

**BOROUGH OF DELAWARE WATER GAP
Monroe County, Pennsylvania**

ORDINANCE NO. ____ - 2022

AN ORDINANCE TO REGULATE SHORT TERM RENTAL UNITS WITHIN THE BOROUGH AND ESTABLISHING APPLICATION AND PERMIT STANDARDS AND PROCEDURES, PROVIDING FOR ADMINISTRATION AND ENFORCEMENT INCLUDING PENALTIES, AND OTHER MATTERS PERTAINING THERETO.

| | |
|---|----|
| §1-1 - Title..... | 1 |
| §1-2 - Scope and Legal Authority..... | 1 |
| §1-3 - Interpretation | 2 |
| §1-4 - Definitions..... | 2 |
| §1-5 - Permit Required..... | 2 |
| §1-6 - Permit Requirements..... | 3 |
| §1-7 - Short Term Rental Standards..... | 4 |
| §1-8 - Fees, Term and Renewal..... | 6 |
| §1-9 - Enforcement Officer..... | 7 |
| §1-10 - Inspections Required..... | 7 |
| §1-11 - Marketing..... | 7 |
| §1-12 - Notice of Violation..... | 7 |
| §1-13 - Nuisance..... | 8 |
| §1-14 - Violations and Penalties..... | 8 |
| §1-15 - Owners Severally Responsible..... | 8 |
| §1-16 - Appeals..... | 8 |
| §1-17 - Severability..... | 10 |
| §1-18 - Repealer..... | 10 |
| §1-19 - Effective Date..... | 10 |

CHAPTER 1, SHORT TERM RENTALS

§ 1 -1 Title

This Ordinance shall be known as and may be cited as “The Borough of Delaware Water Gap Short Term Rental Ordinance.”

§ 1-2 Scope and Legal Authority

- A. The provisions of this Ordinance shall apply to all residential dwelling units, conversions of non-residential structures to residential dwellings, and all existing

premises within the Borough. The owner of the Premises shall be responsible for compliance with the provisions of this Ordinance and the failure of an owner, agency, managing agency, local contact person, or renting occupants to comply with the provisions of this Ordinance shall be deemed noncompliance by the owner.

- B. This Ordinance shall also not apply to a resort, camp, hotel/motel/inn, bed and breakfast, boarding house, or group home, as defined within the Borough's Zoning Ordinance.
- C. Borough Council, under the authority granted by Articles 12, 32A, and 33A, including but not limited to Section 1202 subsections (1), (3), (4), (5), (8), (14), (15), (20), (61) and (65), Section 3204-A, and Section 3108, as amended, hereby adopt the following rules and regulations governing Short-Term Rentals within the boundaries of the municipality.

§ 1-3 Interpretation

This Ordinance is not intended to, and does not, excuse any landowner from compliance with the Borough of Delaware Water Gap Zoning Ordinance, as amended from time to time. Whenever possible, this Ordinance and the Zoning Ordinance should be construed and interpreted as being consistent, and not in conflict. In the event of conflict, the regulations of this Ordinance shall apply. This Ordinance is not intended to, and does not supersede the declarations or covenants in a planned community where a short-term rental may be located.

§1-4 Definitions

For the purposes of this Ordinance, words and terms used herein shall have the following definitions:

BEDROOM - A room containing a minimum of seventy (70) square feet in area that is used as a sleeping room. A room smaller than 70 square feet may not be used as a bedroom.

DWELLING UNIT - One or more rooms, designed, occupied or intended for occupancy as separate living quarters for one or more persons, with cooking, sleeping, and sanitary facilities provided.

PREMISES – A lot, parcel, tract, or plot of land together with the buildings and structures thereon.

PERSON IN CHARGE – A person or agent with actual authority to represent the owner for purposes of contact and communication regarding the owner's Short Term Rental. A Person in Charge must reside or have an office within approximately fifteen (15) miles of

the Short Term Rental Property, be available by phone 24 hours a day, 7 days a week, every day of the year and be able to act as legal agent for the owner. The Borough must be notified, in writing, within fourteen (14) days if there is a change in the identity of the Person in Charge.

SHORT TERM RENTAL - Any Dwelling Unit owned or managed by a person, firm or corporation which is rented or leased for a period of less than thirty (30) consecutive days, during which time the owner or manager is not present on a full-time basis.

SHORT TERM RENTAL PERMIT - Permission granted by the Borough to utilize a Dwelling Unit for Short Term Rental Use.

§ 1-5 Permit Required

No owner of any property in the Borough of Delaware Water Gap shall operate or allow the operation of a Short Term Rental in the Borough of Delaware Water Gap without first obtaining a Short Term Rental Permit from the Zoning Officer. Operation of a Short Term Rental without such Short Term Rental Permit is a violation of this Ordinance.

§1-6 Permit Requirements

- A. Short Term Rental Permit applications shall be submitted to the Delaware Water Gap Zoning Officer and shall contain all of the following information:
 1. Contact Information
 - a. The name, address, telephone number and email address of the owner. If the owner does not have a managing agency, agent or local contact person then the owner shall provide a 24 hour telephone number. If the owner uses a managing agency, agent or local contact person then that managing agency, agent or local contact person shall have written authorization to accept service for the owner. If the owner resides at a location over approximately fifteen (15) miles from the Short Term Rental Property, an agent or local contact person must be selected to act as Person in Charge for the property.
 - b. The name, address and 24-hour telephone number of the managing agency, agent or local contact person.
 - c. Signatures of both the owner and the local managing agent or local contact person
 2. Floor Plans including the following information:

- a. Identification of rooms on all floors and specific location and dimensions of bedrooms.
- b. The total number of bedrooms.
- c. If the building is a multi-unit structure, the total number of Dwelling Units in the structure and the number of Dwelling Units being used as Short-Term Rentals.
- d. The name of the person that prepared the plan and a plan date

3. Site Plan including the following information:

- a. Property lines, driveways and all structures.
- b. Location and number of on-site parking spaces.
- c. Location and identification of all components of the sewage disposal system, if not served by a central or community sewer system.
- d. The name of the person that prepared the plan and a plan date.

4. Other Certificates/Information

- a. If not on a central sewer system, a septic system evaluation certifying the existing system is functioning as intended and proof the tank was pumped within the past three (3) years for approval by the Sewage Enforcement Officer. Maximum occupancy shall be limited by the capacity of the sewage disposal system.
- b. Copies of current Monroe County Hotel Room Excise Tax Certificate and current Pennsylvania Sales and Use Tax Permit.
- c. Consent by the Owner allowing for inspection of the Premises by the Zoning and/or Code Enforcement Officer to verify compliance with the conditions of the Short-Term Rental application and any permit that may be granted.
- d. Copy of the current recorded Deed for the Premises establishing ownership.
- e. Declaration page of a paid up insurance policy indicating at least

\$500,000 liability insurance to cover the commercial use of a Short-Term Rental for the full duration of the permit term.

- B. Short-Term Rentals shall be subject to site inspections by the Zoning and/or Enforcement Officer to verify application information and the following requirements:
1. Short-Term Rentals shall have a clearly visible and legible notice posted within the Dwelling Unit on or adjacent to the inside of the front door containing the following information:
 - a. The name of the owner of the Dwelling Unit or the managing agency, agent, property manager or local contact authorized in writing to accept service for the owner of the Dwelling Unit and a telephone number at which that party can be reached on a 24-hour basis.
 - b. The E-911 address of the Premises.
 - c. The maximum number of occupants permitted at any one time.
 - d. The maximum number of all vehicles allowed to be on the Premises and the requirement that all parking must be in the available parking areas on the Premises and not in or along any private, community or public street right-of-way or on any lawn or vegetated area on the Premises.
 - e. The trash pick-up day and notification that trash and refuse shall not be left or stored on the exterior of the Premises.
 - f. Notification that an occupant may be cited and fined for creating a disturbance or for violating other provisions of the Code, including parking and occupancy limits.
 - g. Notification that Short-Term Rental occupants are required to make the Premises and the Dwelling Unit available for inspection by the Zoning and/or Enforcement Officer upon request.
 2. Short-Term Rentals shall be equipped with the following:
 - a. Smoke detectors in each bedroom;
 - b. Smoke detectors outside each bedroom in common hallways;

- c. Smoke detectors on each floor;
 - d. GFI outlets for outlets located within six (6) feet of water source;
 - e. Aluminum or metal exhaust from dryer;
 - f. Carbon monoxide detector if open flame (oil or gas) furnace, gas or wood fireplace, or wood-burning stove;
 - g. Carbon monoxide detector if garage is attached;
 - h. Fire extinguisher in kitchen;
 - i. Stairs (indoor and outdoor) in good condition, including common areas;
 - j. E-911 address marker properly installed at the Premises;
 - k. Any other occupancy requirements which may be required by applicable building codes and added by ordinance amendment by Borough Council.
- 3. Inspection of the individual sewage disposal system by the Borough's Sewage Enforcement Officer to verify consistency with the submitted site plan and submitted floor plan and all applicable requirements of Chapter 18 of the Code.
 - 4. On-site inspection of the Premises to verify available parking spaces and consistency with the submitted site plan.
- B. A Short Term Rental Permit shall be issued only to the owner of the Short Term Rental property.
- 1. A separate Short Term Rental Permit is required for each Dwelling Unit; for Two-Family or Multi-Family Dwellings, a separate Permit shall be required for each Dwelling Unit being rented as a Short Term Rental.
 - 2. A Short Term Rental Permit is effective for a period of one (1) year, or until any of the conditions of the Short Term Rental which are governed by this Ordinance are changed, whichever shall first occur. A Short Term Permit must be renewed annually and also when any of the conditions of the Short Term Rental which are governed by this Ordinance are changed.

3. The Borough will prescribe forms and procedures for the processing of Permit Applications under this Ordinance.

§1-7 Short Term Rental Standards

- A. Occupancy of a Short-Term Rental shall be limited to the numbers shown in the chart, below.

| Number of Bedrooms | Maximum Number of Occupants |
|--------------------|-----------------------------|
| 2 | 6 |
| 3 | 8 |
| 4 | 10 |
| 5 | 12 |

- B. The maximum number of bedrooms for a Short-Term Rental shall be five (5) bedrooms unless the sewage capacity of the permitted individual sewage disposal system requires fewer bedrooms.
- C. The number of bedrooms permitted for a Short Term Rental shall not exceed the number of bedrooms approved for the Dwelling Unit on the sewage permit issued for such Premises. Where there is no sewage permit on record, the Short Term Rental shall be limited to three (3) bedrooms unless proof is provided to the Sewage Enforcement Officer that the septic system is adequate to handle additional flows. If a sewage system malfunction occurs, Short Term Rental of the Dwelling Unit shall be discontinued until the malfunction is corrected in accordance with the Borough of Delaware Water Gap and Pennsylvania Department of Environmental Protection requirements.
- D. Outdoor parking for overnight guests shall be limited to available parking areas on the Short Term Rental Premises. In no event shall parking for Short Term Rental guests include spaces in any public street right-of-way or on any lawns or vegetated areas.
- E. Neither Short Term Rental occupants 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, and the owner’s agent, if applicable, 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 Delaware Water Gap Borough Code 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, and the owner's agent, if applicable, 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 Delaware Water Gap Borough Code 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. A Short Term Rental shall not have any outside appearance indicating a change of use from the surrounding residential uses.
- J. Fireworks and floating lanterns are prohibited.
- K. Subleasing all or a portion of the Short-Term Rental is prohibited.
- L. Compliance with the requirements of this section shall be considered conditions of a Short Term rental Permit, the violation of which may result in a revocation of that permit by the Enforcement Officer.

§1-8 Fees, term and renewal

- A. Short Term Rental fees, payable to the Borough of Delaware Water Gap upon the filing of a Short Term Rental Permit application, shall be in such amount as may be established by resolution duly adopted by the Delaware Water Gap Borough Council.
- B. Any Short Term Rental Permit is good for a period not to exceed one (1) year from the date of issuance and must be renewed annually. Short Term Rental Permit renewal fees, payable to the Borough of Delaware Water Gap upon the filing of a Short Term Rental Permit renewal application, shall be in such amount as may be established by resolution duly adopted by the Borough Council.
- C. Short Term Rental Permit renewal applications shall contain information regarding any changes from the immediately preceding application with respect to matters governed by this Ordinance.

- D. Short-Term Rental Permit renewal applications shall contain language whereby the owner certifies that the information provided is true and correct.
- E. Verification that all owed hotel and sales taxes have been paid shall be made before Permit renewal is granted.

§1-9 Enforcement Officer

The administrator of this article shall be the Enforcement Officer as appointed by the Borough Council, which shall include any appointed Assistant Enforcement Officers. The Enforcement Officer shall have the responsibility and authority to administer and enforce all provisions of this Ordinance.

§1-10 Inspections Required

- A. All Short Term Rentals shall be subject to inspections by the Enforcement Officer to verify all information provided in connection with this Ordinance.
- B. The issuance of a Short Term Rental Permit is not a warranty by the Borough of Delaware Water Gap or any employee or officer thereof that the Premises or Dwelling Unit is lawful, safe, habitable, or in compliance with this Ordinance.
- C. If there is reason to believe that any provision of this Ordinance is being violated, the Borough Council may or may cause, through an authorized representative of the Borough, entry onto Premises and into the Dwelling Unit for the purpose of inspection to ascertain the existence of violations. Interior inspections of the Dwelling Unit shall occur only with the reasonable prior notice and the consent of the owner or short-term tenant, or with an administrative search warrant.

§1-11 Marketing

The marketing of a Short Term Rental in which the advertised occupancy exceeds the maximum occupancy requirements permitted by this Ordinance, or which promotes any other activity which is prohibited by this Ordinance, shall be a violation of this Ordinance.

The following marketing activities are prohibited and shall be considered violations of this Ordinance:

- A. Offering or using any Dwelling Unit as a Short-Term Rental without first obtaining a Permit in accordance with this Ordinance;
- B. Offering an occupancy capacity in excess of the occupancy limit specified in the Permit;

- C. Promoting any activity that is prohibited by this Ordinance, any provision of the Code, or state law.

§1-12 Notice of Violation

If it appears to an Enforcement Officer that a violation of this Ordinance exists or has occurred, the Enforcement Officer shall send a written Notice of Violation to the owner 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 Ordinance 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.

§1-13 Nuisance

In the interest of promoting the public health, safety and welfare, and minimizing the burden on Borough and community services and impacts on residential neighborhoods posed by Short Term Rentals, a violation of any of the provisions of this Ordinance is declared to be a public nuisance.

§1-14 Violations and penalties

- A. This Ordinance 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 Ordinance shall, upon conviction in a summary proceeding, pay a fine of not less than \$300 nor more than \$1,000 per violation, plus all court costs and reasonable attorney's fees incurred by the Borough of Delaware Water Gap 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 the Borough of Delaware Water Gap are hereby authorized to seek equitable relief, including injunction to enforce compliance with this Ordinance. All fines, penalties, costs and reasonable attorney's fees collected for the violation of this Ordinance shall be paid to Borough of Delaware Water Gap for its general use.
- B. In addition to, but not in limitation of, the provisions of Subsection A and §100-13, the Enforcement Officer may either revoke, or deny an application to renew, a Short Term Rental Permit for two (2) violations of this Ordinance in any rolling twelve (12) calendar month period based from the following:

1. a conviction in a summary proceeding pursuant to §11-514.A above;
 2. or a conviction of one or more occupants of the Premises by any law enforcement agency for conduct occurring at the Premises or in the Dwelling Unit such as disturbing the peace, disorderly conduct, or other similar crime or crime of a greater degree.
- C. The revocation or denial to renew a Short Term Rental Permit shall continue for six (6) months for the first set of two (2) uncured or repeated violations, and continue for one (1) year for any subsequent violations.

§1-15 Owners severally responsible

If the Premises are owned by more than one owner, each owner shall severally be subject to prosecution for a violation of this Ordinance.

§1-16 Appeals

- A. Appeals of a determination of the Enforcement Officer under this Ordinance to deny any application for, or to renew, a Short Term Rental Permit, or to revoke a Short Term Rental Permit, or any other determination of the Enforcement Officer under this Ordinance, shall be filed with the Borough Council within thirty (30) days of the date of the denial of application or revocation of permit. Appeal shall be processed as follows:
1. Only the owner of the Premises or a person or entity that has a direct interest in the matter shall have standing to file an appeal. The person or entity filing the appeal shall be designated the Appellant.
 2. 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 resolution of Borough Council, which may include notice and advertising costs, and necessary administrative overhead in relation to the hearing.
 3. 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 Borough Council 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", and in accordance with the following requirements:

1. Written notice shall be given to the Appellant, the Enforcement Officer, and to any person who has made timely request for same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Borough Council, but not less than fifteen (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 Borough Council. The decision or, where no decision is called for, the findings shall be in writing by the Borough Council within forty-five (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 President or Acting President of Council who presides at the hearing 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 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 Borough Council 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 Borough Council, 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 Borough Council 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 opportunity to be present.

§1-17 Severability

In 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.

§1-18 Repealer

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

§1-19 Effective Date

This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED into an ordinance at a Regular Meeting of the Council of the Borough of Delaware Water Gap, Monroe County, Pennsylvania, this ____ day of July, 2022.

ATTEST:

BOROUGH OF DELAWARE WATER GAP

Secretary

By: _____
Jamie Levy
Council President

{BOROUGH SEAL}

APPROVED this _____ day of July, 2022, by Larry Freshcorn, Mayor.

By: _____
LARRY FRESHCORN
Mayor of the Borough of Delaware
Water Gap