

AS AMENDED

**TOWNSHIP OF MONTAGUE  
SUSSEX COUNTY, NEW JERSEY**

**ORDINANCE 2023-13**

**AN ORDINANCE OF THE TOWNSHIP OF MONTAGUE, COUNTY OF SUSSEX, STATE OF  
NEW JERSEY, AMENDING CHAPTER 54B OF THE TOWNSHIP MUNICIPAL CODE IN  
ORDER TO ESTABLISH RESTRICTIONS ON THE RENTAL OF RESIDENTIAL DWELLING  
UNITS FOR PERIODS OF SIXTY ('60') DAYS OR FEWER**

**WHEREAS**, the short-term rental of residential dwelling units via internet-based booking platforms has become increasingly prevalent in recent years; and

**WHEREAS**, the Mayor and Township Committee of the Township of Montague find there is a substantial interest in furthering the public health, safety & welfare, and the quality of life of the Township's residents by establishing restrictions on the rental of residential dwelling units for periods of sixty ('60') days or fewer; and

**WHEREAS**, the Mayor and Township Committee deem it to be in the best interest of the residents of the Township to modify Chapter 54B, 'Rental Properties Registration, Licensing, and Inspection,' to effectuate the aforementioned purpose.

**NOW THEREFORE BE IT ORDAINED**, by the Mayor and Township Committee of the Township of Montague, County of Sussex and State of New Jersey as follows:

**I. § 54B Rental Properties Registration, Licensing, and Inspection.**

(1) is amended to read as follows:

**(1) Definitions**

Unless the context clearly indicates a different meaning, the following words or phrases when used in this chapter shall have the following meaning:

**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 section, as same may be viewed through various media, including, but not limited to, 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.

**AGENT**

The individual or individuals designated by the owner as the person(s) authorized by the owner to perform any duty imposed upon the owner by this chapter. The term does not necessarily mean a licensed real estate broker or salesman of the State of New Jersey as those terms are defined by N.J.S.A. 45:15-3; however, such term may include a licensed real estate broker or salesman of the State of New Jersey if such person designated by the owner as his agent is so licensed.

#### **APARTMENT COMPLEX**

Two or more buildings, each containing two or more apartments, which are located within close proximity of each other and are owned by the same owner.

#### **APARTMENT, RENTAL UNIT, OR 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, cooperative, converted space, or portions thereof, that are offered to use, made available for use, or are used for accommodations, lodging, cooking, sleeping, gathering, and/or entertaining of occupants and/or guest(s), for consideration.

#### **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.

#### **HOUSEKEEPING UNIT**

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.

#### **LICENSE**

The license issued by the Township Clerk or designee attesting that the rental unit has been properly registered in accordance with this chapter.

#### **LICENSEE**

The person to whom the license is issued pursuant to this chapter. The term "licensee" includes within its definition the term "agent" where applicable.

#### **LONG-TERM 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 for a period of greater than sixty ('60') days.

#### **MULTI-FAMILY RESIDENTIAL COMPLEX**

Any structure or portion thereof comprised of greater than two ('2') Apartments, Rental Units, or Dwelling Units.

## **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) or entity(ies), association, trust, firm, limited liability company, corporation or officer thereof, 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, entity, and any other person(s) and/or entity(ies) acting in concert or any combination thereof. Residential occupancy shall mean the use of a dwelling by an occupant(s).

## **PRINCIPLE RESIDENCE**

The address: (1) where at least one of the property Owners spends the majority of his or her non-working time, and (2) which is identified on his or her driver's license or State Identification Card as being his or her legal address. All the above requirements must be met in order for an address to constitute being a principal residence for purposes of this Section.

## **RENTAL FACILITY**

Every building, group of buildings, or a portion thereof which is kept, used, maintained, advertised, or held out to be a place where living accommodations are supplied, whether furnished or unfurnished, for pay or other consideration, to one or more individuals and is meant to include apartments and apartment complexes.

## **SHORT-TERM RENTAL**

Rental of any Apartment, Rental Unit, or Dwelling Unit, for a period of sixty ('60') or fewer days.

## **SHORT-TERM RENTAL PROPERTY AGENT ('STRP Agent')**

A person designated and charged by the owner of a Short-Term Rental property to fulfill all or some of the obligations in connection with the management of the Short-term Rental. Such person shall be available for, and responsive to contact on behalf of the owner, tenants, and Township at all times during which the Short-Term Rental is in use.

## **SWIMMING POOL**

Any outdoor or indoor structure intended for swimming or recreational bathing, including in-ground and above-ground structures, and including hot tubs, spas, portable spas, and wading pools.

## II. § 54B Rental Properties Registration, Licensing, and Inspection.

(9) is amended to read as follows:

### (9) Short-Term Rentals

The following provisions shall apply to Short-term Rentals:

A. It shall be unlawful for any owner of any property within the geographic bounds of the Township of Montague, New Jersey, to rent or operate a Short-Term Rental contrary to the procedures and regulations established in this Section or applicable State statute.

B. Short-term Rentals shall be permitted to be conducted only in the following classifications of property in the Township of Montague:

1. Individually or collectively owned single-family residences;

2. Up to two separate units within a two-family residential dwelling, upon the agreement by the owner(s) of both units, as well as by any Long-Term Occupant(s) of either unit, that Short-Term Rentals shall be a permitted use therein;

~~Up to two separate units within a two-family residential dwelling, upon the agreement by any Long-Term occupants of the two-family residential dwelling that Short-Term Rentals shall be a permitted use therein;~~

~~3. Up to six separate units within a Multi-Family Residential Complex, contingent upon the agreement by all Long-Term Occupants of the Multi-Family Residential Complex that Short-Term Rentals shall be a permitted use therein; should any Long-Term Occupant of a Multi-Family Residential Complex not agree that Short-Term Rentals shall be a permitted use therein, then no Short-Term Rentals shall be permitted in said Multi-Family Residential Complex;~~

3. Guest houses, carriage houses, and any other qualifying structures located on the same property as an Owner-Occupied Dwelling.

C. Notwithstanding the provisions of Subsection B. above, Short-Term Rentals shall not be permitted in boarding or rooming houses, dormitories, foster homes, adult family care homes, assisted living facilities, community residences for developmentally disabled persons, community shelters for victims of domestic violence, or nursing homes. Further, the following prohibitions and restrictions concerning Short-Term Rentals shall apply:



1. Where the Condominium Association By-Laws or Master Deed, or Condominium Rules and Regulations, do not permit the short-term rental of condominium units in a development; Short-Term Rentals of condominiums or townhomes in said development shall be prohibited;

2. For an Apartment, Rental Unit, or Dwelling Unit that belongs to a Condominium Association or other property owners' association of any type ('Association'), a letter of approval from the Association for the use of the Unit as a Short-Term Rental must be provided to the Township before the Unit may be used as a Short-Term Rental.

~~X. Where individually or collectively owned single-family residential dwelling units are not legally identified by any of the owners as their principal residence, Short-Term Rentals of such units shall be prohibited;~~

~~X. There shall be no Short-Term Rentals of any unit in a two-family residential dwelling, where the other unit is not occupied by the owner nor legally identified by the owner as his or her principal residence;~~

3. There shall be no Short-Term Rentals of any unit in a Multi-Family Residential Complex ~~where no unit is occupied by the owner, nor is any unit legally identified by the owner as his or her principal residence;~~

4. The maximum number of guests occupying a single Short-Term Rental unit during a single rental period shall be the smaller number of either 1) two (2) guests per bedroom plus an additional two (2) guests, or 2) ten (10) guests.

~~4. Short-Term Rentals of any property located in the Township's R-4 Zone are strictly prohibited.~~

5. Should the owner of any Apartment, Rental Unit, or Dwelling Unit be delinquent or past-due in remitting to the Township payment for any property tax, or other fine or fee owed to the Township by the owner ('Outstanding Payments'), then said Apartment, Rental Unit, or Dwelling Unit shall be prohibited from use as a Short-Term Rental until such time as all Outstanding Payments have been made by the owner.

6. For every Short-Term Rental Unit, there shall be provided to guests at least one legal off-street parking space, with an additional parking space to be provided for every additional three (3) guests beyond the initial guest. In instances where there is insufficient off-street parking for the guests of a Short-Term Rental Unit, the Township's on-street parking regulations shall apply.

7. Shared driveways or private roads which serve as the legal means of ingress and egress for multiple properties shall not be used for access by guests of a Short-Term Rental Unit unless the owners of all of the properties served by the shared driveway or private road agree to such use of the driveway or private road.

8. If the owner of a Short-Term Rental Unit will not be available or assume liability for the activities in and maintenance of the Short-Term Rental on a 7-day-per-week, 24-hour-per-day basis for the period during which the Short-Term Rental is in use, then the owner must provide to the Township and to its guests the name, address, telephone number, and email address of a Short-Term Rental Property Agent ('STRP Agent') who shall assume the aforementioned responsibilities on the owner's behalf.

9. The owner or the owner's STRP Agent shall visit the site at the initiation of any Short-Term Rental and within 24 hours after the completion of the Short-Term Rental, and/or weekly for a multi-week rental, to ensure that all Township regulations are being properly observed.

10. The owner or the STRP Agent shall post the following information in a prominent location within any Short-Term Rental Unit:

- i. The owner's name and phone number or, if the owner is an entity, the name and phone number for a principal of the entity.
- ii. The name and phone number of the STRP Agent, if one has been appointed.
- iii. The proper method of ingress/egress to/from the Short-Term Rental Unit, as well as the relevant parking information for the Rental Unit.
- iv. On-street parking regulations applicable to the adjacent streets.
- v. Survey or boundary map showing property lines of property rented; and
- vi. Trash and recycling pick-up day, and all applicable rules and regulations regarding trash disposal and recycling.

11. Swimming Pools.

- i. Any Swimming Pool made available for use by guests of a Short-Term Rental Unit shall be subject to inspection upon request by the Township.
- ii. No Swimming Pool shall be made available for use by guests of a Short-Term Rental Unit unless a valid bonding and grounding certificate and electrical certificate of compliance are issued in connection therewith, as required pursuant to N.J.S.A. 52:27D-133.2
- iii. For any Short-Term Rental Unit with a Swimming Pool made available to guests, there shall be provided to guests a copy of the brochure 'Steps for Safety Around the Pool,' published by the U.S. Consumer Product Safety Commission. Copies of this brochure shall be made available at the Township Municipal Building.



D. All portions of this Section shall apply to the R-4 zone of the Township, except that, where any other portions of this Section conflict with the following provisions, the following provisions shall supersede those conflicting portions. The following provisions shall apply to Short-Term Rentals in the R-4 zone of the Township:

1. The number of Short-Term Rental Units permitted in the R-4 zone shall be limited to five (5), the permits for which shall be awarded to the first five (5) units for which a short-term rental permit is obtained, pursuant to subsection F, below.
2. Short-Term Rental Units in the R-4 zone are permitted to be situated in a Multi-Family Residential Complex, so long as:
  - i. The Multi-Family Residential Complex has two (2) or fewer total owners;
  - ii. All owners of the Multi-Family Residential Complex consent to the use of units in the Multi-Family Residential Complex as Short-Term Rental Units; and
  - iii. The total number of Short-Term Rental Units in the R-4 zone does not exceed five (5), pursuant to subsection D (2), above.

E. The provisions of this Section shall apply to Short-Term Rentals as defined above. The following do not qualify as a residential dwelling unit, as that term is used herein, and therefore do not need to obtain a short-term rental permit pursuant to this Section: any hotel, motel, studio hotel, rooming house, dormitory, public or private club, bed and breakfast inn, convalescent home, rest home, home for aged people, foster home, halfway house, transitional housing facility, or other similar facility operated for the care, treatment, or reintegration into society of human beings; any housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees with or without their families; any housing operated or used exclusively for religious, charitable or educational purposes; or any housing owned by a governmental agency and used to house its employees or for governmental purposes.

F. The owner/operator of a Short-Term Rental shall obtain a short-term rental permit from the Township Clerk before renting or advertising for rent any Short-Term Rental. To obtain a short-term rental permit, the owner/operator of a Short-Term Rental shall submit to the Township Clerk an application fee of **\$750.00**, along with a completed short-term rental permit application, which application form shall be provided by the Township Clerk. Should the Township deny a short-term rental permit, the application fee shall be refunded by the Township.

G. The short-term rental permit, if granted, shall be valid for a period of one year from the date of issuance and may be renewed thereafter on an annual basis for a renewal fee of **\$350.00**, to be submitted to the Township Clerk along with an updated short-term rental permit application.

H. Every application for a short-term rental permit shall require annual inspections to confirm compliance with the Township's fire safety regulations and property maintenance code. In addition, each application is subject to review to verify the Dwelling Unit's eligibility for use as a Short-Term Rental and compliance with the regulations in this section.

I. Parties or social gatherings of 10 or greater persons shall be a prohibited use of Short-term Rentals.

I. In accordance with N.J.S.A. 40:48F-1, there is hereby imposed a **three percent ('3%')** tax on the rent charged for the occupancy of a Short-Term Rental unit that is subject to the New Jersey State Sales Tax under N.J.S.A. 32B-3(d).

1. Notwithstanding any provision or requirement otherwise, a Short-Term Rental host must use a recognized hosting platform (e.g. Airbnb) for the purpose of collecting and remitting the applicable room occupancy excise to the Township. The Township Clerk shall determine which hosting platforms are acceptable pursuant to this provision.

2. If, for some reason, a Short-Term Rental host does not use a recognized hosting platform for the purpose of collecting and remitting the applicable room occupancy excise to the Township, then the Short-Term Rental host shall be responsible for collecting and remitting this tax to the Town on a quarterly basis.

**Codification.** This Ordinance may be renumbered for codification purposes.

**Inconsistency.** All Ordinances of the Township of Montague which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

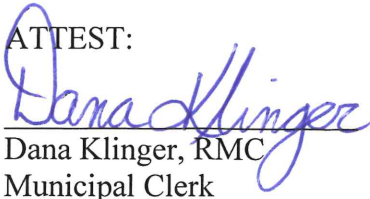
**Partial Invalidity.** If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

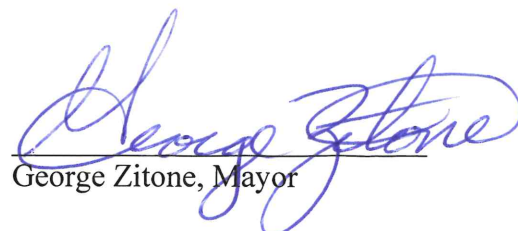
**Effect Date.** This Ordinance shall take effect immediately following adoption and publication as required by law.

*Introduced: June 27, 2023*

*Adopted: September 12, 2023*

ATTEST:

  
Dana Klinger, RMC  
Municipal Clerk

  
George Zitone, Mayor



<b>RECORD OF COMMITTEE VOTES – ORDINANCE 2023-13</b>				
<u>COMMITTEE MEMBER</u>	<u>AYES</u>	<u>NAYES</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
RICHARD INNELLA		X		
JOSEPH KRUMPFER	X			
JAMES LEDONNE	X			
FRED MERUSI		X		
MAYOR GEORGE ZITONE	X			