

ORDINANCE NO. 2023-

**TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH**

**Ordinance Governing Regulation of Short-Term
Rentals Of Real Property and Associated Amenities**

WHEREAS, the Township of Middletown (the “Township”) finds that transitory uses of residential properties that were not developed for the purpose of providing temporary lodging to the general public in locations not properly zoned for such uses are injurious to the public health, safety and welfare; and

WHEREAS, the Township finds that the rental of amenities, such as pools, located on private property, not developed or properly zoned for such uses are injurious to the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Middletown in the County of Monmouth, State of New Jersey that the Code of the Township be amended and supplemented, as follows:

SECTION 1. Findings and Purpose.

The Township of Middletown does hereby find as follows:

- A. Pursuant to N.J.S.A. 40:52-1(d) and (n), municipalities are authorized to regulate “furnished and unfurnished rented housing or living units and all other places and buildings used for sleeping and lodging purposes, and the occupancy thereof,” as well as 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.”
- B. In recent years, there has been a marked increase in the advertisement of short-term rental of dwelling units for periods from one to 175 days within the Township and in the vicinity.
- C. The Township has determined that short-term rentals frequently result in a deterioration of the neighborhood character, public nuisance, noise complaints, overcrowding and excessive unplanned parking demands within the residential neighborhoods in the Township, and the effective conversion of residential dwelling units into de-facto hotels, motels, or similar facilities, in violation of the Township Code, zoning ordinances, and other state laws, rules and regulations.

D. The Township therefore wishes to prohibit short-term rentals in order to:

1. Ensure that residential neighborhoods are not impacted by the frequency of turnover in short term rentals and the potential for disruptive behavior can thereby be minimized.
2. Minimize public safety risks, disruptions and the noise, trash and parking impacts often associated with short-term rentals that will result in additional work for the local police and other municipal services.
3. Prohibit the unlawful creation of commercial enterprises in both single-family and multifamily dwelling units in violation of Township zoning ordinances and public nuisance ordinances.

SECTION 2. Definitions.

ADVERTISE or ADVERTISING. Any form of solicitation, promotion, and communication for marketing, used to solicit, encourage, persuade, or manipulate viewers, readers, or listeners into contracting for goods and/or services in violation of this article, as same may be viewed through various media, including but not limited to, signs, newspapers, magazines, flyers, handbills, pamphlets, commercials, radio, direct mail, internet websites, or text or other electronic messages for the purpose of establishing occupancies or uses of rental property, for consideration, which are prohibited by this article.

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, condominium, building, single-family home, duplex, cooperative, converted space, or portions thereof, that is offered to be used, made available for use, or is actually used for accommodations, lodging, cooking, sleeping, gathering and/or entertaining of occupants and/or guest(s), for consideration.

HOSTING PLATFORM. A website or marketplace in whatever form, whether online or not, which facilitates short-term rentals through advertising, searching, matchmaking or any other means, using any medium of facilitation and from which the operator of the hosting platform derives revenues, including but not limited to booking fees or advertising revenues, from providing or maintaining the website or marketplace.

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 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 right(s) within a dwelling unit.

OWNER. Any person(s) who legally use, possess, own, lease, sublease, or license (including an operator, principal, shareholder, director, agent, or employee, individually or collectively) one or more dwelling units, or who have charge, care, control, or who participate 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, and any person(s) and/or entity(ies) acting in concert or any combination therewith.

RESIDENTIAL OCCUPANCY. The use of a dwelling unit by an occupant(s).

SHORT-TERM RENTAL. A residential occupancy for a period of less than 175 days.

SECTION 3. Short-Term Rentals Prohibited.

- A. Notwithstanding anything to the contrary contained in the Township Code, it shall be unlawful for a person or owner to receive or obtain actual or anticipated consideration for using, authorizing, permitting, or failing to discontinue the use of any dwelling unit or portion of a residential property as a short-term rental, as defined herein.

- B. Nothing in this ordinance will prevent formation of an otherwise lawful residential occupancy of a dwelling unit for a rental period of 175 days or more subject to applicable ordinances and regulations.
- C. Nothing in this ordinance shall be deemed to prohibit the lawful operation of any hotel as that term is defined in the New Jersey Hotel and Multiple Dwelling Law, N.J.S.A. 55:13-1 et seq.

SECTION 4. Rental of Private Amenities Prohibited.

The lease or rental, for any purpose, of any amenity, feature, accessory or appurtenance to or associated with a dwelling, including but not limited to, swimming pools, attached or detached garages, accessory structures, cooking facilities, sports courts is prohibited.

SECTION 5. Permitted Uses.

The residential occupancy of an otherwise lawful and lawfully occupied dwelling unit for a period of 175 days or more by any person who is a member of the housekeeping unit of the owner, without consideration, such as house guests, is permitted.

SECTION 6. Advertising Prohibited.

It shall be unlawful for any person to advertise by any means all actions, or failures to act, that would be in violation of the provisions of this article.

SECTION 7. Violations, penalties and enforcement.

- A. Any violation of this ordinance shall be subject to penalty or fine as set forth under § 1-4 of the Code of the Township of Middletown.
- B. The provisions of this ordinance shall be enforced by the Construction Official, Zoning Official, Health Department, other Subcode or Code Official, as their jurisdiction may arise, including legal counsel for the Township or other persons designated by the Township, to issue municipal civil infractions directing alleged violators of this article and/or to appear in court or file civil complaints.
- C. A violation of this article is hereby declared to be a public nuisance, a nuisance per se, and is hereby further found and declared to be offensive to the public health, safety and welfare.

- D. Any penalty or fine imposed herein shall be in addition to any and all other remedies that may accrue under any other law, including, but not limited to, eviction proceedings and/or injunction, reasonable attorneys' fees or other fees and costs, in the Township Municipal Court or the Superior Court of New Jersey, or in such other court or tribunal of competent jurisdiction, by either summary disposition or by zoning or construction code municipal proceeding.

SECTION 8. Repealer.

All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are, to the extent of such inconsistency, hereby repealed. All portions of the ordinance not modified herein remain in full force and effect.

SECTION 9. Severability.

Should any section, clause, sentence, phrase or provision of this ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

SECTION 10. Effective Date.

This ordinance shall take effect upon final passage, adoption and publication in the manner prescribed by law.