

**CITY OF BRIGANTINE  
ORDINANCE 11-2023**

**AN ORDINANCE OF THE CITY OF BRIGANTINE, COUNTY OF ATLANTIC, STATE OF  
NEW JERSEY AMENDING THE CITY CODE OF THE CITY OF BRIGANTINE, SO AS TO  
AMEND CHAPTER 246, ENTITLED "RENTAL PROPERTY"**

**WHEREAS**, the City Council of the City of Brigantine (the "Council") seeks to permit transient accommodation or short-term rental use of certain legally permitted dwelling units throughout the City of Brigantine (the "City" or "Brigantine") in order to facilitate the booking of reservations for such uses through third party booking platforms, and promote tourism and economic vitality in the City; and

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

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

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

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

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

**WHEREAS**, long-term rental housing vacancy rates in the City are at low levels, making it increasingly difficult for people to obtain permanent housing in Brigantine; and

**WHEREAS**, removal of residential units from the long-term housing market for short-term rental use contributes to low vacancy rates; and

**WHEREAS**, the conversion of long-term housing units to short-term rentals will result in the loss of long-term housing for City residents; and

**WHEREAS**, it is in the public interest that short-term rental uses be regulated to help preserve housing for long-term tenants and to minimize any potential deleterious effects of short-term rental properties on other properties in the surrounding neighborhoods in which they are located; and

**WHEREAS**, the Council finds that there is a substantial interest in furthering the public health, safety and welfare by controlling density, by protecting the residential character of areas designated for residential use, by establishing and enforcing minimum life safety standards, and by preserving the long-term rental housing market located within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGANTINE IN THE COUNTY OF ATLANTIC, STATE OF NEW JERSEY AS FOLLOWS:

**SECTION I.**

**Article I Rental Property Licensing Requirements**

**§ 246-1. Definitions.**

Unless the context clearly indicates a different meaning, the following words or phrases when used in this chapter shall have the following meaning:

AGENT or MANAGING AGENT — The individual or individuals designated by the owner as the person(s) authorized by the owner to perform any duty imposed upon the owner by this chapter, provided that in order to be an agent or managing agent the individual designated must reside in Atlantic County, New Jersey as set forth in N.J.S.A. 46:8-28(c). The term does not include a licensed real estate broker or salesman of the State of New Jersey as those terms are defined by N.J.S.A. 45:15-3; unless such broker or salesperson shall affirmatively consent to act as such agent or managing agent.

ANNUAL RENTAL — The accessory use of a dwelling unit for occupancy by someone other than the unit's owner or permanent resident for a period of more than thirty (30) consecutive days, up to a cumulative total period not to exceed one (1) calendar year, which dwelling unit is regularly used and kept open as such for the lodging of guests, and which is advertised or held out to the public as a place regularly rented to transient occupants, as that term is defined in this Section. Inspections shall be completed at least once per year.

APARTMENT or DWELLING — Any apartment, cottage, bungalow or other dwelling unit consisting of one or more rooms occupying all or part of a floor or floors in a building of one or more floors or stories, but not the entire building, whether designed with or without housekeeping facilities for dwelling purposes and notwithstanding whether the apartment be designed for residence, for office, or the operation of any industry or business, or for any other type of independent use.

BUILDING — Any building or structure, or part thereof, used for human habitation, use or occupancy and includes any accessory buildings and appurtenance belonging thereto or usually enjoyed therewith. Consistent with the definitions contained in the Uniform Construction Code (UCC) and the Uniform Fire Code (UFC), "building" shall also mean a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind. When used herein, building and structure shall be interchangeable except where the context clearly indicates otherwise.

DANGEROUS CONDITION — A condition that creates a substantial risk of injury to life and/or property.

DWELLING UNIT — Any room or rooms, or suite or apartment thereof, whether furnished or unfurnished, which is occupied, or intended, arranged or designed to be occupied, for sleeping or dwelling purposes by one or more persons, including but not limited to the owner thereof, or any of his servants, agents or employees, and shall include all privileges, services, furnishings, furniture, equipment, facilities, and improvements connected with use or occupancy thereof. This definition applies only to those dwelling units, including single-family residences, which are available for lease or rental purposes. Consistent with the definitions contained in the Uniform Construction Code (UCC) and the Uniform Fire Code (UFC) the definition shall also mean a single unit providing complete, independent living facilities for one or more persons living as a single, housekeeping unit, including permanent provisions for living, sleeping, eating, cooking and sanitation.



GUESTS — See definition of "visitors."

LANDLORD — See definition of "owner."

LICENSE or RENTAL LICENSE — The license issued by the City attesting that the rental unit has been properly inspected and licensed at required intervals in accordance with this chapter.

LICENSE FEE — The fee charged by the City for the initial application and renewal fee for the short-term rental license.

LICENSE YEAR — Shall be for a maximum term of 12 months as defined in § 246-12 of this chapter.

LICENSEE — The person to whom the license is issued pursuant to this chapter. The term "licensee" includes within its definition the term "agent" or "managing agent," where applicable.

LICENSING CLERK — The municipal official or employee designated to receive rental license applications and registrations and to issue licenses pursuant to this chapter.

MANAGING AGENT — See definition of "agent."

NUISANCE PROPERTY — Any property that has been determined as violating the City Code of the City of Brigantine pursuant to Chapter 246 excessive qualifying calls for services, substantiated complaints, or for violations of the chapter.

OCCUPANCY LOAD — The number of persons permitted in a short-term rental property ("STRP"), based upon an inspection completed in compliance with local and state codes and shall be capped at 18 occupants, regardless of the number of bedrooms.

OCCUPANT — Person who resides in a rental unit, including, but not limited to, the named tenant(s). The term shall include residents, overnight visitors and children. The term shall not include those visitors or guests who are not residing therein.

OWNER — The person who owns, purports to own or exercises control over any building. Consistent with the definitions contained in the Uniform Construction Code (UCC) and the Uniform Fire Code (UFC), "owner" shall also mean the owner or owners in fee of the property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee or any other person, firm or corporation, directly or indirectly in control of a building, structure or real property and shall include any subdivision thereof of the state.

OWNER-OCCUPIED — The owner of the property resides in the short-term rental property, or in the principal residential unit with which the STRP is associated on the same lot, and identifies same as his or her principal residence as that term is defined in this Section. For purposes of this Section, if the owner of the property is an entity other than an individual or individuals, then at least one principal or member of the owner entity must reside in the STRP, or in the principal residential unit with which the STRP is associated on the same lot, and identify same as his or her principal residence as that term is defined in this Section.

PRINCIPAL RESIDENCE — The address: (1) where at least one of the property owners spends the majority of his or her non-working time, and (2) which is most clearly the center of his or her domestic life, and (3) which is identified on his or her driver's license, voter registration or state identification card as being his or her legal address. All the above requirements must be met in order for an address to constitute being a principal residence for purposes of this Section.

PROPERTY — A parcel of real property located within the boundaries of the City of Brigantine, Atlantic County, New Jersey.

PERSON — An individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.

**REALTOR** — An individual who is licensed by the State of New Jersey as a real estate salesperson, a real estate broker-salesperson, and/or a real estate referral agent, as those terms are defined in the New Jersey Real Estate Brokers and Salesmen Act ("Brokers Act"), N.J.S.A. 45:15-1 to -29.5.

**RENTAL AGENT** — The person who negotiates for the lease of the rental unit on behalf of the owner. Such person shall be the holder of the required license mandated by the State of New Jersey. The rental agent is not the managing agent under the terms of this chapter unless the rental agent should expressly consent to assume such duties or obligations.

**RENTAL PROPERTY** — A building or structure which contains one or more rental units including, but not limited to, resort houses, which is rented, leased, subleased or occupied by a tenant. The term "rental property" shall not include any property covered by the New Jersey Hotel and Multiple Dwelling Law. N.J.S.A. 55:13A-1, et seq.

**RENTAL UNIT** — Collectively the term apartment or dwelling, building, dwelling unit, as defined by this chapter. This definition shall not apply to any single-family home which is not available for rental purposes.

**RESORT HOUSE** — A residentially styled structure that is used, maintained, marketed, promoted and/or advertised as a destination location available for rent, lease or sub-lease for a gathering of invited guests for functions and special events, including, but not limited to, weddings, retreats, family reunions, parties and meetings. A resort house is a commercial use appropriate only in areas zoned for hotel/motel use and never has been permitted as a legal use under existing ordinance standards. A resort house is a commercial use and is not a traditional single-family residence and requires more off-street parking in order to accommodate the number of guests. Traditional seasonal rentals as defined in this Chapter or bed and breakfast establishments, licensed by the City and intended to accommodate not more than 18 persons shall not be considered to be resort houses.

**RESPONSIBLE PARTY** — The short-term rental property owner or a person (property manager) designated by the owner to be called upon and be responsible at all times during the period of a short-term rental and to answer for the maintenance of the property, or the conduct and acts of occupants of the short-term rental property, and, in the case of the property manager, to accept service of legal process on behalf of the owner of the short-term rental property.

**SEASONAL RENTAL** — Shall have the same meaning as that of "short-term rental" but, in addition thereto, shall encompass any rental between May 1 through September 30.

**SHORT-TERM RENTAL** — The accessory use of a dwelling unit for occupancy by someone other than the unit's owner or permanent resident for a period of less than thirty (30) consecutive days, which dwelling unit is regularly used and kept open as such for the lodging of guests, and which is advertised or held out to the public as a place regularly rented to transient occupants, as that term is defined in this Section. The dwelling unit can be rented to short-term renters throughout the licensed period. Inspections shall be completed at least once per year.

**SHORT-TERM RENTAL PROPERTY** (also referenced as "STRP") — A residential dwelling unit that is used and/or advertised for rent as a short-term rental by transient occupants as guests, as those terms are defined in this Section. Dwelling units rented to the same occupant for more than thirty (30) continuous days, licensed Bed and Breakfast establishments, licensed rooming or boarding houses, hotels, and motels shall not be considered Short-Term Rental Property.

**SHORT-TERM RENTAL PROPERTY AGENT** — Any New Jersey licensed real estate agent or other person designated and charged by the owner of a short-term rental property, with the responsibility for making the STR application to the City on behalf of the owner, and fulfilling all of the obligations in connection with completion of the short-term rental property license application process on behalf of the owner. Such person shall be available for, and responsive to contact on behalf of the owner, at all times.

TENANT — Any person who occupies any rental unit, as a named lessee, pursuant to the terms of a lease agreement, whether written or oral, or who occupies a rental unit pursuant to permission or license of any kind granted by an owner or owner's agent. The term shall be construed liberally to include not only tenants but guests and occupants. The term shall also include subtenants.

TRANSIENT OCCUPANT — Any person or a guest or invitee of such person, who, in exchange for compensation or by gift, occupies or is in actual or apparent control or possession of residential property, which is either: (1) registered as a short-term rental property, or (2) satisfies the definition of a short-term rental property, as such term is defined in this Section.

VISITOR(S) — A person or persons who, on a temporary or occasional basis, visit(s) a rental unit at the express or implied invitation of the tenant(s) but who does/do not reside there or sleep there. The term is the same as "guests."

## **§ 246-2. Short title; scope and applicability.**

This article shall be known as the "Rental License Regulations" of the City.

- A. Introduction. All rental properties, or properties containing rental units, including but not limited to resort houses, are subject to licensing and inspection by the City. All such properties, in addition to the requirement of being licensed and inspected by the City, are also required to be registered pursuant to the Landlord Registration Act. Registration applies to all rental properties, except those containing one or two rental units which are owner-occupied. Multiple dwellings containing three or more units, regardless of whether or not any of the units are rentals, must be registered with the State of New Jersey.
- B. License requirements. This chapter is applicable to each and every rental unit or rental property which shall include:
  - (1) A property with one or more rental units including owner-occupied properties with one or more rental units; and including duplex and triplex properties;
  - (2) Each condominium unit which is rented but excluding condominium motels.
  - (3) Resort houses.
- C. Registration requirements. In addition to the licensing requirements imposed by this chapter, certain properties must also be registered with either the City or the State of New Jersey pursuant to the Landlord Registration Act, N.J.S.A. 46:8-27 to 46:8-37. That law requires:
  - (1) Registration of all rental properties, except for owner-occupied properties which contain one or two rental units in accordance with the following:
    - (a) Properties containing less than three rental units, except for owner-occupied properties containing one or two unit(s), must be registered with the City Clerk or the designee of the City Clerk.
    - (b) Those properties containing three or more rental units must be registered with the State of New Jersey.
    - (c) All multiple dwellings containing three or more units, regardless of whether or not any of the units are rentals, must be registered with the state.
  - (2) This requirement is addressed further in § 246-4 of this chapter.
- D. Inspection requirements. In addition to the licensing and registration requirements applicable to

rental properties, certain other properties, even though they are not subject to the licensing requirements of Chapter 246, are nonetheless subject to periodic inspection by the City pursuant to Chapter 175 of the Brigantine City Code. The frequency of such inspections is determined by New Jersey State Law.

**§ 246-3. Policy statement.**

- A. It is the stated policy of the City that every property containing rental unit(s) within the City, including one or two rental units that are owner-occupied, shall be required to submit to inspection and be licensed in order to be leased or occupied.
- B. Moreover, as recognized by the New Jersey State Legislature in enacting N.J.S.A. 40:48-2.12(n) many municipalities in this state, and the residents thereof, have experienced disturbances, damages and public expense resulting from carelessly granted and inadequately supervised rentals to irresponsible tenants by inept or indifferent landlords. The stated purpose of N.J.S.A. 40:48-2.12(n) was to enable municipal governing bodies to take effective action to assure that excesses, when they occur, shall not be repeated, and that landlords be held to sufficient standards of responsibility. Therefore, to preserve the peace and tranquility of such communities, including the City Brigantine, for permanent residents, and for other owner-occupants as well as other tenants and vacationers, and to maintain viability as vacation spots for citizens of New Jersey as well as other states and counties it is necessary and desirable that those communities have adequate means to curb and discourage those occasional excesses arising from irresponsible rentals, including seasonal rentals.
- C. The New Jersey Legislature, pursuant to N.J.S.A. 40:52-1(n) specifically authorized municipalities to license and regulate the "rental of real property for a term of less than 175 consecutive days for residential purposes by a person having a permanent place of residence elsewhere."
- D. Furthermore, most, if not all, such rental units are located within residential neighborhoods in the City and abut owner-occupied homes and residences and many such rental units have an immediate and harmful negative impact upon the immediate neighbors and interfere with the peace and tranquility that such neighbors have every right to expect. Past experience indicates that such problems are especially associated with "short-term rentals" that is, rentals of less than 175 days.

**§ 246-4. Dual responsibilities of owners of rental units.**

The owner of rental unit(s) has a dual responsibility as follows:

- A. Each rental property containing one or more rental units must be licensed and inspected, at least annually, by the City in accordance with this chapter; and
- B. Each property containing one or more rental units must, in addition, be registered in accordance with the Landlord Registration Act, N.J.S.A. 46:8-27 to 46:8-37 as follows:
  - (1) Owner-occupied one or two rental units: No registration is required with the State of New Jersey.
  - (2) Non-owner-occupied one or two rental units: Must be registered (in addition to being licensed and inspected) with the Municipal Clerk or designee.
  - (3) Properties containing three or more rental units must be registered with the State of New Jersey.
- C. As an accommodation to City owners, and to the extent permitted by law, the application for a rental license shall contain the information required by the Landlord Registration Act and, when completed and filed by the owner, shall be indexed and made available for public inspection as required by said law. This dual filing accommodation shall not, however, relieve the owner of any other duty or

responsibility imposed by the Landlord Registration Act as the same may be amended or supplemented.

**§ 246-5. License requirements for all rental properties.**

- A. All rental properties located within the City shall be required to be inspected and licensed annually by the City. In addition, all such rental properties shall also be registered with either the City Clerk (or designee) or the State of New Jersey as required in 246-2(c)(1) No rental property or rental unit shall be leased or occupied unless a rental license has been issued for the property or rental unit as provided in this chapter. This provision does not apply to hotels or motels.
- B. All rental units shall be licensed by the City. Application for a rental license shall be made on forms which shall be provided for that purpose by the City Licensing Clerk. Such licensing shall be required on an annual basis; that is, at least once in every consecutive twelve-month period or term as provided herein. An application form shall be required for each rental unit and a rental license shall be required for each individual rental unit.

**§ 246-6. Procedure for obtaining license.**

- A. The owner of a rental unit shall submit a license application together with the required fee to the Licensing Clerk. Such application shall be on forms supplied by the City. No inspection of the rental unit shall be conducted by the City until such time as the application is deemed complete by the City and the owner pays all required fees.
- B. Upon the filing of an initial application for a rental license, the rental unit shall be inspected prior to the issuance of the rental license and such license shall be issued only in the event that the rental unit passes such inspection in accordance with procedures set forth in this chapter.

**§ 246-7. Conditions for obtaining license.**

In order to qualify for a rental license, the following requirements shall be met by the applicant or applicant's agent:

- A. An application on a form supplied by the City shall be completed by the property owner and shall contain all of the information, including any attachments which may be required.
- B. All municipal taxes, water and sewer charges and any other municipal assessments are paid on a current basis, that is, paid through the tax quarter immediately preceding the initial application or any renewal thereof.
- C. Prior to the issuance of a rental license, on either an initial application or on any renewal application, the rental unit must first be inspected by the City and pass such inspection. The procedure for the scheduling of such inspections shall be in accord with the procedure set forth in § 246-6 of this chapter.
- D. If the address of the record owner of the property for which a rental license is sought is not located in Atlantic County, New Jersey, the owner shall designate in writing an Agent or managing agent who resides in Atlantic County who is authorized to accept notices to issue receipts therefore and to accept service of process on behalf of the record owner.

**§ 246-8. Denial of issuance or renewal of rental license.**

- A. The City may deny the issuance of a license or may refuse to renew a rental license in accordance with the provisions of this chapter.

- B. A rental license shall not be issued for any property for which a rental license has been suspended or revoked until the period of suspension or revocation has expired, regardless of any change in ownership of the property.

**§ 246-9. Grounds for denial, revocation, and/or suspension of rental license.**

Any application for a rental license, including any renewal thereof, may be denied and any rental license that has been issued pursuant to this chapter may be revoked or suspended for any of the following causes:

- A. Any fraud, material misrepresentation, or false statement contained in the application for license.
- B. Any fraud, material misrepresentation, or false statement made in connection with the leasing of any rental unit.
- C. Any fraud, material misrepresentation, or false statement made in connection with any advertisement of the property.
- D. Any violation of this chapter.
- E. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.
- F. Failure of the applicant or licensee to comply with the conditions required for the issuance of a rental license as set forth in this chapter.
- G. Any grounds which would justify the revocation or suspension of a rental license as specified in Article II of this chapter shall also be cause for the denial or any renewal of a rental license.

**§ 246-10. Appeal.**

- A. Any Person who is denied the issuance of a rental license or any renewal thereof, or who has had a rental license revoked or suspended may appeal such determination administratively to a Hearing Officer appointed by the City in accordance with the procedures set forth in Article III of this chapter. Such appeal shall be filed not later than 45 days following notification of City action.
- B. Such appeal shall be in writing, with the original filed with the City Clerk, and a copy filed at the same time with the Licensing Clerk. Upon receipt of such appeal, the City Clerk shall notify the City Manager and the City Solicitor of such filing and the City Clerk shall forward a copy of the appeal notice to the Hearing Officer, who shall schedule a hearing on such appeal not sooner than 10 nor later than 30 business days following filing. Following a hearing, the Hearing Officer shall submit his/her findings and determination to the City Council following the same general procedures outlined in Article III of this chapter. The Hearing Officer shall transmit his findings of fact and conclusions of law to the City Council within 15 days of the conclusion of the hearing. City Council shall make the final determination by resolution and may, in its discretion, accept, reject, or modify the findings and recommendations of the Hearing Officer.
- C. The Municipal Solicitor or his designee shall represent the City at the hearing of the appeal.

**§ 246-11. Notice of appeal; contents.**

The notice of appeal to be filed with the City Clerk shall be in writing and shall contain the following:

- A. Name, address, telephone number and email address of the person(s) filing the appeal;
- B. Name, address, telephone number and email address of the managing agent, if any;
- C. Location of the rental property specifying block, lot number and street address;
- D. Number of rental units at that location licensed or intended to be licensed;



- E. Specifying the specific grounds for the appeal.

**§ 246-12. Term for Annual Rental.**

- A. The annual rental license term shall commence on the day that the property passes inspection required by this chapter and shall expire the following year on the last day of the month in which the initial scheduled inspection was scheduled. For example, if the initial scheduled inspection occurred on February 10 of a given year, the rental license shall expire at the end of February of the following year. The initial license term may be for less than 12 months depending upon the date of submission of a completed application, the payment of all fees and other charges and a passing inspection of the rental property by the City.
- B. Initial application. When the Licensing Clerk deems an application for a rental license complete, the rental unit shall be inspected and the owner shall be informed of the scheduled date for inspection, which shall be the initial scheduled inspection date.
- C. If the rental property passes such inspection, the rental license shall be issued and dated as of the date the rental unit passes inspection but shall expire the following year on the last day of the month in which the initial scheduled inspection occurred as provided in Subsection B, above.
- D. If the rental unit fails inspection, a re-inspection will be scheduled. Additional re-inspections may be scheduled as circumstances at the rental unit may require. A rental license shall be issued and dated as of the date the rental unit passes the required inspection but will nevertheless expire the following year on the last day of the month in which the initial scheduled inspection occurred.
- E. Re-inspection. Should the rental property fail inspection, either on an initial application for licensing or upon a renewal application, the owner shall be required to address to the City's satisfaction the reasons for the failed inspection and the rental property will be re-inspected before a rental license is issued by the City and delivered to the owner or owner's agent.
- F. Possession of license required. No rental unit shall be occupied (other than by the owner) until such time as a valid rental license is issued by the City and in the possession of the owner or the owner's agent. On an initial application for a rental license, or pending any renewal application an owner, agent, or realtor may offer the rental unit for lease and may negotiate for the lease thereof but the owner, agent or realtor must condition all such negotiations and any lease agreement, whether oral or written, on the owner's possession of a valid rental license for the subject premises before any actual occupancy of the rental unit may occur. If a rental unit fails the initial inspection and does not pass a re-inspection before the license expires, such rental unit may not be occupied until such time as it passes inspection and the owner is actually in possession of a valid, current rental license.
- G. Expiration of rental licenses. All rental licenses shall expire on the last day of the month of the initial scheduled inspection Date for renewal of rental license.

**§ 246-13. Transferability.**

In the event that a property containing one or more licensed rental units is sold, assigned or transferred during the license year, the rental license shall not be automatically transferable to the new owner. The new owner shall apply for and pay for license transfer with the municipality before renting of property.

**§ 246-14. Inspection; frequency.**

Each rental unit shall be inspected at least once in each license year.

**§ 246-15. Additional annual inspections.**

Rental units shall be inspected prior to a new tenant occupying the rental unit. The owner shall provide notice to the City Licensing Official, not less than 48 hours prior to, of the new tenant move-in date. The rental unit may be inspected pursuant to this chapter prior to the new tenant occupying the rental unit to ensure the rental unit is complying with all ordinances and state regulations. The owner shall be required to cure any violations of state or municipal regulations identified by the City during the inspection prior to the new tenant occupying the property.

**§ 246-16. Nature of inspection.**

Such inspection shall be carried out in accordance with the following:

- A. All rental units, including those units inspected by the State of New Jersey pursuant to the New Jersey Hotel and Multiple Dwellings Act,<sup>1</sup> shall be cyclically inspected by the City's Bureau of Fire Prevention, the Local Enforcing Agency (LEA) for the New Jersey Division of Fire Safety to determine compliance with the Uniform Fire Safety Act of the State of New Jersey and the International Property Maintenance Code (IPMC) to the extent that same has been adopted by the City, as well as any other code or codes in effect and applicable at the time of any inspection.
- B. Cross reference: Units in a building subject to the New Jersey Hotel and Multiple Dwellings Act which are not rented and which are owner-occupied shall be subject to cyclical inspection by the City's Bureau of Fire Prevention, the Local Enforcing Agency (LEA) for the New Jersey Division of Fire Safety in accordance with the provisions of Chapter 175 of the Brigantine City Code.

**§ 246-17. Unoccupied unit(s).**

In the event that a rental unit fails to pass inspection, such unit or units shall not thereafter be occupied and the owner of the property, the managing agent or rental agent shall not rent or lease such rental unit, nor permit any tenant to occupy such rental unit until the unit has passed inspection.

**§ 246-18. Occupied unit(s).**

Whenever a rental unit is occupied by a tenant at the time of the inspection and the rental unit does not pass inspection, said unit may continue to be occupied provided that all such repairs or corrections are made within 30 days of the original inspection. If the nature of the deficiency is such that continued occupancy poses an imminent threat to the safety of the occupants or others, then the appropriate officials may preclude further occupancy of the rental unit until such time as the repairs are satisfactorily made, or the officials may, in the exercise of their sound discretion, reduce the time for making necessary repairs from 30 days to a lesser time depending on the nature and extent of repairs to be made and the nature of the threat. In the event that the necessary repairs are not made within the time period specified herein, then the owner and any tenant occupying the unit thereafter shall be deemed in violation of this article and subject to the penalty provisions hereof. Each and every day that the violation continues shall constitute a separate offense.

**§ 246-19. Re-inspection.**

- A. Any rental unit that does not pass inspection shall be subject to re-inspection at the expiration of 30 days, or upon the expiration of such shorter time, if applicable. For good cause, the thirty-day period may be extended by the Fire Inspector, with the consent of the Fire Official as herein provided.

B. The Fire Official may grant extensions of time whenever he shall determine, that despite diligent effort, compliance cannot be accomplished within the time specified in the notice. No extension shall be granted unless it is requested in writing by the owner. A request for extension shall set forth the work which has been accomplished, the work that remains, the reason why an extension is necessary and the date by which the work will be completed. [Source: N.J.A.C. 5:70-2.10(d)]

**§ 246-20. License suspended pending repairs.**

Upon re-inspection of a rental unit, if it is determined that the necessary repairs have not been made within the time period specified in § 246-19, above, then in such event, the rental license shall be suspended and remain suspended until the necessary repairs have been made and the property re-inspected.

**§ 246-21. Evidence of license; decal to be affixed to each rental unit.**

In addition to the issuance of a rental license each licensee shall be issued a decal, which shall be permanently affixed to the main door through which access is gained to the rental unit, or in a window in the rental unit, in such a way that the decal is visible from the exterior of the premises in which the rental unit is located. The failure to affix the decal as required by this section shall constitute a violation thereof. The absence of a decal shall constitute prima facie evidence that the rental unit has not been issued a rental license.

**§ 246-22. Occupancy prohibited.**

No person, other than the owner, shall hereafter occupy, or attempt to occupy, any rental unit, nor shall the owner, managing agent or rental agent permit occupancy or attempted occupancy of any rental unit within the City unless the same has been registered, inspected and licensed in accordance with this chapter.

**§ 246-23. Landlord prohibited from leasing unlicensed rental unit.**

Any landlord who leases a rental unit while such unit is unlicensed or who represents to any person, including any tenant, realtor, attorney or other agent that such unit is properly licensed, shall be deemed in violation of this article and subject to the fines and penalties herein. Each day that a tenant shall remain in occupancy of such unlicensed rental unit shall be considered a separate and distinct violation of this chapter for which the landlord shall be responsible.

**§ 246-24. Occupancy by tenant when unit unlicensed.**

Any tenant who knowingly leases and/or occupies an unlicensed rental unit shall be deemed in violation of this chapter and subject to the fines and penalties included herein. Each day such tenant shall remain in occupancy of such unlicensed premises shall be considered a separate and distinct violation of this chapter.

**§ 246-25. Agent prohibited from renting unlicensed rental unit.**

Any realtor, attorney, or other person who knowingly acts as a representative of the landlord, tenant or both in order to effectuate the leasing and/or occupancy of an unlicensed rental unit, shall be deemed in violation of this chapter and subject to the fines and penalties herein provided. The City will, on request and without charge, provide to each real estate office a list of all rental units which have been licensed.

**§ 246-26. Limitations on occupancy.**

Each owner granted a license pursuant to this section shall be permitted to lease or rent the rental unit to a maximum specified number of tenants and occupants, including minor children, which number shall not exceed the number which has been computed in accordance with the following:

- A. Every room occupied for sleeping purposes by one occupant shall contain at least the minimum square footage as calculated by the City officials using the standards established by the International Property Maintenance Code.
- B. Rental units shall not be occupied by more than the maximum number of occupants as determined in accordance with Subsection A above, but subject to the provisions of § 246-27.
- C. Prohibited occupancy. Kitchens, uninhabitable spaces, garages and/or detached structures, and interior public areas shall not be occupied for sleeping purposes.

**§ 246-27. Maximum number of occupants not to exceed 18.**

- A. Notwithstanding any other provision of this chapter, or any other law or ordinance, or any other rule, regulation or code to the contrary, and notwithstanding any method of calculating occupancy authorized by this chapter, no rental property, inclusive of all rental units contained therein, shall have an authorized aggregate maximum permitted occupancy greater than 18 occupants, as provided in the Hotel/Motel Dwelling Law, N.J.S.A. 55:13A-I, et seq.
- B. For purposes of calculating occupancy capacity, each rental unit within a condominium form of ownership is considered a separate rental property. (New Jersey Condominium Act, N.J.S.A. 46:8B-1, et seq.)

**§ 246-28. Maximum number of occupants; posting.**

The maximum number of occupants shall be posted in each rental unit in a location visible to any occupant of the rental unit. It shall be unlawful for any person or persons to occupy the rental unit in excess of the maximum number permitted. Any person violating this provision shall be subject to the penalty provisions hereof.

**§ 246-29. Owner responsibilities; state and municipal registration; maintain tenant register; responsibility form.**

- A. Every owner of a rental property or rental unit shall:
  - (1) Comply with the registration requirements of the Landlord Registration Act, N.J.S.A. 46:8-27, et seq., as the same may be amended and supplemented. A completed license application under this chapter shall also serve as a registration pursuant to the New Jersey Landlord Registration Act and the City shall index and file a copy of such license application as required by law. The owner must, however, fully comply with any other requirements of the New Jersey Landlord Registration Act as the same may be amended or supplemented.
  - (2) Comply with New Jersey State law which requires that owners of rental units register such units with either the Municipal Clerk or with the State of New Jersey as follows:
    - (a) Owners of one and two rental units which are owner occupied are exempt from registration under the Landlord Registration Act, N.J.S.A. 46:8-27 et seq., but shall be required to be licensed by the City pursuant to this chapter.
    - (b) Owners of one and two rental units which are not owner occupied are required to register such rental units with the City Clerk or the Clerk's designee under the Landlord Registration Act, N.J.S.A. 46:8-27 et seq., and shall, in addition, be required to be licensed by the City pursuant to this chapter.
    - (c) Owners of three or more rental units shall be required to register such units with the State of New Jersey, Department of Community Affairs, Bureau of Housing Inspection, or such

other or additional department, division or agency as may hereafter be designated by the State of New Jersey. In addition, owners of rental properties containing three or more rental units shall also apply for a rental license from the City in accordance with this chapter.

- B. Every owner of a rental property or unit shall have the following further duty and responsibility:
- (1) It shall be the responsibility of the owner or the owner's agent or managing agent to register all tenants in the tenant register and to give a copy of the tenant register to the tenant(s) and to advise the tenant(s) of the requirement that the tenant register be maintained on the rental or leased premises at all times.
  - (2) The duty of the owner or managing agent under § 246-29B(1) may be discharged through a realtor or other rental agent provided that such realtor or rental agent agrees, in writing, to discharge that responsibility.

**§ 246-30. Tenant responsibilities for annual rental.**

Each tenant shall:

- A. Complete and sign the tenant register in accordance with this chapter and maintain and safeguard such tenant register in the rental unit at all times;
- B. Immediately produce the tenant register, at all times, upon the request of City Officials or employees including the Chief of Police or any officer of the Brigantine Police Department or any representative of the licensing, inspection or Fire Prevention departments or divisions of the City of Brigantine or a representative of the Atlantic County Department of Health;
- C. Be responsible for maintaining the rental unit in such manner so as to avoid and prevent said premises from becoming loud or disorderly or a nuisance so as to interfere with the peace and tranquility and quality of life of other nearby residents and visitors. Loud, offensive and disorderly conduct may include excessive noise, unruly behavior, obscene language, fighting, littering, parking of vehicles on lawns and on neighboring property, public urination, poor maintenance of the property and grounds and violation of trash collection and recycling ordinances.
- D. Be responsible for the proper storage and disposal of solid waste and recyclable materials and to do so in accordance with applicable City ordinances;
- E. Comply strictly with the maximum occupancy limits established for each rental unit and shall prevent occupancy by more than the maximum number of occupants permitted.

**§ 246-31. Types of fees.**

The City shall charge a rental license fee. There is no separate fee for registration of a rental unit pursuant to the New Jersey Landlord Registration Act, N.J.S.A. 46:8-27, et seq. For administrative purposes, bills for rental license fees may be issued in the year preceding the effective date of a fee but shall nevertheless reflect the amount of the fee to be charged for the year designated.

**§ 246-32. Time for payment of fees; late payments; refunds prohibited for annual rental.**

All license and inspection fees shall be payable to the City as follows:

- A. Initial license application. All fees shall be payable at the time the initial license application is submitted.

- B. Renewal applications. A renewal application and invoice will be mailed to each current license holder during the last three months of the calendar year preceding renewal. Such application together with all fees must be paid not later than December 31 of the year preceding expiration of the license. No inspection of the rental unit(s) will be conducted, however, until the completed renewal application is returned to and all required fees are paid to the Licensing Clerk.
- C. Late payment. If all fees are not paid by December 31, an additional late payment fee of \$50 shall be due and payable together with all other fees. To avoid any late payment fee, the fee (and any renewal application) must be received by the License Clerk by December 31, or the next business day thereafter if December 31 falls on a Saturday, Sunday or legal holiday or it must be postmarked not later than December 31.

**§ 246-33. Enforcement.**

The provisions of any of the several articles of this chapter shall be enforced by any one or more of the following: the Chief of the Brigantine Police Department or his/her designee, the Construction Code Official, the Fire Official, the Licensing Clerk, Code Enforcement Official and Zoning Official of the City, any employee designated by the City Council, and the Atlantic County Department of Health.

**§ 246-34. Rules and regulations.**

City Council is authorized to adopt, by resolution, rules and regulations pertaining to the enforcement of this chapter.

**§ 246-35. Annual Rental Penalty.**

Any person violating any of the provisions of this article shall, upon conviction, be subject to one or more of the following:

A. For a first offense:

- (1) A fine not to exceed the sum of \$1,000; and/or
- (2) Incarceration for a term not to exceed 90 days; and/or
- (3) A period of community service for a period not exceeding 90 days.

B. For a second or subsequent offense:

- (1) A fine in the minimum amount of \$100 and not to exceed the sum of \$2,000; and/or
- (2) Incarceration for a term not to exceed 90 days; and/or
- (3) By a period of community service for a period not exceeding 90days.

C. For penalties related to Short-Term Rental Properties, § 246-38 (6) and (7) shall control.

**§ 246-36. Violations occurring within one year.**

Any person convicted of violating this chapter within one year of the date of a previous violation and who was fined for the previous violation, shall be sentenced by the Court to an additional fine as a repeat offender. The additional fine imposed by the Court upon a person for a repeated offense shall not be less



than the minimum or exceed the maximum fine fixed for a violation of the chapter, but shall be calculated separately from the fine imposed for the violation of the chapter. (See N.J.S.A. 40:49-5.)

#### **§ 246-37. Additional penalties.**

The foregoing penalties shall be exclusive of, and in addition to, any other penalty or penalties provided in this chapter and the penalties set forth in N.J.S.A. 46:8-35, of the Landlord Registration Act; including but not limited to:

- A. Any administrative penalties contained in:
  - a. The Uniform Fire Safety Act; or
  - b. The Uniform Construction Code (UCC), the International Property Maintenance Code (IPMC) or any other code now in force in the City or which may hereinafter be adopted by the City.

#### **§ 246-38. Short-Term Rentals**

##### 1. Nonrefundable Fees:

- A. The license fee shall be \$150 per advertised bedroom.
- B. The license Transfer fee shall be \$150 per occurrence.
- C. Digital Lodging Tax (market place only), 1.25% per online booking.

##### 2. Regulations Pertaining to Short-Term Rentals.

###### A. Length of rental period.

1. Each owner granted a license pursuant to this section shall be permitted to lease or rent the rental unit for a specified number of nights in accordance with the following:

- a. 1 & 2 Bedroom rental units and owner-occupied duplexes: no minimum rental period is required.
- b. 3 bedroom and greater rental units: No units consisting of 3 bedrooms or greater shall be rented for a period of less than 2 consecutive nights.

B. It shall be unlawful for any owner of any property within the geographic bounds of the City of Brigantine to rent or operate a short-term rental contrary to the procedures and regulations established in this Section or applicable state statute. Failure to make application for, and to obtain issuance of a short-term rental license prior to advertising the rental in print publications or newspapers, on any internet-based booking platforms, or online and/or in the MLS or other real estate listing of a real estate agent licensed by the NJ Real Estate Commission, shall be equivalent to operation of the rental without a license, and shall constitute a violation of this code, and will result in enforcement action and the issuance of a summons, and may subject the rental owner, the rental agent, and the responsible party to issuance of fines and/or penalties. **If a property owner's previously approved rental license agreement automatically expires before the property owner can apply for the subsequent year's renewal license, the property owner is permitted to advertise the property for the following year, but remains estopped from renting the property until an annual license is obtain for the following year.**

- C. Short-term rentals shall only be permitted in the following classifications of property in the City of Brigantine:
1. Condominium units, where the Condominium Association By-Laws or Master Deed expressly permit a short-term rental;
  2. Single-family residences; and
  3. Multi-family residential dwellings.
- D. Notwithstanding the provisions of Subsection B. above, short-term rentals shall not be permitted in hotels or studio hotels; motels; boarding or rooming houses; dormitories; any housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees with or without families; foster homes; public or private clubs; rest homes; halfway houses; transitional housing facility or other facility operated for the care, treatment, or reintegration into society of any person; adult family care homes; assisted living facilities; community residences for developmentally disabled persons; community shelters for victims of domestic violence; nursing homes; any housing operated or used exclusively for religious, charitable or educational purposes; or any housing owned by a governmental or quasi-governmental agency and used to house its employees or for governmental purposes. Furthermore, short-term rental of the following properties is prohibited:
1. Condominiums or townhomes, where the Condominium Association By-Laws or Master Deed, or Condominium Rules and Regulations, do not permit short-term rentals of condominium units in the development;
  2. Owner allowed the expiration of the STR license, without having made a timely application for renewal of the license prior to its expiration date; or
  3. STR license was suspended or revoked; or
  4. Upon sale or transfer of title to the property to any other individual, or entity, whether or not any of the current owner(s) is a principal or member in the grantee entity.
- E. In addition to any other licensing requirements set forth in the City Code, the owner of an STRP shall obtain a short-term rental license from the City before renting or advertising for rent any short-term rental. The failure to obtain a valid STR license prior to operating or advertising the short-term rental property in any print, digital, or internet advertisement or web-based platform, and/or in the MLS or any realtor's property listing shall be a violation of this article.
- F. No STR license issued under this section may be transferred or assigned or used by any person or entity, other than the owner to whom it is issued, or at any property location or dwelling unit other than the property for which it is issued.
- G. Every STR owner must comply with the City's land use regulations and zoning ordinance.
- H. The short-term rental license, if issued, shall be valid for the year or partial year for which the applicant has applied, without proration and shall be renewed on an annual basis by submitting a renewal application to the Fire Prevention Office.
- I. STRPs shall not advertise in combination with other properties. Advertised occupancies, whether through print publications or newspapers, on any internet-based booking platforms, or online, can only reflect a single property.
- J. The short-term rental license shall expire automatically when the short-term rental property is sold, assigned or transferred during the license year. The new owner shall apply for and pay for license transfer in accordance with § 246-38 before renting the property. A new initial application shall be required for any short-term rental that was subject of a license suspension or revocation.

K. Application fees, license fees, and renewal fees of any kind shall not be prorated.

3. Application and inspections.

A. Applicants for a short-term rental license shall submit to the Fire Prevention Office an initial application and any additional documentation as required. The application shall be furnished under oath, on a form provided by the City, accompanied by the nonrefundable initial application fee or renewal application fee. The application shall include:

1. The name, address, telephone number and email address of the owner(s) of record of the dwelling unit for which a license is sought as well as a copy of their driver's license or other valid state identification card;
2. The number and location of all parking spaces available to the premises, which shall include the number of off-street parking spaces and on-street parking spaces directly adjacent to the premises. The owner shall certify that every effort shall be made to avoid and/or mitigate issues with on-street parking in the neighborhood in which the STR is located, resulting from excessive vehicles generated by the STR usage of the property, in order to avoid a shortage of parking for residents in the surrounding neighborhood;
3. The address of the proposed STR unit;
4. If the owner is an LLC, corporation, or partnership, the following information must also be included: individual names of all members of the LLC, principals of corporation, or partners in partnership and the personal contact information, including address and telephone numbers for each of them;
5. The name, address, telephone number and email address of the STR responsible party, which shall constitute his or her seven-day-a-week, twenty-four-hour-a-day contact information;
6. The owner's acknowledgement that owner received a copy of this ordinance, has reviewed the ordinance, understands its requirements, and certifies, under oath as to the accuracy of all information provided in the license application;
7. The owner agrees to use his or her best efforts to assure that use of the premises by all transient occupants will not disrupt the neighborhood, and will not interfere with the rights of the neighboring property owners to the quiet enjoyment of their properties; and
8. A sworn statement shall be required that there have been no prior revocations or suspensions of this or a similar license, in which event a license shall not be issued, which denial may be appealed as provided hereinafter.
9. Attached to and concurrent with submission of the license application described in this section, the owner shall provide:
  - a. Proof of the owner's current ownership of the short-term rental unit;
  - b. Proof of general liability insurance in a minimum amount of \$500,000 including coverage specific to short-term rental activity; and

- c. Written certificates from the STR responsible party that they agree to perform all of the respective duties specified in this section.
  - d. Proof of certified Lead inspection for properties built before 1978.
10. Owner's agreement that all renters of the short-term rental property shall be limited to one (1) vehicle per four occupants of the short-term rental property.
11. Every application for a short-term rental license shall be subject to annual inspections for the STRP's compliance with the City's fire safety regulations and property maintenance code.
12. The City Manager or designee shall have the authority to obtain additional information from the STRP owner or amend the license application to require additional information, as reasonably necessary, to achieve the objectives of this Section.
- B. A physical inspection of the unit by the Fire Prevention Office is required for each application and renewal thereof. If an STRP fails the initial inspection, the owner must make all necessary improvements and call for a re-inspection. Each additional inspection will generate a charge of \$25 for the first re-inspection, and any subsequent re-inspection shall be \$100, which must be paid in advance of the re-inspection(s).
- C. The owner of the short-term rental must maintain three years of records concerning rental occupancy, including the identity of all transient occupants who have occupied the property, which shall consist of names, ages, addresses and dates of occupancy, which shall be made available upon request of the City.
- D. The STRP owner must be current with all property taxes, water and sewer utility charges, and electric utility charges assessed to the property prior to issuance of a short-term rental license. In the event any code violations have been issued by the City relating to the STRP, a short-term rental license shall not be issued until such time as all violations are remedied.
- E. All fines or penalties issued by the Municipal Court of the City of Brigantine for any past violations related to the STRP, including penalties for failure to appear in court, must be satisfied in full prior to the issuance of a short-term rental license.
- F. The STRP owner shall publish the short-term rental license number issued by the City in every print, digital, or internet advertisement, and/or in the Multiple Listing Service (hereinafter "MLS") or other real estate listing of a real estate agent licensed by the NJ State Real Estate Commission, in which the STRP is advertised for rent.
- G. No short-term rental property shall be rented to any person under 25 years of age. The primary occupant executing the rental agreement shall be 25 years of age or older and must actually occupy the property during the term of the short-term rental. In the event any occupants are under 18 years of age those occupants shall be the immediate family member or under legal guardianship of the primary occupant or another occupant that is 25 years of age or older. Both the primary occupant executing the short-term rental agreement and the STR owner shall be responsible for compliance with this provision, and both shall be responsible for a violation.

4. Issuance of license and appeal procedure.

- A. Upon submission of a completed initial or renewal application and all required fees and completion of the STR inspection the Fire Prevention Office shall either issue or deny in writing the short-term rental license (with the reasons for a denial being stated therein) with 10 business days.
- B. In cases where a STR application is denied, the owner shall have 10 calendar days to appeal in writing to the City Manager.
- C. The City Manager or designee shall hear and decide the appeal within 30 days.

5. Short-Term Rental Operational Requirements.

- A. Short-term rentals must comply with all applicable rules, regulations and ordinances of the City of Brigantine and all applicable rules, regulations and statutes of the State of New Jersey, including regulations governing such lodging uses, as applicable. The STRP owner shall ensure that the short-term rental is used in a manner that complies with all applicable laws, rules and regulations pertaining to the use and occupancy of a short-term rental.
- B. The owner of a STRP shall not install any advertising or identifying mechanisms, such as signage, including lawn signage, or advertise in print publications or newspapers, on any internet-based booking platforms, or online identifying the property for rent as a short-term rental property intended for high school prom rentals, high school graduation rentals, bachelor and/or bachelorette party rentals, or any group rentals in general.
- C. Transient occupants of the STRP shall comply with all ordinances of the City of Brigantine including, but not limited to those ordinances regulating noise and nuisance conduct. Failure of transient occupants to comply shall subject the transient occupants, the STRP owner, the STRP responsible party, and the STRP rental agent listed in the short-term rental license application to fines and/or penalties and suspension or revocation of the STRP license.
- D. The STRP owner shall post the following information in a prominent location within the short term rental property:
  - 1. Owner name; if owner is an entity, the name of a principal in the entity, and phone number for the owner (individual);
  - 2. The name and phone number of the responsible party and the STRP rental agent (as those terms are defined in this Section);
  - 3. The phone numbers for the City of Brigantine's Police Department and Fire Prevention Office;
  - 4. Maximum number of parking spaces available on site;
  - 5. Trash and recycling collection information and all applicable rules and regulations regarding trash disposal and recycling;
  - 6. A Hard Copy of this Ordinance and/or a conspicuous electronic link/QR code to the Brigantine E-360 web page; and
  - 7. Notification that a transient occupant, STRP rental agent, the responsible party or STRP owner may be cited or fined by the City of Brigantine for violations of, and in accordance with any applicable ordinance(s) or laws.
- E. In the event any complaints are received by the City of Brigantine's Police Department or Fire Prevention Office regarding the short-term rental and/or the transient occupants in the

STRP, and the STRP owner is unreachable or unresponsive, both the responsible party and the STRP rental agent identified in the short-term rental license application shall be responsible for taking any action required to properly resolve such complaints, and shall be authorized by the STRP owner to do so.

- F. While a STRP is rented, the owner, the STRP rental agent, or the responsible party shall be available twenty-four hours per day, seven days per week for the purpose of responding within two (2) hours to complaints concerning the STRP premises, maintenance of the STRP premises, operation of the STRP, or conduct of the STRP occupants, or nuisance complaints arising by virtue of the short-term rental.
- G. Failure to make application for, and to obtain the issuance of, a short-term rental license prior to advertising the STRP in print publications or newspapers, on any internet-based booking platforms, or online, and/or in the MLS or other real estate listing of a real estate agent licensed by the NJ State Real Estate Commission, shall be equivalent to operation of the STRP without a license, and shall constitute a violation of this Section, and will result in enforcement action and the issuance of a summons, and shall subject the STRP owner, the STRP rental agent, and the responsible party to issuance of fines and/or penalties. If a property owner's previously approved rental license agreement automatically expires before the property owner can apply for the subsequent year's annual renewal license, the property owner is permitted to advertise the property for the following year, but remains estopped from renting the property until an annual license is obtain for the following year.
- H. The person offering a dwelling unit for short-term rental use must be the owner of the dwelling unit. A tenant of a property may not apply for a short-term rental license, nor shall the property or any portion thereof be sub-leased by the tenant on a short-term basis, or operated as a STRP by the tenant. This STRP regulation shall supersede any conflicting provision in a private lease agreement permitting sub-leasing of the property, or any portion of the property. Violation of this Section may result in enforcement action against the tenant, the STRP owner, the STRP rental agent, and the responsible party, and will subject all such parties to the issuance of a summons and levying of fines and/or penalties.

#### 6. License Suspension and Revocation.

If the STRP is the subject of five (5) or more substantiated complaints within a calendar year, the City's Manager or his/her designee shall suspend the short-term rental license issued for the STRP for a period of six (6) months. In which case, the STRP may not be the subject of a new STRP license application for six (6) months following the date of revocation of the license. The City Manager or his /her designee shall retain the discretion to revoke a short-term rental license in the event of a single substantiated complaint if, in his /her sole discretion, the interests of the City and its residents justify immediate revocation. In the event that an STRP is the subject of a civil and/or criminal complaint and/or code violation that involves a dangerous condition as defined in this section the City Manager or his/her designee may, at their sole discretion, suspend the STRP's short-term rental license pending substantiation. The City Manager may, under its own discretion, determine the property as a nuisance property as defined under § 246-1 of this Chapter.

Any STRP who has its license(s) suspended twice within a three (3) year period shall have their license(s) suspended for a three (3) year period. The City Manager may, under its own discretion, determine the property as a nuisance property as defined under § 246-1 of this Chapter.

#### 7. Violations and Penalties



- A. A violation of any provision of the within Section may subject the STRP owner, transient occupant(s), the short-term rental property rental agent, and the responsible party or their agents to fines assessed by the Municipal Court up to \$2,000 per violation, per day, that the violation exists.
  - B. The STRP owner, Transient Occupant(s) the Short-Term Property, Rental Agent, and the Responsible Party or their agents shall have thirty (30) days to cure the violation. Within the thirty (30) day period, at the STRP owner, Transient Occupants, the Short-Term Property Rental Agent, and the Responsible Party or their agents' request, they shall be afforded a hearing before a City of Brigantine Municipal Court Judge for an independent determination concerning the violation.
  - C. Subsequent to the expiration of the 30-day period, the fine shall be imposed if a Court has not determined otherwise or upon re-inspection of the property, it is determined that the abatement has not been substantially completed.
8. Any ordinances or parts thereof inconsistent herewith shall be amended and supplemented to conform to the provisions contained herein.
  9. If any part of this section is declared unconstitutional or illegal by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.
  10. This section shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey, following the required twenty-day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).

**Article II Revocation or Suspension; Other Disciplinary Action; Procedure; Conditional Renewals**

**§ 246-39 Grounds for revocation, suspension or probation.**

- A. The City may, administratively, decline to issue or renew a rental license in accordance with subsection § 246-9 hereof. An owner shall be entitled to appeal any such decision by the filing of an appeal within the time permitted and in accordance with the procedures set forth in subparagraphs § 246-10 and § 246-11.
- B. The City may also revoke or suspend an issued and outstanding rental license, or place such license in a probationary status. This action shall be in addition to any other penalty prescribed herein, in accordance with the provisions of N.J.S.A. 40:52-2 and N.J.S.A. 40:48-2, upon the happening of one or more of the following:
  - 1) Conviction of the owner(s), or any of them if there is more than one, of a violation of this chapter in the municipal court or other court of competent jurisdiction.
  - 2) Following a determination by the City after a hearing that a violation of this chapter has occurred.
  - 3) If, in any calendar year, there shall be five (5) or more substantiated complaints of conduct upon or in proximity to any rental premises, and attributable to the acts or incitements of any of the tenants of those premises, and such complaints have been substantiated by prosecution and conviction in any court of competent jurisdiction as a

violation of any provision of Title 2C of the New Jersey Statutes or any municipal ordinance governing disorderly conduct.

- 4) A pattern of permitting the rental unit(s) to be occupied by more than the maximum number of occupants as defined herein.
- 5) Maintaining the rental unit or units or the property in which the rental unit is a part in a dangerous condition likely to result in injury to person or property.
- 6) A false, misleading, or fraudulent statement made in connection with the registration, licensing or inspection of a rental unit or units, under this chapter.
- 7) A pattern of conduct which results in creating, maintaining, permitting or suffering the existence of any of the following conditions at or about the rental unit:
  - a. A nuisance as that term is defined by N.J.S.A. 2C:33-12 provided, however, that a conviction of such person or persons under that statute shall not be required in order for the City to take action relating to the rental license under this section;
  - b. The failure to comply with any directive of the City concerning the abatement of conduct prohibited by Subsection B(7)(a), above.
  - c. The failure to comply with City ordinances pertaining to the proper accumulation and disposal of solid waste (trash) and recyclable material or otherwise allowing such materials to accumulate in such a way as to be unsanitary or unsightly.
- 8) If the licensee, who is an owner of the property affected by the license or upon which the licensed business or activity is conducted, has failed to pay the taxes water, sewer or other municipal charges due on the property for at least three consecutive quarters.
- 9) Any other grounds that would be a basis for denial or nonrenewal of a rental license shall also constitute grounds for the revocation or suspension of a rental license or the placing of such license in a probationary status.

### **Article III Posting Bond Against Consequences of Tenants Behavior**

#### **§ 246-57 Definitions.**

As used in this article of this chapter:

#### **HEARING OFFICER**

A person designated pursuant to this section to hear and determine proceedings pursuant to this section and its enabling legislation N.J.S.A. 40:48-2.12n, et seq. As required by state statute, said Hearing Officer shall be a licensed New Jersey attorney who shall not be an owner or lessee of any real property within the City of Brigantine, nor hold any interest in the assets of or profits arising from the ownership or lease of such property.

#### **LANDLORD**

The person or persons who own or purport to own any building in which there is rented or offered for rent housing space for living or dwelling under either a written or oral lease, which building contains no more than four dwelling units. In the case of a mobile home park, "landlord" shall mean the owner of an

individual dwelling unit within the mobile home park. The limitation of not more than four dwelling units is limited solely to the provisions of this Article 4 pertaining to the requirement for posting of a bond by landlords under certain circumstances.

**ANNUAL RENTAL**

The accessory use of a dwelling unit for occupancy by someone other than the unit's owner or permanent resident for a period of more than thirty (30) consecutive days, up to a cumulative total period not to exceed one (1) calendar year, which dwelling unit is regularly used and kept open as such for the lodging of guests, and which is advertised or held out to the public as a place regularly rented to transient occupants, as that term is defined in this Section. Inspections shall be completed at least once per year.

**SUBSTANTIATED COMPLAINT**

A complaint which may form the basis for proceedings in accordance with the authority conferred by N.J.S.A. 40:48-2.12(q). A substantiated complaint shall be one in which there was prosecution and conviction in any Court of competent jurisdiction.

**Section III**

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**Section IV**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**Section V**

This ordinance shall take effect on January 1, 2024

Introduction: October 4, 2023

Adoption: October 18, 2023



Lynn Sweeney, RMC, City Clerk



Vince Sera, Mayor

RECORD VOTE OF COUNCIL ON FINAL PASSAGE				
COUNCIL MEMBERS	Y	N	NV	AB
SERA	✓			
RIORDAN	✓			
KANE	✓			
BEW * *	✓			
LETTIERI	✓			
HANEY *	✓			
DeLUCRY	✓			

X-INDICATES VOTE NV=NOT VOTING AB=ABSENT