

Chapter 124. Rental Property

Article III. Short-Term Rentals

[Adopted 10-19-2021 by Ord. No. 1379, approved 10-19-2021]

§ 124-13. Title.

This article shall be known and may be cited as the "Short-Term Rental Ordinance of East Stroudsburg Borough."

§ 124-14. Authority.

Under the authority of the Pennsylvania Borough Code [including, but not limited to, under Articles XII, XXXII-A and XXXIII of such law including, but not limited to, Section 1202, Subsections (1), (3), (4), (5), (8), (14), (15), (20), (61) and (65),^[1] Section 32A04,^[2] and Section 3108^[3]], the following new ordinance text is hereby adopted as Article III of Chapter 124 in the Codified Ordinances of East Stroudsburg Borough.

[1] *Editor's Note: See 8 Pa.C.S.A. § 1202.*

[2] *Editor's Note: See 8 Pa.C.S.A. § 32A04.*

[3] *Editor's Note: See 8 Pa.C.S.A. § 3108.*

§ 124-15. Scope.

The provisions of this article shall apply to all residential dwelling units, conversions of nonresidential structures to residential dwellings, and all existing premises within the Borough of East Stroudsburg. The owner of the subject premises shall be responsible for compliance with the provisions of this article and the failure of an owner, manager, or renting occupants to comply with the provisions of this article shall be deemed noncompliance by the owner.

§ 124-16. Definitions.

As used in this article, the following terms shall have the following meanings. If a term is not defined in this article, but is defined in the Borough's Property Maintenance Code or Uniform Construction Codes,^[1] then that definition shall apply to this article. If a term is not defined in any of those codes, but is defined elsewhere in the Borough Code, then the definition in such chapter shall apply to this article.

CODE ENFORCEMENT OFFICER (CEO)

The Borough-appointed Code Enforcement Officer(s) having the duty to enforce this article and the Code and any assistants or deputies appointed by the Borough. At the discretion of Borough Council, an independent entity or contractor may be appointed to enforce part or all of this function under this article.

FAMILY

- A. One or more individuals related by blood, marriage or adoption (including persons receiving formal foster care) or up to four total unrelated individuals who maintain a common household and live within one dwelling unit, except as provided otherwise in the Code. For this purpose, "related" shall mean persons who are related by blood, marriage, adoption, civil union recognized by any state, or formal foster relationship to result in one of the following relationships: spouse, brother, sister, parent, child, grandparent, great-grandparent, grandchild, great-grandchild, uncle, aunt, niece, nephew, sister-in-law, brother-in-law, parent-in-law or first cousin. "Step" relationships shall also be included, such as stepmother. "Related" shall not include any relationship further than direct first cousins.
- B. Notwithstanding the above definition, a family shall also be deemed to include any number of mentally or physically handicapped persons occupying a dwelling unit as a single, nonprofit housekeeping unit, if such occupants are handicapped persons as defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988. Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined above.

SHORT-TERM RENTAL

Any residential dwelling unit utilized as a single-family residence rented for the purpose of overnight lodging for a period of not less than one day and not more than 30 days, and which meets the definition of "hotel" for the purpose of imposing an excise tax by the County of Monroe as defined in the County of Monroe Ordinance No. 2004-03, as amended.

SHORT-TERM RENTAL LICENSE

Permission granted by the Borough to utilize a dwelling unit for short-term rental use.

- [1] *Editor's Note: See Ch. 122, Property Maintenance, Housing and Code Enforcement, and Ch. 73, Codes and Code Enforcement, respectively.*

§ 124-17. License required.

No owner of any premises in East Stroudsburg Borough shall operate a short-term rental in East Stroudsburg Borough without first obtaining a short-term rental license from the Code Enforcement Officer. Operation of a short-term rental without such short-term rental license is a violation of this article.

§ 124-18. License requirements.

- A. Application requirements. Short-term rental license applications shall contain all of the following information:
 - (1) The name, address, telephone number and email address of the owner. If the owner is not a full-time resident of the Borough of East Stroudsburg or does not live or have a primary physical work address (beyond a post office box) within a twenty-mile radius of the Borough of East Stroudsburg and within the Commonwealth of Pennsylvania, then the owner shall designate a person to serve as manager who does reside or have a primary physical work headquarters (beyond a post office box) within a twenty-mile radius of the Borough of East Stroudsburg. If the owner is a corporation, partnership or similar entity, a manager shall be appointed meeting the above requirements. If the owner is not required to have, or has not designated, a manager, then the owner shall provide a twenty-four-hour telephone number. If the owner uses a manager, that manager shall have written authorization to accept service for the owner.
 - (2) The name, address, and twenty-four-hour telephone number of the manager.
 - (3) Floor plans for the short-term rental, including total habitable floor space and total number of bedrooms.

- (4) If the building is a multi-dwelling-unit structure, the total number of dwelling units in the structure and the number of dwelling units being used as short-term rentals. Each dwelling unit in a multi-dwelling-unit structure is required to have a separate short-term rental license.
 - (5) A site plan showing the location and number of on-site parking spaces. If not on a central sewer system, the location, approximate age and capacity of the sewage disposal system.
 - (6) Copies of current Monroe County hotel room excise tax certificate and current Pennsylvania sales and use tax license.
 - (7) Signatures of both the owner and the manager.
 - (8) Trespass waiver signed by the owner allowing access to the premises for the Code Enforcement Officer and the Rental Housing Inspector for the purpose of inspection to verify compliance with this Ordinance.
 - (9) Copy of the current recorded deed for the premises establishing ownership.
 - (10) Evidence that there are no delinquent Borough water, sewer and solid waste collection fees for all properties owned, in whole or in part, by the owner in the Borough.
 - (11) A copy of a contract with a solid waste hauler to remove solid waste from the short-term rental premises. Short-term rental premises are not included in the Borough's municipal solid waste collection service; short-term rental premises must have a private solid waste hauler with weekly pickup. No dumpsters are permitted.
 - (12) Evidence that there are no delinquent Monroe County hotel room excise tax or Pennsylvania sales/use taxes due and owing with respect to short-term rentals or all properties owned, in whole or in part, by the owner in the Borough.
 - (13) Certificate of insurance evidencing that at least \$500,000 in general liability insurance is in effect with respect to the short-term rental, issued by an insurance company licensed to do business in Pennsylvania, which shall be maintained in full force and effect by the owner for the entire period the short-term license is in effect.
- B. A short-term rental license shall be issued only to the owner of the short-term rental premises.
- (1) A separate short-term rental license is required for each dwelling unit; for two-family or multifamily dwellings, a separate license shall be required for each dwelling unit being used as a short-term rental.
 - (2) A short-term rental license is effective for a period of one year, or until any of the conditions of the short-term rental which are governed by this article are changed, whichever shall first occur. A short-term rental license must be renewed annually, and also when any of the conditions of the short-term rental which are governed by this article are changed.
 - (3) The owner, by making application for a short-term rental license and/or accepting issuance of a short-term rental license, grants permission for any and all inspections authorized by § 124-21, below.
 - (4) The Borough will prescribe forms and procedures for the processing of license applications under this Ordinance.

§ 124-19. Short-term rental standards.

- A. Overnight occupancy of a short-term rental shall be limited to no more than one family per dwelling unit.
- B. The maximum number of day guests allowed at any one time, in addition to the overnight occupants, shall be 75% of the maximum overnight occupancy of the short-term rental.

C. Off-street parking areas for short-term rental uses must meet the Zoning Ordinance^[1] requirements for single-family dwellings (three spaces/dwelling unit, stacked parking is permitted). Day visitors may park on-street in accordance with the applicable on-street parking requirements for that street. Overnight guests must park in an approved off-street parking area, not on the street. Any expansion of parking areas for a short-term rental requires prior Borough approval. Parking areas shall be maintained in a mud-free condition with paving, stone or similar material and shall count as part of the maximum lot coverage limits in Chapter **157**, Attachment 2, Table of Bulk Regulations.

[1] *Editor's Note: See Ch. 157, Zoning.*

- D. Short-term rental premises are not included in the Borough's municipal solid waste collection service; short-term rental premises must have a private solid waste hauler with weekly pickup. A copy of a contract with a solid waste hauler to remove solid waste from the short-term rental premises is required as part of the registration information included in § **124-18A(11)** above. No dumpsters are permitted.
- E. Neither short-term rental occupants nor guests shall engage in disorderly conduct or disturb the peace and quiet of any nearby neighborhood or person by loud, unusual or excessive noise, by tumultuous or offensive conduct, public indecency, threatening, traducing, quarreling, challenging to fight, or fighting, or creating a dangerous or physically offensive condition.
- F. The owner shall use best efforts to assure that the occupants or guests of the short-term rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or otherwise violate provisions of the East Stroudsburg Borough Code of Ordinances or any state law pertaining to noise or disorderly conduct including, but not limited to, notifying the occupants of the rules regarding short-term rentals and responding when notified that occupants are violating laws, ordinances or regulations regarding their occupancy.
- G. The owner shall, upon notification that occupants or guests of the short-term rental have created unreasonable noise or disturbances, engaged in disorderly conduct or otherwise violated provisions of the East Stroudsburg Borough Code of Ordinances or state law pertaining to noise or disorderly conduct, promptly use best efforts to prevent a recurrence of such conduct by those occupants or guests.
- H. Overnight occupancy of recreational vehicles, camper trailers and tents at the property where the short-term rental is located shall not be allowed. Outdoor overnight sleeping of occupants or guests of the short-term rental is prohibited.
- I. All short-term rentals shall have a clearly visible and legible notice posted within the dwelling unit on or adjacent to the front door containing the following information:
- (1) The name of the owner or the manager of the unit, and a telephone number at which that party can be reached on a twenty-four-hour basis.
 - (2) The 911 address of the premises.
 - (3) The maximum number of occupants permitted to stay in the dwelling unit and the maximum number of day guests permitted at any one time.
 - (4) The maximum number of all vehicles allowed to be parked on the premises and the requirement that all overnight guest parking must be on the premises and not in or along any private, community or public street right-of-way.
 - (5) Notification that an occupant or guest may be cited and fined for creating a disturbance or for violating other provisions of the East Stroudsburg Borough Code of Ordinances, including parking and occupancy limits.
 - (6) Notification that short-term rental occupants and guests are required to make the dwelling unit available for inspection by the Code Enforcement Officer and/or Rental Housing Inspector upon request.

§ 124-20. Fees, term and renewal.

- A. Short-term rental license fees, payable to the Borough upon the filing of a short-term rental license application, shall be in such amount as may be established by resolution duly adopted by the Borough Council.
- B. Any short-term rental license is valid for a period not to exceed one year from the date of issuance and must be renewed annually. Short-term rental license renewal fees, payable to the Borough upon the filing of a short-term rental license renewal application, shall be in such amount as may be established by resolution duly adopted by the Borough Council.
 - (1) Short-term rental license renewal shall require inspections outlined in § 124-22, below.
 - (2) Short-term rental license renewal applications shall contain information regarding any changes from the immediately preceding application with respect to matters governed by this Ordinance.

§ 124-21. Enforcement officer.

- A. The East Stroudsburg Borough Code Enforcement Officer and the East Stroudsburg Borough Rental Housing Inspector shall conduct inspections, make reports and administer this article, and issue notices of violation.
- B. The Code Enforcement Officer and/or the Rental Housing Inspector, with the authorization of the Borough Council, may engage the services of competent engineers or other consultants to determine the nature and extent of any violation.

§ 124-22. Inspections required.

- A. All short-term rentals shall be subject to an annual inspection by the Code Enforcement Officer and the Rental Housing Inspector to verify application information, license, license renewal and/or operating requirements. All short-term rentals shall be inspected to and meet the full requirements of the Borough's adopted Property Maintenance Code, which is the 2006 International Property Maintenance Code.
- B. The issuance of a short-term rental license or inspection is not a warranty that the premises is lawful, safe, habitable, or in compliance with this article of the Code of Ordinances. Rather, the license indicates that the premises are either set to be inspected on a routine basis or, if inspected, the premises met this article of the Code of Ordinance requirements on the day and at the time of the inspection.
- C. If there is reason to believe that any provision of this article is being violated, the Borough Council may or may cause, through an authorized representative of the Borough, entry onto premises for the purpose of inspection of any and all premises, properties, buildings and/or structures located within the Borough for ascertaining the existence of violations. In those matters where the nature of an alleged violation is such that an inspection of the interior of a building or structure is necessitated, prior arrangements must be made with the owner or his agent to secure access thereof.
- D. Within the limitations of federal and state law, the Code Enforcement Officer may apply to a Magisterial District Judge or any legal authority having jurisdiction for an administrative search warrant to enter and inspect a short-term rental Unit and the premises. Such warrant is only required where access to a short-term rental Unit or common areas is denied to the Code Enforcement Officer after a request to a person with a possessory interest in the regulated rental unit.

§ 124-23. Marketing.

The marketing of a short-term rental in which the advertised occupancy exceeds the maximum occupancy requirements permitted by this article, or which promotes any other activity which is prohibited by this article, shall be a violation of this article.

§ 124-24. Notice of violation.

If it appears to an enforcement officer that a violation of this article exists or has occurred, the enforcement officer shall send a written notice of violation to the owner and/or manager (if one is so designated) by personal delivery or by both United States first class and certified mail. The enforcement notice shall identify the premises which is the subject of the violation, enumerate the conditions which constitute the violation, cite the specific sections of this article which are violated, indicate the action required to correct the violation, and provide a time frame (established by the enforcement officer based upon the nature of the violation) to correct the violation.

§ 124-25. Nuisance.

In the interest of promoting the public health, safety and welfare, and minimizing the burden on Township and community services and impacts on community neighborhoods posed by short-term rentals, a violation of any of the provisions of this article is declared to be a public nuisance.

§ 124-26. Violations and penalties.

- A. This article shall be enforced by action brought before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person, partnership, corporation or other entity who or which violates or permits a violation of the provisions of this article shall, upon conviction in a summary proceeding, pay a fine of not less than \$100 nor more than \$1,000 per violation, plus all court costs and reasonable attorney's fees incurred by East Stroudsburg Borough in the enforcement proceedings, and/or be imprisoned to the extent allowed by law for the punishment of summary offenses. Each day or portion thereof that a violation exists or continues shall constitute a separate violation. Further, the appropriate officers or agents of East Stroudsburg Borough are hereby authorized to seek equitable relief, including injunction, to enforce compliance with this article. All fines, penalties, costs and reasonable attorneys' fees collected for the violation of this article shall be paid to East Stroudsburg Borough for its general use.
- B. In addition to, but not in limitation of, the provisions of this section, the Code Enforcement Officer may either revoke, or deny an application to renew, a short-term rental license for three violations of this article in any rolling twelve-calendar-month period. The revocation or denial to renew a short-term rental license shall continue for six months for the first set of three violations, and continue for one year for any subsequent sets of violations.

§ 124-27. Owners severally responsible.

If the premises are owned by more than one owner, each owner shall jointly and severally be responsible for violations of this article.

§ 124-28. Appeals.

- A. Appeals of a determination of the Code Enforcement Officer under this article to deny any application for, or to renew, a short-term rental license, or to revoke a short-term rental license, shall be filed with the Property Maintenance Board of Appeals at the Borough business office within 30 days of the date of the determination appealed from. Appeals shall be processed as follows:
- (1) All appeals shall be in writing and signed by the appellant on forms prescribed by the Borough, and shall be accompanied by a fee, the amount of which shall be established by the Borough Council, which may include notice and advertising costs, and necessary administrative overhead in relation to the hearing.
 - (2) Each appeal shall fully set forth the determination appealed from, a detailed reason or basis for the appeal, and the relief sought. Every appeal shall refer to the specific provision of circumstances of the case.
- B. Hearings. The Property Maintenance Board of Appeals shall conduct hearings and make decisions pursuant to the Act of December 2, 1968 (P.L. 1133, No. 353), known as the "Local Agency Law,"^[1] and in accordance with the following requirements:
- (1) Written notice shall be given and written notice shall be given to the appellant, the Code Enforcement Officer and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Property Maintenance Board of Appeals, but not less than 15 days prior to the hearing.
 - (2) The hearing shall be held within 60 days from the date the appeal is filed, unless the appellant has agreed in writing to an extension of time.
 - (3) The hearings shall be conducted by the Property Maintenance Board of Appeals. The decision or, where no decision is called for, the findings shall be in writing by the Property Maintenance Board of Appeals within 45 days after the conclusion of the hearing, unless the appellant has agreed in writing to an extension of time, and shall be communicated to the appellant and any other parties who have entered their written appearance and requested a copy of the decisions, at the addresses provided by them either by personal delivery or by United States first-class mail, postage prepaid.
 - (4) The Chairman or Acting Chairman of the Board of Appeals or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
 - (5) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
 - (6) Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
 - (7) The Property Maintenance Board of Appeals may, but is not required to, make a stenographic record of the proceedings. In the event a stenographic record of the proceedings is not provided by the Property Maintenance Board of Appeals, a stenographic record shall be made and kept at the request of any party agreeing to pay the costs thereof. Any party or other person desiring a copy of the stenographic record shall order the copy directly from the stenographer who prepared the same and shall pay the cost imposed by the stenographer for the copy directly to the stenographer.
 - (8) The Property Maintenance Board of Appeals shall not communicate, directly or indirectly, with any party or any party's representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; shall not take notice of any communication, reports, staff memoranda or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the

site or its surroundings after the commencement of hearings with any party or any party's representative unless all parties are given an opportunity to be present.

[1] *Editor's Note: See 2 Pa.C.S.A. § 551 et seq.*

§ 124-29. Severability; right to amend.

If any section, provision or portion of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The Borough reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

§ 124-30. Repealer.

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

§ 124-31. When effective.

This Ordinance shall become effective five days after enactment.