this ordinance and to serve as the contact person for issues relating to a short-term rental. The designated contact must be available twenty-four (24) hours a day to accept telephone calls and respond physically to the short-term rental within a reasonable time period, not to exceed two (2) hours when the short-term rental is rented and occupied.

24. How can my rental license be revoked?

The sum of six notices of license and operational violations during the term of the rental license or any revocation of a license shall be grounds for denial of a license issuance or renewal for twelve (12) months from the date of revocation.

25. How are complaints against a rental in the city handled?

Any person having a complaint regarding any alleged violation or violations for a rental shall call the Planning and Building Department at 302-645-7777 ext. 124 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 302-645-6264.

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.

Appeals may be filed according to Article IV in the ordinance.

Additional Information

Additional documents related to renting are available on the City of Lewes's website. Further questions should be directed to:

Planning and Building Department
302-645-7777 ext. 124
Email: licensing@ci.lewes.de.us



Tourist Homes/ Short Term Rental Code Review

Prepared for the Planning Commission of the City of New Castle

Max Walton, Esq. – City Solicitor

Antonina Tantillo, MPA – City Administrator

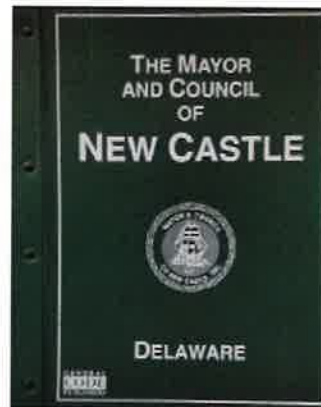
Background

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]

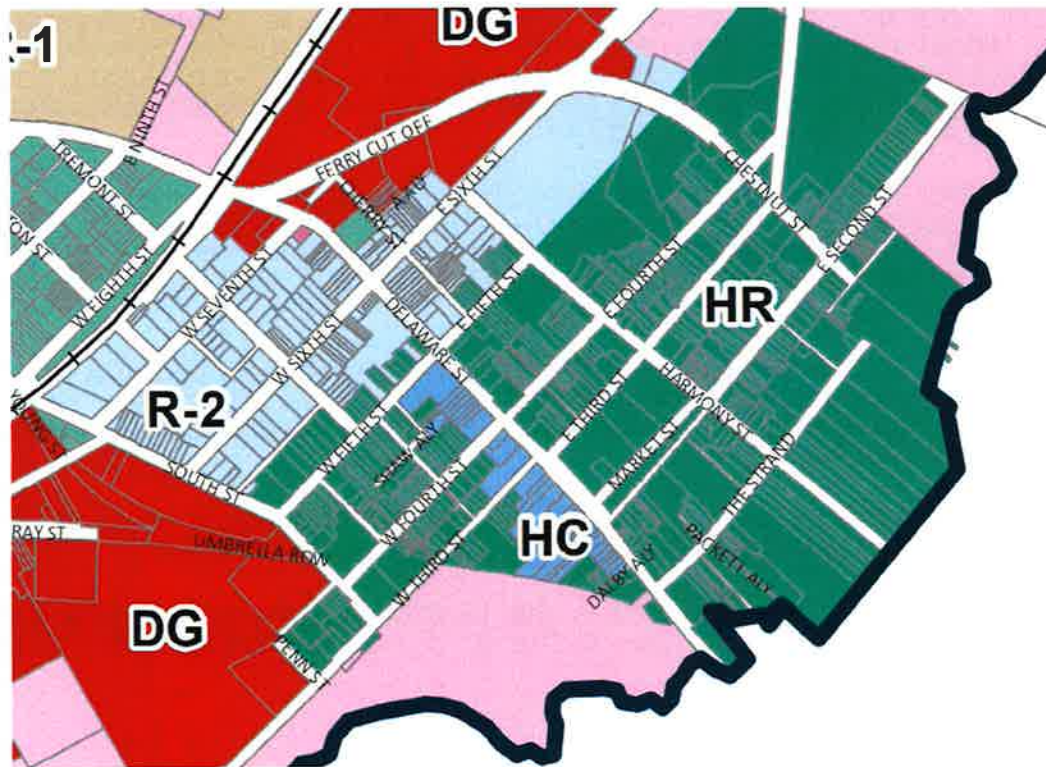
- § 230-20. Historic Commerce District HC.

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]
- 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; ~~III~~ 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.

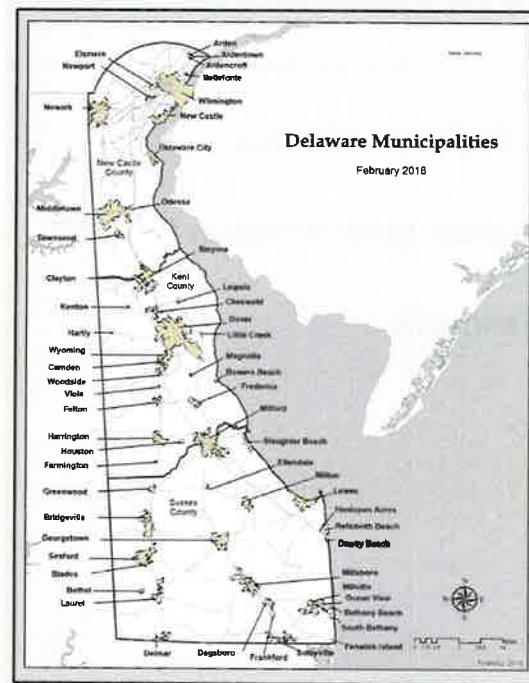
Current Totals

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 Municipal Examples



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

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