

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
O R D I N A N C E**

**ORDINANCE NO. 001-2024**

**RE: AN ORDINANCE ADDING CHAPTER 4-6 (SHORT TERM RENTALS)  
TO THE CODE OF UPPER TOWNSHIP**

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**WHEREAS**, the Township Committee of the Township of Upper desires to adopt an ordinance amending Chapter 4 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, by adding a new Section 4-6 with respect to the requirements and regulations regarding rental short term rentals.

**BE IT ORDAINED** by the Township Committee, in the Township of Upper, County of Cape May and State of New Jersey, as follows:

**SECTION 1:** CHAPTER 4 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended and supplemented as hereinafter provided:

**SECTION 4-6        SHORT TERM RENTALS**

4-6.1 Declaration.

The Township Committee finds and declares that the short-term rental of certain residential dwelling units within the Township benefits the local community by affording owners of such units the ability to garner additional income from their real property in order to diminish the financial burden of carrying costs and maintenance expenses related to the property, as well as providing travelers with an alternative option for accommodations in the Township. Notwithstanding those benefits, the Township Committee also finds and declares that certain transitory uses of residential property tend to affect the residential character of the community and, if unregulated, can be injurious to the health, safety, and welfare of the community.

4-6.2 Purpose

The intended purposes of this section are to:

- a. balance the rights of the owners of residential dwelling units proposed for short-term rental use and the Township's business community affected by the allowance and existence of short-term rentals within certain sections of the Township;
- b. protect the public health, safety and general welfare of individuals and the community at large;
- c. provide for an organized and reasonable process for the short-term rental of certain defined classifications of residential dwelling units in the Township;
- d. monitor and provide a reasonable means for mitigation of impacts created by such transitory uses of residential properties within the Township;
- e. preserve and protect the long-term housing market stock in the Township;

- f. implement rationally based and reasonably tailored regulations to protect the integrity of the Township’s residential neighborhoods; and
- g. ensure that the short-term rental property inventory in the Township satisfies basic property maintenance standards, in order to protect the safety of occupants and the citizens of the Township.

4-6.3. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

**CONSIDERATION** Soliciting, charging, demanding, receiving or accepting any legally recognized form of consideration including a promise or benefit, a quid-pro-quo, rent, fees, other form of payment or thing of value.

**DWELLING UNIT** Any structure, or portion thereof, whether furnished or unfurnished, which is occupied in whole or in part, or intended, arranged, or designed to be occupied, for sleeping, dwelling, cooking, gathering and/or entertaining, as a residential occupancy, by one or more persons. This definition includes an apartment, house, condominium, building, cooperative, converted space, or portions thereof, that is offered to use, made available for use, or is used for accommodations, lodging, cooking, sleeping, gathering and/or entertaining of occupants and/or guests, for consideration, for a period of 30 days or less.

**HOUSEKEEPING UNIT** Constitutes a family-type situation, involving one or more persons, living together that exhibit the kind of stability, permanency and functional lifestyle equivalent to that of a traditional family unit, as further described in the applicable reported and unreported decisions of the New Jersey Superior Court.

**OCCUPANT** Any individual using, inhabiting, living, gathering, entertaining, being entertained as a guest, or sleeping in a dwelling unit, or portion thereof, or having other permission or possessory rights within a dwelling unit.

**OWNER** Any person or entity, association, limited-liability company, corporation, or partnership, or any combination, who legally use, possess, own, lease, sublease or license (including an operator, principal, shareholder, director, agent, or employee, individually or collectively) that has charge, care, control or participates in the expenses and/or profit of a dwelling unit pursuant to a written or unwritten agreement, rental, lease, license, use, occupancy agreement or any other agreement.

**PERSON** An individual, firm, corporation, association, partnership, limited liability company, association, entity or any person and/or entity acting in concert or any combination thereof.

**RESIDENTIAL OCCUPANCY** The use of a dwelling unit by one or more occupants.

**SHORT TERM RENTAL** The rental of dwelling unit for 30 consecutive days or less, but not less than seven consecutive days.

4-6.4 Short Term Rentals

- a. It shall be unlawful for an owner, lessor, sublessor, any other persons or entities acting in concert, or a combination thereof, with person or entity having possessory or use rights in a dwelling unit, to allow or fail to discontinue the use or occupancy of any dwelling unit for a period of not less than seven consecutive days (for residential properties that are one acre or less) or for not less than three consecutive days (for property that is greater than one acre or with a QFarm assessment) anywhere in the Township outside the geographic bounds of the Waterfront Town Center, Marmora Town Center, Resort Residential and Resort Commercial Zoning Districts.
- b. The short-term rental of dwelling units for more than the minimum number of consecutive days set forth in the preceding section but not more than 30 consecutive days shall be permitted subject to satisfying all of the conditions of this section and specifically the restrictions contained in subsection 4-6.6.

- c. This section shall not apply to units within any motel, hotel, campground or condominium campground, to any owner-occupied dwelling units, or to a short-term use and occupancy agreement between the buyer and seller of real property where the agreement permits the buyer to occupy the real property before closing or permits the seller to occupy the real property after closing.

4-6.5. Registration; Fees

- a. All short-term rental units shall hereafter be registered annually with the Township Clerk on forms which shall be provided for that purpose.
- b. The registration term shall commence April 1 of each year and such registration shall be valid until March 31 of the following year at which time it shall expire and a new registration shall occur.
- c. Application.
  - 1. Initial. The initial registration shall be made in writing and shall be signed by the owner on a form provided by the Township Clerk or designee. Said application shall state: (i) the name and physical address of the owner; (ii) owner's phone number and email address; (iii) the location of the building and a description of the dwelling unit; (iv) the number of dwelling units; (v) the number of bedrooms rooms in each dwelling unit; and (vi) a designated agent name and phone number to be available to respond to complaints in a timely manner.
  - 2. Renewal. Application for a renewal registration shall be made in writing and shall be signed by the owner on a form provided by the Township Clerk or designee. Said application shall state and changes to the previously submitted registration.
- d. Fees. The annual registration fee for each short-term rental unit shall be \$100.00.

4-6.6 Short Term Rental Restrictions.

The occupancy of dwelling units of seven or more consecutive days but not more than 30 consecutive days shall be subject to the following requirements:

- a. No more than two cars shall be permitted to be parked at the premises (including on the street adjacent to same) for homes of up to three bedrooms, with one additional car for each additional bedroom.
- b. Occupancy shall be limited to two individuals per bedroom.
- c. The occupants shall comply with all municipal ordinances and State statutes pertaining to noise, nuisances and health concerns.
- d. No amplified music shall be permitted outdoors past 9:00 PM.
- e. All trash shall be placed in closed containers and placed at the curb for pick-up on the scheduled day.
- f. All advertisements shall include the restrictions set forth in this ordinance as well as the occupancy limit of said rental property.
- g. Such additional regulations as may be promulgated from time to time by a resolution of the Township Committee.

4-6.7. Enforcement authority.

Any of the violations referred to in this chapter may be enforced, as applicable, by the Housing Officer, Code Enforcement Official, Zoning Official, Construction Code Official,

Municipal Housing Liaison, Local Department of Health or other such person designated by the Township Committee.

4-6.8. Violations and Penalties

- a. Any person violating or failing to comply with any of the provisions of this section shall, upon conviction thereof, be punishable by a fine in accordance with Section 1-5 of this Code, which includes a maximum penalty not exceeding \$1,250 and/or imprisonment in the County jail for a period not exceeding 90 days, or both, or to a period of community service not exceeding 90 days at the discretion of the Municipal Court Judge, and at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100. Each and every day in which a violation of any provision of this Code or any other ordinance of the Township exists shall constitute a separate violation.
- b. In addition to subsection (a), in the event that there are three or more violations of the restrictions set forth in Section 4-6.6 in any calendar year, the registration of the short-term rental unit shall be revoked for the remainder of that year and the following calendar year.

**SECTION 2: EFFECTIVE DATE:** This Ordinance shall take effect immediately upon the following publication as required by law.

**SECTION 3: REPEALER:** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

**SECTION 4: SEVERABILITY:** If any section, paragraph, subdivision, subsection, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause, or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

**SECTION 5: CODIFICATION:** This Ordinance shall be codified in the Upper Township Code at the sections referred to above.

ATTEST:

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Joanne R. Herron, Township Clerk

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Jay Newman, Mayor

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE **22<sup>ND</sup> DAY OF JANUARY, 2024** AT THE TOWNSHIP HALL, AND WAS TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE **26<sup>TH</sup> DAY OF FEBRUARY, 2024** AT 4:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

JOANNE R. HERRON, TOWNSHIP CLERK  
TOWNSHIP OF UPPER

Legislative History:

Introduced: January 22, 2024

Publication: January 27, 2024

Newspaper(s): The Press of Atlantic City

Second Reading & Public Hearing: February 26, 2024

Final Adoption: February 26, 2024

Final Publication Date: March 2, 2024

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on February 26, 2024 and notice of adoption was thereafter published pursuant to law in the Press of Atlantic City on March 2, 2024.

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JOANNE R. HERRON, Township Clerk