

# **Short-Term Rentals Ordinance**

## **No. 2020-3**

AN ORDINANCE OF THE TOWNSHIP OF TOWAMENSING, CARBON COUNTY, PENNSYLVANIA, TO PROVIDE FOR THE LICENSING AND REGULATION OF SHORT-TERM RENTALS WITHIN TOWAMENSING TOWNSHIP, CARBON COUNTY, PENNSYLVANIA; DEFINING TERMS USED HEREIN; ESTABLISHING APPLICATION AND LICENSE PROCEDURES; ESTABLISHING STANDARDS FOR SHORT-TERM RENTALS; PROVIDING FOR INSPECTIONS; PROVIDING FOR ENFORCEMENT RESPONSIBILITY; ESTABLISHING AND PROVIDING FOR VIOLATIONS AND PENALTIES; DECLARING VIOLATIONS TO BE A PUBLIC NUISANCE; AND, PROVIDING APPEAL PROCEDURES.

The Board of Supervisors of Towamensing Township hereby ordains:

### **§ 100. Title.**

This Ordinance shall be known as and may be cited as "Short-Term Rentals Ordinance."

### **§ 101. Scope.**

The provisions of this Ordinance shall apply to all residential dwelling units, conversions of nonresidential structures to residential dwellings, and all existing premises within the Township of Towamensing. The owner of the subject property shall be responsible for compliance with the provisions of this Ordinance and the failure of an owner, managing agency, agent, local contact person, or renting occupants to comply with the provisions of this Ordinance shall be deemed noncompliance by the owner.

### **§ 102. Interpretation.**

This Ordinance is not intended to, and does not, excuse any landowner from compliance with the Towamensing Township Zoning Ordinance, as amended ("Zoning Ordinance") from time to time. Whenever possible, this Ordinance and the Zoning Ordinance should be construed and interpreted as being consistent, and not in conflict. And, unless defined otherwise in this Ordinance, terms used in this Ordinance shall have the same meaning as in the Zoning Ordinance.

### **§ 103. Definitions.**

For the purposes of this Ordinance, words and terms used herein shall have the meanings as follows:

**BEDROOM** — A room intended for, or capable of, being used for sleeping and that is at least seventy square feet (70 sf) in area. Reference Chapter 73 of the DEP regulations, which allows for a peak daily flow based for residential homes on the number of bedrooms. For example, a three-bedroom home would require a system designed for 400 gallons per/day, a four-bedroom home would require a system designed for 500 gallons/day.

**PUMPER/HAULER** — A person who is the business of pumping/ cleaning on-lot sewage disposal systems and transporting the septage removed from those systems.

**SHORT-TERM RENTAL** — Granting or allowing the occupancy or possession, in whole or in part, of a dwelling unit for a transient use, for compensation or remuneration of any kind. This definition applies to all types of dwelling units, including (but not limited to) single family, two family and multi-family dwelling units, whether or not otherwise primarily used as permanent residences or seasonal or vacation homes.

**SHORT-TERM RENTAL LICENSE** — A license granted by the Township permitting a dwelling unit to be utilized for short-term rental use.

**TRANSIENT USE** — Occupancy, use or possession of a dwelling unit by persons (other than the owner(s) of that dwelling unit or tenant(s) with a lease for 30 consecutive days or more, and/or the family of such owner(s) or tenant(s)), for a period of less than 30 consecutive days; but excluding temporary stays by unrelated individuals who are guests of such owner(s)/tenant(s) or the family of such owner(s)/tenant(s), without the payment of any type of compensation or other remuneration.

### **§ 104. License Required.**

No owner of any property in Towamensing Township shall operate a short-term rental in Towamensing Township without first obtaining a short-term rental license from the Enforcement Officer. Operation of a short-term rental without such short-term rental license is a violation of this Ordinance.

### **§ 105. License Requirements.**

A. Short-term rental licenses applications shall contain all the following information:

(1) Owner Information.

The name, street and mailing 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 twenty-four-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 a notice of violation sent to the owner under section 111 of this Ordinance.

(2) Local Contact Person.

The name, street and mailing address, and twenty-four-hour telephone number of the managing agency, agent, or local contact person, if any. The local contact person must be located within fifteen (15) miles of the short-term rental property.

(3) Floor Plans.

Floor plans for the short-term rental unit, including total habitable floor space and total number of bedrooms.

(4) Number of Dwelling Units.

If the building is a multiunit structure, the total number of dwelling units in the structure and the number of dwelling units being used as short-term rentals.

(5) Site Plan.

A site plan shall be provided which shows:

(a) property lines

(b) all building(s) with outside dimensions

(c) on-site parking spaces (the provided number of parking spaces on the property must be in accordance with the applicable provisions of the Zoning Ordinance.)

(d) the driveway(s)



(e) the onlot sewage disposal system(s)

(f) the well(s)

(g) any fences

(h) any swimming pools

(6) Sewage System.

The approximate age and capacity of the sewage disposal system. The owner of the property shall supply the Township with an evaluation from a Sewage Enforcement Officer certifying the sewage disposal system is properly functioning as intended, and proof that the tank was pumped by a pumper/ hauler within at least three (3) years prior to the date of the application for a short-term rental license, or a renewal thereof, for review and approval by the Township Sewage Enforcement Officer.

(7) Tax Documents.

Copies of current Carbon County hotel room excise tax certificate and current Pennsylvania sales and use tax license.

(8) Signatures.

Signatures of both the owner and the local managing agency, agent or local contact person, if any.

(9) Deed.

Copy of the current recorded deed for the property establishing ownership.

B. A short-term rental license shall be issued only to the owner of the short-term rental property.

(1) A separate short-term rental license is required for each dwelling unit, i.e. for two-family or multifamily dwellings, a separate short-term rental license shall be required for each dwelling unit being rented as a short-term rental.

(2) A short-term rental license 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, i.e. a short-term rental license 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 Township will prescribe forms and procedures for the processing of permit applications under this Ordinance.

#### **§ 106. Short-Term Rental Standards.**

##### **A. Renters Age.**

All renters must be twenty-one (21) years old or older.

##### **B. Overnight Occupancy.**

Overnight occupancy of a short-term rental shall be limited to an average of no more than two (2) persons per bedroom, and the maximum number of day guests allowed at any one time, in addition to the overnight occupants, shall be 50% of the maximum overnight occupancy of the short-term rental.

##### **C. Number of Bedrooms.**

(1) 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 property.

(2) Where there is no sewage permit on record, the short-term rental shall be limited to three (3) bedrooms unless satisfactory proof is provided to the Township Sewage Enforcement Officer that the sewage disposal system is adequate to handle additional flows.

(3) Any short-term rental advertising more than five (5) bedrooms shall provide proof that the sewage disposal system is adequate to handle such flows by having the system approved by the Township Sewage Enforcement Officer, or by providing a sewage disposal system permit previously issued by a Sewage Enforcement Officer for the number of bedrooms.

(4) If a sewage disposal system malfunction occurs, short-term rental of the dwelling unit shall be discontinued until the malfunction is corrected in accordance with Township and Pennsylvania Department of Environmental Protection requirements.

##### **D. Parking.**

(1) Outdoor parking for overnight and day guests shall be limited to available parking areas on the short-term rental property.

(2) 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. All parking spaces and driveway areas must consist of gravel or bituminous paving.

#### E. Peace Disturbance.

(1) Neither short-term rental occupants nor guests shall engage in disorderly conduct or disturb the peace and quiet of any nearby neighborhood or person. Loud, unusual or excessive noise, tumultuous or offensive conduct, public indecency, threatening, quarreling, challenging to fight, or fighting, or creating a dangerous or physically offensive condition are prohibited.

(2) The owner 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 Towamensing Township Ordinances or any state law pertaining to noise or disorderly conduct including, but not limited to, notifying the occupants of these rules regarding short-term rentals and promptly responding when notified that occupants are violating laws, Ordinances, or regulations regarding their occupancy.

(3) The owner 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 Towamensing Township Ordinances 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.

#### (4) Fireworks.

No fireworks whatsoever shall be permitted on the property of the short-term rental.

#### (5) Firearms.

No shooting of firearms, including hunting, shall be permitted on the property of the short-term rental.

#### (6) Music.

No outdoor playing of music shall be permitted from 10:00 PM to 9:00 AM on the property of the short-term rental.

#### (7) Fires.



No exterior fires, or fire pits, shall be permitted on the property of the short-term rental.

#### F. Outdoor Sleeping.

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.

#### G. Garbage.

All garbage/trash generated from the short-term rental property must be kept in watertight metal or plastic trash containers which are stored within a garage or shed.

#### H. Information Packets & Posting.

Either the short-term rental owners, or the managing agency or agent, if any, shall supply the renting occupants with a copy of this Ordinance, as well as have a clearly visible and legible notice posted within the dwelling unit on or adjacent to the front door containing the following information:

##### (1) Owner Information.

The name of the owner of the dwelling unit or the managing agency, agent, property manager, or local contact and a telephone number at which that party can be reached on a twenty-four-hour basis.

##### (2) Property Address.

The E-911 address of the property.

##### (3) Number of Occupants.

The maximum number of occupants permitted to stay in the dwelling unit and the maximum number of day guests permitted at any one time.

##### (4) Number of Vehicles.

The maximum number of all vehicles allowed to be on the property and the requirement that all guest parking must be parked in the available parking areas on the property and not in or along any private, community or public street right-of-way or on any lawn or vegetated area on the property.

(5) Trash.

The trash disposal method (Township or private hauler), including contact information) and notification that trash and refuse shall not be left or stored on the exterior of the property except in watertight metal or plastic trash containers from 6:00 p.m. on the day prior to trash pickup to 6:00 p.m. on the day designated for trash pickup. If the Township is used for disposal, receipts need to be retained as proof of proper disposal.

(6) Notifications to Guests.

(a) Notification that an occupant or guest may be cited and fined for creating a disturbance or for violating other provisions of the Township Ordinances, including parking and occupancy limits.

(b) Notification that short-term rental occupants and guests are subject to making the dwelling unit available for inspection by the Enforcement Officer or their Assistants if there is reason to believe that any provision of this Ordinance is being violated.

I. Safety.

All short-term rental dwelling units shall be equipped as follows:

(1) Smoke Alarm Locations.

Smoke alarms shall be installed in the following locations:

(a) In each sleeping room.

(b) Outside each separate sleeping area in the immediate vicinity of the bedrooms.

(c) On each additional story of the dwelling, including basements and habitable attics.

(d) Smoke alarms shall be installed not less than three feet (3') horizontally from the door or opening of a bathroom that contains a bathtub or shower.

(2) Carbon Monoxide Alarm Locations.

Carbon monoxide alarms shall be installed in the following locations:

(a) In a dwelling unit that contains a fuel-fired appliance.



(b) In a dwelling unit that has an attached garage with an opening that communicates with the dwelling unit.

(3) Smoke & Carbon Monoxide Alarm Listings.

Smoke alarms shall be listed in accordance with UL 217. Combination smoke and carbon monoxide alarms shall be listed in accordance with UL 217 and UL 2034.

(4) Smoke & Carbon Monoxide Alarm Powers.

Smoke alarms and carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.

(5) Smoke & Carbon Monoxide Alarm Combinations.

Combination smoke and carbon monoxide detectors shall be permitted to be installed in fire alarm systems in lieu of smoke detectors, provided that they are listed in accordance with UL 268 and UL 2075.

(6) Smoke & Carbon Monoxide Alarm Interconnections.

All the above alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling unit; provided, however, physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

(7) Ground Fault Receptacles.

Ground fault receptacles shall be installed or provided in the following locations:

- (a) In bathrooms.
- (b) Exterior receptacles.
- (c) Garage and accessory building receptacles.
- (d) Unfinished basements.
- (e) Crawl spaces.

- (f) All receptacles that service a kitchen countertop.
- (g) All receptacles located within six feet from a sink.
- (h) Laundry rooms.

(8) Fire Extinguisher.

A minimum 3A 30BC fire extinguisher must be installed in a conspicuous location, hung at forty-six inches (46") above the floor to the top of the handle. The fire extinguisher must be tagged with a current inspection date from a fire extinguisher inspection company. Fire extinguishers must be inspected by that company yearly.

(9) Clothes Dryer.

Where space for a clothes dryer is provided, an exhaust duct system shall be installed. Dryer duct shall be installed and the exhaust duct shall follow the following requirements:

- (a) Exhaust ducts shall have a smooth interior finish and be constructed of metal having a minimum thickness of 0.0157 inches (No. 28 gauge). The duct shall be four inches nominal in diameter.
- (b) Exhaust ducts shall be supported at intervals not to exceed six feet (6') and shall be secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Exhaust duct joints shall be sealed with a listed tape and shall be mechanically fastened. Ducts shall not be joined with screws or similar fasteners that protrude more than one-eighth of an inch (1/8") into the inside of the duct.
- (c) Transition ducts used to connect the dryer to the exhaust duct system shall be a single length that is listed and labeled in accordance with UL 2158A. Transition ducts shall be not greater than eight feet in length. Transition ducts shall not be concealed within construction.
- (d) Maximum duct length shall follow the manufacturer's requirements. When the manufacturer's requirements are not known, the maximum duct length shall be thirty-five feet (35'). Elbows shall be considered a five-foot duct length. A 45° elbow shall be considered a two-foot, six-inch duct length.

(10) Interior and Exterior Stairs.

All stairs shall meet the following requirements:

(a) Stairs shall be free from any defects and structurally sound.

(b) Every exterior and interior flight of stairs having four (4) or more risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp, or other walking surface that is more than thirty inches (30") above the floor or grade below shall have guards. Handrails shall be not less than thirty-four inches (34") in height or more than thirty-eight inches (38") in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall be not less than thirty-six inches (36") in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

(11) Sprinklers.

Automatic sprinkler systems shall be installed throughout the entire building containing a short-term rental dwelling unit in accordance with the current edition of NFPA 13R. This pertains to any building up to and including four (4) stories in height and not exceeding sixty (60) feet in height above grade plane. Any building over four (4) stories or sixty (60) feet in height must use the current edition of NFPA 13.

#### **§ 107. Fees, Term, and Renewal.**

##### **A. Fees.**

Short-term rental license fees, payable to "Towamensing Township" upon the filing of a short-term rental license application, shall be in such amount as may be established by resolution duly adopted by the Board of Supervisors.

##### **B. Term.**

Any short-term rental license is good for a period not to exceed one (1) year from the date of issuance and must be renewed annually. Short-term rental license renewal fees, payable to "Towamensing Township" upon the filing of a short-term rental license renewal application, shall be in such amount as may be established by resolution duly adopted by the Board of Supervisors.

##### **C. Renewal.**



Short-term rental license renewal applications shall contain information regarding any changes from the immediately preceding application with respect to matters governed by this Ordinance.

**D. Taxes.**

Verification that all owed hotel and sales taxes have been paid shall be made before a short-term rental license renewal application is granted.

**E. Inspections.**

All initial short-term rental licenses, as well as all short-term rental license renewals, shall require inspections outlined in section 109 below.

**§ 108. Administration and Enforcement.**

This Ordinance shall be enforced by the Enforcement Officer appointed by the Board of Supervisors, with assistance by any Zoning Officer, Building Code Official, Building Code Inspector, Sewage Enforcement Officer, Engineer, or Roadmaster appointed by the Board of Supervisors from time to time. The Enforcement Officer shall have the responsibility and authority to administer and enforce all provisions of this Ordinance.

**§ 109. Inspections.**

A. All short-term rentals shall be subject to inspections by the Enforcement Officer to verify application information, license, license renewal, and/or operating requirements, or if there is reason to believe that any provision of this Ordinance is being violated.

B. The issuance of a short-term rental license is not a warranty or guarantee that the premises are lawful, safe, habitable, or in compliance with this Ordinance.

**§ 110. 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.

**§ 111. Notice of Violation.**

If it appears to the Enforcement Officer that a violation of this Ordinance exists or has occurred, the Enforcement Officer shall give written notice of violation to the owner by personal delivery or by both United States first class and certified mail addressed to either the mailing address of the owner under section 105(a)(1) or the mailing address of the contact person under section 105(A)(2), service to be complete upon mailing. The 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.

### **§ 112. Nuisance.**

In the interest of promoting the public health, safety and welfare, and minimizing the burden on the Township 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.

### **§ 113. 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 \$100 nor more than \$1,000 per violation, plus all court costs and reasonable attorney's fees incurred by the Township 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 Towamensing Township 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 Towamensing Township for its general use.

B. In addition to, but not in limitation of, the provisions of § 112. and § 113.A., the Enforcement Officer may either revoke, or deny an application to renew, a short-term rental license for three (3) violations of this Ordinance in any rolling twelve-month period. The revocation or denial to renew a short-term rental license shall continue for six (6) months for the first set of three (3) violations, and continue for one(1) year for any subsequent sets of violations.

#### **§ 114. Owners Jointly and Severally Responsible.**

If the premises are owned by more than one owner, owner(s) shall be jointly and severally subject to prosecution for a violation of this Ordinance.

#### **§ 115. 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 license, or to revoke a short-term rental license, shall be filed with the Board of Supervisors within thirty (30) days of the date of the denial of application or revocation of permit. Appeals shall be processed as follows:

(1) All appeals shall be in writing and signed by the appellant on forms prescribed by the Township, and shall be accompanied by a fee, the amount of which shall be established by the Township Supervisors, 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. Hearings.**

The Board of Supervisors 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 not less than seven (7) days prior to the hearing by United States first class mail postage prepaid.

(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 Board of Supervisors. The decision or, where no decision is called for, the findings, shall be in writing by the Board of Supervisors 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 Chairperson or Acting Chairperson of the 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 Board of Supervisors 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 Board of Supervisors, 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 Board of Supervisors 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.

#### **§ 116. Severability.**

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. The Township 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.

**§ 117. Repealer.**

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

**§ 118. Effective Date**

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

ORDAINED AND ENACTED this 1st day of October, 2020 by the Board of Supervisors of Towamensing Township.

**BOARD OF SUPERVISORS  
TOWAMENSING**

ATTEST:

  




