

ORDINANCE NO. _____-2025

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA AMENDING THE CODE OF THE BOROUGH OF KUTZTOWN TO INCLUDE A NEW CHAPTER 180, ENTITLED “STR REGISTRATION”; ESTABLISHING REGULATIONS FOR; OBTAINING A STR OPERATING LICENSE, A STR OCCUPANCY PERMIT AND SETTING PENALTIES FOR FAILURE TO COMPLY WITH THIS CHAPTER.

BACKGROUND

WHEREAS, the Borough Council of the Borough of Kutztown, Berks County, Pennsylvania, has determined that, for the benefit of public health, safety, and welfare, it is necessary to establish a STR registration ordinance, and

WHEREAS, STRs have become a significant segment of the local tourism economy, and

WHEREAS, STRs provide a community benefit by expanding the number and type of lodging facilities available to the public, and

WHEREAS, there have been numerous complaints to the Borough regarding excessive noise, parking and concerns regarding security, public safety, and trespass, and

WHEREAS, the Borough Council of the Borough of Kutztown desires to enact such legislation regulating properties for let within Kutztown Borough, Berks County, Pennsylvania.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED and it is hereby adopted, enacted and ordained by the Borough Council of the Borough of Kutztown, Berks County, Pennsylvania, as follows:

SECTION 1. The Code of the Borough of Kutztown enacted by Ordinance No. 12-1995, which was enacted on December 26, 1995, is hereby amended by adding thereto a new Chapter, enumerated as Chapter 180 and entitled “STR Registration”, to read as follows:

STR REGISTRATION

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|---------|----------------------------------|
| §180-1. | Title. |
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§180-14.	Owners Severally Responsible.
§180-15.	Appeals.
§180-16.	Failure to Enforce Not a Waiver.

§180-1. Title.

This chapter shall be known as the “STR Registration Ordinance”.

§180-2. Purpose and Intent.

This chapter is adopted to protect the health, safety and welfare of Borough residents and to prevent the loss of life, limb and property from failure of STR units to comply with applicable building and safety codes.

§180-3. Authority

Section 1202 (4) – Nuisances, and Section 1202(5) – Public Safety, of the Pennsylvania Borough Code, Act of April 18, 2014 (P.L. 432, No. 37), as amended, hereby adopt the following rules and regulations governing STRs within the boundaries of the municipality.

§180-4. Scope.

- A. The provisions of this Chapter shall apply to all residential dwelling units, conversions of non-residential structures to residential dwellings, and all existing premises within the Zoning Districts that allow the STR use.
- B. The Owner of the subject property shall be responsible for compliance with the provisions of this Chapter and the failure of an Owner, operator, agency, managing agency, local contact person, or occupants to comply with the provisions of this Chapter shall be deemed as noncompliance.
- C. This Chapter shall also not apply to a resort, camp, hotel/motel/inn, bed and breakfast, boarding house, or group home, as defined within the Zoning Ordinance.

Keith - I do not think you want to strike these terms as set forth in your comment letter

§180-5. Definitions.

For the purposes of this Chapter, words and terms used herein shall be interpreted as follows:

ANNUAL TERM – Twelve-month rolling period in which an application is valid.

BEDROOM – A room or space permitted and designed to be used for sleeping purposes with two means of egress. Space used for eating, cooking, bathrooms, toilet rooms, closets, halls, storage or utility rooms and similar uses are not considered Bedrooms. Space used or intended for general and informal everyday use such as a living room, den, and sitting room or similar space is not to be considered a Bedroom.

DWELLING UNIT – A building or portion thereof providing one or more rooms arranged for the use of one family and having separate cooking and sanitary facilities for the use of only that family, (family as defined in the Zoning ordinance).

HOTEL – A building or group of buildings containing individual rooms for rental, primarily for transients, with common hallways for all or a group of rooms on the same floor.

OCCUPANT(S) /OVERNIGHT GUEST – Any individual lodging overnight at a STR for a period of thirty (30) days or less.

OWNER/AGENT – the Owner of the Property that houses the STR or the Person(s) or agent with authority to make decisions with regard to the management of the STR. The STR Operator may be the Owner, the Person(s) in Charge or a designated representative who can legally bind the STR Owner in their absence.

PARKING SPACE – An area with a minimum dimension of 200 square feet and a minimum width of 10 feet, designed to delineate the area necessary to store an operable automobile.

SHORT TERM RENTAL PERMIT APPLICATION – An application by Borough of Kutztown which must be completed, by the STR Owner or operator.

SHORT TERM RENTAL PERMIT RENEWAL APPLICATION – An application required by the Borough of Kutztown which must be completed by the STR Owner or operator for the renewal of a STR Permit after the annual term.

SHORT TERM RENTAL (STR) – a dwelling unit, , that is offered or provided to a guest by a property Owner or their agent for a fee for fewer than thirty consecutive nights. They are commonly referred to as vacation rentals. They are a form of tourist or transient

accommodations. Short-term rental units may be whole house rentals, apartments, condominiums, or individual rooms in homes. For the purpose of administration and enforcement of this title, the terms “overnight rental,” “nightly rental,” and “vacation rental” are interchangeable with short-term rentals. Subleasing or subletting of units for short-term rental is prohibited if the zoning in the district in which the dwelling unit is located does not permit such use.

Keith - I would not strike these as the law is clear these can both be STR situations. I think bed and breakfast and boarding houses are set apart from owner's presence, the serving of meal. I would probably add a length of stay to rooming house definition to make it greater than 30 days We think Keith means that the amendment to 225 should include an amendment to the Rooming House definition

SHORT TERM RENTAL PERMIT – Permission granted by the Borough to utilize a dwelling Unit for STR Use.

VIOLATIONS – Any action or inaction by the STR Owner or Renter that is non-compliant with any provision of the Short-Term Rental Ordinance.

§180-6. Permit Required.

- A. No Owner of any property in the Borough of Kutztown shall operate a STR in Kutztown Borough without first obtaining a STR Permit and a Zoning Permit from the Borough. Operation of a STR without such STR Permit is a violation of this Chapter. If the Ownership of the property changes, either directly by sale or deed transfer, or indirectly by death, change in Ownership of the entity owning the property, sheriff sale or court order, the new Owner must apply for a license under the provisions of this Ordinance prior to renting the property as a STR.
- B. Any Owner or Agent of a Short-term rental that existed on or before the date of this ordinance's effective date shall apply for a Short-Term Rental Permit within sixty (60) days of this ordinance's adoption date.
- C. The issuance of a Short-Term Rental Permit is not a warranty that the premises are lawful, safe, habitable, or in compliance with this Chapter. Nor are there any guarantees for the protection of the Owner or STR Owner's property.
- D. A Short-Term Rental Permit shall be issued only in the name of the Owner of the STR.
- E. A separate Short Term Rental permit shall be required for each Short-Term Rental unit.

- F. No Short-Term Rental permit shall be issued for a dwelling having a Student Home License as such is defined in Chapter 225 of the Code of the Borough of Kutztown (the “Zoning Ordinance”).
- G. No STR will be issued in a Residential Zoning District including the C-2 Commercial/Residential Zoning District, if it is within Five Hundred feet (500 ft.) of an existing STR.

§180-7. Permit Requirements & Standards.

- A. Short Term Rental Permit applications shall contain the following information:
 - (1) The address of the subject property intended for rental.
 - (2) The name, address, telephone number and email address of the Owner.
 - (3) The name, address and 24-hour telephone number of all Person(s) in Charge.
 - (4) The total number of permitted bedrooms.
 - (5) Floor plan identifying rooms on all floors, specific location of bedrooms, and location of any pools labeled as either in-ground or above-ground.
 - (6) 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.
 - (7) A diagram or aerial photograph showing the location and number of on-site parking spaces that comply with the definitions contained within this Short-Term Rental Ordinance.
 - (8) Copy of current Berks County Hotel Room Excise Tax Certificate or proof of same with tax identification numbers deleted.
 - (9) Copy of current Pennsylvania Sales and Use Tax Permit Certificate or proof of same with tax identification numbers deleted.
 - (10) Signatures of the Owner, Owner/Agent and Person(s) in Charge if designated.
 - (11) Each Owner shall maintain at least \$500,000.00 in general liability insurance on the Short-Term Rental For the full duration of their license term and provide proof of same to the Borough.

- (12) All Short-Term Rental Owners are strongly encouraged to maintain a noise monitoring device as this technology creates verifiable records to collaborate nuisance complaints and improve enforcement abilities.
- (13) A form shall be signed by the applicant to acknowledge the Short-Term Rental is equipped with the following:
 - (a) Smoke detector 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 a water source;
 - (e) Carbon monoxide detector if open flame (oil or gas) furnace, gas or wood fireplace, or wood burning stove;
 - (f) Carbon monoxide detector if garage is attached;
 - (g) Fire extinguisher in kitchen;
 - (h) Stairs (indoor and outdoor) in good condition;
 - (i) All windows shall be in good working order; and
 - (j) Fireplaces within the premises shall be cleaned every two years.
 - (k) The Short-Term Rental Owner or Agent will not rent the Short-Term Rental unit to a person under eighteen (18) years of age.
- B. A Short Term Rental Permit shall be issued only to the Owner of the Short-Term Rental property.
- C. A Short-Term Rental application shall be denied if the applicant has any outstanding or unresolved code violations.
- D. A separate Short Term Rental Permit is required for each dwelling unit. With respect to Two-Family or Multi Family Dwellings, a separate Permit shall be required for each Dwelling Unit being rented as Short Term Rental.
- E. Short Term Rental Permits are subject to renewal at the expiration of the annual term, provided all conditions of the initial application and all subsequent renewal application requirements, as set forth in this Short-Term Rental Ordinance are met, or until any of the conditions of the Short-Term Rental Permit which are governed by this Chapter are changed, whichever shall first occur. Short Term

Rental Permits may be applied for up to sixty (60) days before the start of the annual term expiration of a Short-Term Rental Permit.

- F. The Short-Term Rental Owner must apply for and secure the appropriate permits from the Borough before starting any renovations.
- G. The Borough will prescribe forms and procedures for the processing of Permit Applications under this Ordinance.
- H. The Short-Term Rental cannot be occupied with the number of persons over the occupancy limit as established by the currently adopted International Property Maintenance Code occupancy limits.
- I. Outdoor parking for renters shall be limited to available parking spaces on the Short-Term Rental property. Two off-street parking spaces shall be made available for each Dwelling Unit utilized as a Short-Term Rental. Parking spaces shall be stoned or paved and accessible by a driveway. In no event shall the off-street parking requirements for Short Term Rental guests be satisfied by utilizing any private, community, or public street, right-of-way or on any lawns or vegetated areas.
- J. The Short-Term Rental Owner and/or Agent is responsible for the actions of all occupants and will ensure compliance with this chapter as well as any other applicable laws and regulations.
- K. An Agent must either reside or have an office located within a five (5) mile radius of the Rental Unit must provide a 24-hour emergency contact number and be able to act as legal agent for the Owner. The Agent may be the Owner of the Short-Term Rental. The Borough shall be notified, in writing, prior to a change in the identity of the Agent. The Owner of a Short-Term Rental may designate more than one Agent, but not more than 2.
- L. Neither Short Term Rental occupants nor guests shall engage in disorderly conduct, 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. The limiting of unreasonable noise at the property line shall be exercised between the hours of 10:00 p.m. and 7:00 a.m. daily.
- M. Overnight occupancy of recreational vehicles, camper trailers and tents at the property where the Short-Term Rental is located shall not be allowed. Outdoor fires shall not be allowed as set forth in Section 168-9 of the Kutztown Borough Code.

- N. Outdoor overnight sleeping of occupants or guests of the Short-Term Rental is prohibited.
- O. A tenant log shall be maintained by the Short-Term Rental Owner or Agent and same shall be submitted to the Borough's Community Development Office annually or upon request.
- P. The Short-Term Rental Owner or Agent shall not permit re-occupancy of the Short Term Rental to persons who have been documented as violating this Chapter.
- Q. A Short-Term Rental shall not have any outside appearance, indicating a change of use from the surrounding area.
- R. Subleasing all or a portion of the Dwelling Unit is prohibited.
- S. All Short-Term Rental's will comply with all applicable zoning and building codes as well as requirements of all lawful agencies.
- T. All utilities provided by the Borough of Kutztown, Hometown Utilicom or Kutztown Municipal Authority shall be registered in the name of the Property Owner and shall be the responsibility of the Property Owner. In no event shall these utilities be transferred to a Short-Term Rental tenant for payment, nor shall they be the responsibility of a Short-Term Rental tenant.
- U. 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 Borough and/or fines and penalties as prescribed in section 180-14.
- V. The Borough shall cause an inspection of the STR at least every year or when warranted by ascertainable violations of Borough Ordinances.

§180-8. Fees, Term and Renewal.

- A. Short Term Rental fees, payable to the Borough of Kutztown 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 Borough Council.

We did not include the \$63 fee figure -as we believe actual fees are listed elsewhere

- B. Any Short-Term Rental Permit is good for a period not to exceed one (1) year on a rolling basis and must be renewed annually. Short-Term Rental Permit renewal fees, payable to the Borough of Kutztown 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 include any updated information regarding any improvements governed by this Ordinance or Chapter 225 of this Code of Ordinances.

§180-9. Enforcement Officer.

The provisions of this ordinance shall be enforced by the Borough's designated code enforcement officer. The Borough's code enforcement officer shall have the responsibility and authority to administer and enforce all provisions of this Chapter.

§180-10. Marketing.

- A. The marketing of a Short-Term Rental in which the advertised occupancy exceeds the maximum occupancy requirements permitted by this Chapter, or which promotes any other activity which is prohibited by this Chapter, shall be a violation of this Chapter and subject to appropriate fines and penalties.

§ 180-11. Notice of Violation.

- A. In the event of a violation of this Chapter, the Borough shall send a written Notice of Violation to the Owner by personal delivery or by both United States first class and certified mail.
- B. 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 Chapter which are violated, indicate the action required to correct the violation, and provide a time frame (established by the Borough based upon the nature of the violation) to correct the violation.

§ 180-12. Nuisance.

- A. In the interest of promoting the public health, safety, and welfare of the Borough of Kutztown residents and guests 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 Chapter is declared to be a public nuisance.

§ 180-13. Violations and Penalties.

- A. If there is reason to believe that any provision of this Chapter are being violated, the Borough may, upon consent of owner or occupant, cause entry onto the property for the purpose of inspection of the entire

premises, properties, buildings, and/or structures located within the Borough for ascertaining the existence of violations.

- B. In matters where the nature of an alleged violation potentially harms the safety, security, and welfare of the occupants or the surrounding community, and provided there is no apparent immediate emergent threat, an inspection of the interior of a building or structures will be conducted, and prior arrangements must be made with the Short Term Rental Owner or Agent to secure access thereof with forty-eight (48) hours' notice.
- C. In the event evidence of a violation with a more immediate threat is presented to the Borough, the Code Enforcement Officer and/or the Zoning Officer with the assistance of the local police has the right to reasonably waive the rule requiring a minimum of forty-eight (48) hours' notice.
- D. This Chapter shall be enforced by action brought before a Magisterial District Judge in the same manner provided for in the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.
- E. Any person, partnership, corporation, or other entity who or which violates or permits a violation of the provisions of this Chapter shall, upon conviction in a summary proceeding, pay a fine of not less than \$1,000.00 nor more than \$3,000.00 per violation, plus all court costs and reasonable attorney's fees incurred by the Borough of Kutztown in the enforcement proceedings, and/or be imprisoned to the extent allowed by law for the punishment of summary offenses.
- F. Each day or portion thereof ending at 11:59 p.m., that a violation exists or continues shall constitute a separate violation.
- G. The appropriate officers or agents of the Borough of Kutztown are hereby authorized to seek equitable relief, including injunction to enforce compliance with this Chapter.
- H. All fines, penalties, costs, and reasonable attorney's fees collected for the violation of this Chapter shall be paid to the Borough of Kutztown for its general use.
- I. In addition to, but not in limitation of, the provisions of Subsection A and Section H, the Borough may either revoke, or deny an application to renew, a Short-Term Rental Permit where, in any twelve (12) month period:

1. three (3) or more violations of this Chapter were not corrected within the time frame specified in the Notice of Violation issued under § 180-11; or
 2. two (2) or more violations of this Chapter occurred, regardless of whether such violations involved the same or different provisions of this Chapter.
- J. A revocation or denial to renew a Short-Term Rental Permit under Subsection I shall continue for one (1) year for the first such revocation or denial, and for three (3) years for any subsequent revocation or denial.
- K. False / nuisance reporting shall be prohibited by this ordinance. Any person who reports an alleged violation of this Ordinance to the Borough knowing that it did not occur shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000.00, together with costs, including reasonable attorney fees.

§ 180-14. Owners Severally Responsible.

- A. If the premises are owned by more than one Owner, each Owner shall severally be subject to prosecution for a violation of this Chapter.

§ 180-15. Appeals.

- A. Appeals of a determination of the Borough under this Chapter to deny any application for, or to renew a Short-Term Rental Permit, or to revoke a Short-Term Rental Permit, shall be filed with the Housing License Appeals Board. The timing, form and substance of such appeal shall be in compliance with the requirements of Article II of Chapter 12 of the Code of the Borough of Kutztown. The filing of such appeal shall serve as a supersedeas for all license suspension and revocation appeals.
- (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 resolution duly adopted 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. The Housing License Appeals Board 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 Borough, 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 Board of Supervisors, but not less than fifteen (15) days prior to the hearing.
- (2) The hearing shall be held within sixty (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 Housing License Appeals Board. The decision or, where no decision is called for, the findings shall be in writing by the Housing License Appeals Board 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 address provided by them either by personal delivery or by United States First Class mail postage prepaid.
- (4) The Chairman or Acting Chairman of the Housing License Appeals Board 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 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 Housing License Appeals Board shall cause a stenographic record of the proceedings to be made.
- (8) 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.
- (9) The Housing License Appeal Board 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.

§ 180-16. Failure to Enforce Not a Waiver.

The failure of the Borough to enforce any provision of this Ordinance shall not constitute a waiver by the Borough of its rights of future enforcement hereunder.

Section 2. Severability.

- A. 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.
- B. 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.

Section 3. Repealer.

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

Section 4. Effective Date.

This Ordinance shall become effective on the earliest date permitted by law after enactment.

ENACTED AND ORDAINED as an Ordinance of the Borough of Kutztown, Berks County, Commonwealth of Pennsylvania, by the Borough Council this _____ day of _____, 2025, in lawful session duly assembled.

BOROUGH OF KUTZTOWN

By: _____
Kevin J. Snyder, President of Borough Council

Attest: _____
Gina M. Wiand, Borough Secretary

Approved as an Ordinance this _____ day of _____, 2025.

James F. Schlegel, Mayor