

ORDINANCE NO. 3 - 2021

TOWNSHIP OF FAIRFIELD

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AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 363 OF THE TOWNSHIP OF FAIRFIELD, CUMBERLAND COUNTY, ENTITLED "RENTAL DWELLINGS" SPECIFICALLY CREATING SECTION 363A-1 SHORT-TERM RENTALS OF THE TOWNSHIP CODE

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WHEREAS, the Fairfield Township Committee seeks to regulate the short-term rental of homes and dwelling units throughout Fairfield Township ("Township" or "Fairfield") to promote tourism and economic vitality in the Township; and

WHEREAS, the short-term rental of homes and dwelling units can provide a flexible housing supply that allows travelers safe accommodations, while contributing to the local economy, promoting travel and tourism and supporting the local tourism industry and business community; and

WHEREAS, the short-term rental of homes and dwelling units can provide homeowners an opportunity to maintain ownership of property in difficult economic circumstances; and

WHEREAS, the Township Committee recognizes that unregulated short-term rentals can create disproportionate impacts related to their size, excessive occupancy, and lack of proper facilities; and

WHEREAS, the presence of short-term rental units in established residential neighborhoods can create negative compatibility impacts and nuisances including, but not limited to, excessive noise, on-street parking, accumulation of trash, and diminished public safety; and

WHEREAS, it is in the public interest that short-term rental uses be regulated to minimize any potential deleterious effects of short-term rental properties in the surrounding neighborhoods in which they are located; and

NOW, THEREFORE, BE IT ORDAINED by the by the Township Committee as follows:

**Article I Smoke or Heat Detectors.**

**§ 363-2. Smoke or heat detectors required. [Amended]**

A. An automatic smoke or heat detector, meeting the standards and conditions herein, shall be installed and thereafter maintained in full operating condition, in any rental single family

detached or rental attached dwelling, in any multiple-family dwelling, boarding house or short-term rental unit existing in the Township of Fairfield. The existence of a smoke or heat detector shall be the prerequisite for an occupancy permit in any rental unit. All smoke or heat detectors are subject to the approval of the building subcode official.

B. All rental units, both short-term and long-term, as set forth above shall have automatic smoke or heat detectors including any rental unit which may be in existence on the effective date of this article.

**§ 363-6. Responsibility for inspections and testing-rented dwelling units. [Amended]**

In any existing rental single-family detached and rental attached dwellings, in any multiple-family dwelling or boardinghouse, where the dwelling units are customarily occupied by tenants for a period of 30 days or longer the tenant shall inspect and test, weekly, smoke or heat detectors installed in the dwelling units occupied by such tenants. In any dwellings wherein the unit is occupied as a Short-Term Rental defined herein the landlord, prior to occupancy by a Short-Term Tenant, shall inspect and test the smoke and/or heat detector to determine that the device is in working order. Any malfunction of the device, or other problem, shall be reported immediately to the landlord, and the landlord shall be responsible for repairing the device. The landlord shall be responsible for the initial installation of the unit. The landlord shall not delegate the responsibility of installation or repair of the device to the tenant by lease or otherwise.

Article II Housing Standards and Occupancy Permits.

**§ 363-11. Inspection and occupancy permits required annually. [Amended]**

No person, firm or corporation shall rent, lease, suffer or allow any person, firm or corporation (other than a member of the immediate family of a person, owner of a firm or principal stockholder of a corporation) to occupy as a tenant any house, to include both a short-term rental and a long-term rental, apartment or other structure, including a mobile home or a modular unit, in the Township unless that person, firm or corporation shall first register the rental structure for inspection and obtain from the Township a continued occupancy permit on an annual basis in accordance with this article.

**§ 363-13. Application; time to apply. [Amended]**

The annual registration of rental structures, as defined in §363-11 above, shall be made to the Fairfield Township Code Enforcement/Housing Office on or before March 1 of each year. Continued occupancy permits shall be valid for one year. No continued occupancy permit shall

be required during the initial occupancy of any house, apartment or other structure when a certificate of occupancy has been issued for the construction thereof in accordance with the State Uniform Construction Code Act, 52:27D-119 et seq. However, if the rental structure is damaged by fire or other cause, then reinspection shall be required. For all new short-term rental applications the owner, agent or landlord shall apply for a yearly permit.

**§ 363-15. Inspections. [Amended]**

The Zoning Officer, Code Enforcement Officer and/or Housing Assistant are hereby authorized and directed to make inspections to determine the conditions of dwellings, dwelling units, rooming units, and premises located within the Township in order that he may perform his duty of safeguarding the health and safety of the occupants of the dwellings and of the general public. For the purpose of making such inspections, the Code Enforcement Officer is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units, short-term rentals and premises. The owner or occupant of every dwelling unit, and rooming unit, or the person in charge thereof, shall give the Code Enforcement Officer free access to such dwelling, dwelling units, short-term rental units or rooming units and its premises at all reasonable times for the purpose of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, or its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this article.

**§ 363A-1. Short Term Rentals [New Section]**

**CHAPTER 363A-1 SHORT-TERM RENTALS**

**ARTICLE I Title; Findings; Definitions; Permit Requirements.**

**§ 363A-1. Title.**

This chapter shall be known as the “Short-Term Rentals Ordinance of the Township of Fairfield.”

**§ 363A-2. Purpose and Findings.**

Township Committee finds and declares that the short-term rental of 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 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, thereby promoting the local travel and tourism industry, and contributing to the economic vitality of the Township. Notwithstanding these 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.

The intended purposes of this Chapter 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;
- 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 the 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.

The Township Committee has therefore determined that it shall be unlawful for any owner of any property within the geographic bounds of the Township to rent or operate a short-term rental contrary to the procedures and regulations established in this Chapter, or applicable State statute.

**§ 363A-3. Definitions.**

The words defined in this section shall mean and include the following when used in this chapter:

OWNER - means an individual or entity holding title to a Short-Term Rental.

RESPONSIBLE PARTY - means the Owner and a person (property manager) designated by the Owner to be called upon and be responsible at all times during the period of a short-term rental and to answer for the maintenance of the property, or the conduct and acts of occupants of the property, and, in the case of the property manager, to accept service of legal process on behalf of the Owner.

SHORT-TERM RENTAL or STR - means the accessory use of a dwelling unit for occupancy by someone other than the unit's owner or permanent resident for a period of thirty (30) or less consecutive days, up to a cumulative total period of not to exceed one hundred eighty (180) days in a calendar year, which dwelling unit is advertised or held out to the public as a place regularly rented to transient occupants.

SHORT-TERM RENTAL PROPERTY - means a residential dwelling unit that is used and/or advertised for rent as a short-term rental for transient occupants as guests.

SHORT-TERM RENTAL PROPERTY AGENT - means any New Jersey licensed real estate agent or other person designated and charged by the Owner, with the responsibility for making the short-term rental application to the Township on behalf of the Owner, and fulfilling all of the obligations in connection with completion of the short-term rental property permit application process on behalf of the Owner. Such person shall be available for, and responsive to contact on behalf of, the Owner, at all times.

TOWNSHIP - the Township of Fairfield, Cumberland County.

TRANSIENT OCCUPANT - shall mean any person or a guest or invitee of such person, who, in exchange for compensation, occupies or is in actual or apparent control or possession of residential property, which is either: (1) registered as a short-term rental property, or (2) satisfies the definition of a short-term rental property, as such term is defined in this Chapter. It shall be a rebuttable presumption that any person who holds themselves out as being an occupant or guest of an occupant of the short-term rental is a transient occupant.

**§ 363A-4. Regulations for Short-Term Rentals.**

A. It shall be unlawful for any owner of any property within the Township to rent or operate a STR contrary to the procedures and regulations established in this Chapter or applicable State statute.

B. STRs shall be permitted in the following properties:

1. Condominium units where the Condominium Association By-Laws or Master Deed permit a short-term rental;

2. Single-family residences;

3. One unit within a two-family residential dwelling, where the other unit is occupied by the owner and identified by the owner as his or her principal residence;

4. Not more than one unit in any multi-family residential dwelling, where one other unit in the same dwelling is occupied by the owner and identified by the owner as his or her principal residence; and

C. Notwithstanding the provisions of sub-paragraph (2) above, short-term rentals shall not be permitted in boarding or rooming houses, dormitories, adult family care homes, assisted living facilities, community residences for developmentally disabled persons, community shelters for victims of domestic violence, or nursing homes.

D. Qualified private communities, HOAs and similar associations may approve more restrictive rules and regulations, and additional fees in their by-laws pertaining to short term rental properties within their legal boundaries.

**§ 363A-5. Short-Term Rental Permit, Permit Registration Fee/Application, and Certificate of Occupancy.**

A. The owner/operator of a Short-Term Rental Property shall obtain a STR permit from the Township, before renting or advertising for rent any STR.

B. No STR permit issued pursuant to this Chapter may be transferred or assigned.

C. An owner of property intended to serve as a Short-Term Rental Property, as defined herein, or any agent acting on behalf of the Owner, shall submit to the Fairfield Township Code Enforcement/Housing Office, a STR permit application provided by the Township and a registration fee in the amount of two-hundred and fifty dollars (\$250.00).

D. The STR permit, if granted, shall be valid for a period of one year from the date of issuance.

E. The owner of a Short-Term Rental Property, or any agent acting on behalf of the Owner, who intends to rent all of the property, or any permitted part thereof, shall also make application to the Fairfield Township Code Enforcement/Housing Office, in conjunction with the STR permit application, for the issuance of a rental Certificate of Occupancy for the Short-Term Rental Property, on such forms as required by that Department.

F. A STR permit and rental Certificate of Occupancy shall be renewed on an annual basis within sixty (60) days of the anniversary of the issuance of the original STR permit, by submitting to the Fairfield Township Code Enforcement/Housing Office a STR permit application and rental Certificate of Occupancy application and a renewal registration fee of two-hundred and fifty dollars (\$250.00). If an application to renew an STR permit is not submitted within sixty (60) days of the prior permit's date of issuance, a late fee of fifty dollars (\$50.00) shall be charged in addition to the renewal application fee.

G. The STR permit shall expire when the Short-Term Rental Property changes ownership. A new application and first-time registration fee will be required in the event that the new owner intends to use the property as a Short-Term Rental Property. A new application and first-time registration fee shall also be required for any STR that had its STR permit revoked or suspended.

**§ 363A-6. Application Process for Short-Term Rental Permit and Inspections.**

A. Applicants for a STR permit shall submit, on an annual basis, an application for a STR permit to the Fairfield Township Code Enforcement/Housing Office.

B. The application shall be signed, under oath, on a form specified by the Township.

C. Such application shall include:

1. The name, address, telephone number and email address of the owner(s) of the dwelling unit for which a STR permit is sought. If such owner is not a natural person, the application must include and identify the names of all owners, members, partners, officers and/or directors of any such entity, and the personal contact information, including address and telephone numbers for each of them;
2. The address of the unit to be used as a short-term rental;
3. A copy of the driver's license or state identification card of the Owner, confirming the Short Term Rental Property is the Owner's principal residence;
4. The name, address, telephone number and email address of the Short-Term Rental Property Agent, which shall constitute his or her 7 day a week, 24-hour contact information;
5. The name, address, telephone number and email address of the Responsible Party, which shall constitute his or her 7 day a week, 24-hour contact information;
6. The Owner's sworn acknowledgement that he or she has received a copy of this Ordinance, has reviewed it, understands its requirements and certifies, under oath, as to the accuracy of all information provided in the STR permit application;

7. The number and location of all parking spaces available to the STR. A Short-Term Rental Property shall designate one parking space for every bedroom available for rent;

8. A site plan showing all structures on the Short-Term Rental Property, the number and location of parking spaces available to the STR, a floor plan, which shall also show the garage if the garage is intended to be used for STR parking.

9. The STR owner's agreement to use his or her best efforts to assure that use of the STR will not disrupt the neighborhood, and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties;

10. Any other information that this Chapter requires an Owner to provide to the Township in connection with an application for a rental certificate of occupancy.

D. Every Short Term Rental Property shall be inspected bi-annually for compliance with the Township's fire safety regulations and property maintenance code. In addition, each STR is subject to review to verify the STR's eligibility for use as a STR.

E. A sworn statement demonstrating that the Short Term Rental Property is not being occupied or used in violation of the Township's Land Use Regulations and Zoning Ordinance shall be submitted with a STR permit application.

F. A sworn statement providing there have been no revocations or suspensions of a STR permit shall be submitted with the STR permit application. If a STR permit has been revoked or suspended a STR permit shall not be issued, which denial may be appealed as provided hereinafter.

G. Attached to and concurrent with submission of the STR permit application, the Owner shall provide:

1. Proof of the Owner's current ownership of the Short Term Rental Property;

2. Proof of general liability insurance in a minimum amount of \$500,000.00; and

3. Written certifications from the Short Term Rental Property Agent and Responsible Party that they agree to perform all of the respective duties specified in this Chapter.

4. Water testing responsibilities for private wells. With the initial permit application and at least once every five years, thereafter, OR upon any change in ownership, the owner of any Short Term Rental, the potable water supply for which is a private well for which testing of the water is not required pursuant to any other state law, shall test that water supply in the manner established pursuant to the *Private Well Testing Act* for the following parameters: bacteria (total



coliform); nitrates; iron; manganese; pH; all volatile organic compounds for which maximum contaminant levels have been established pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.); and lead by a state certified laboratory. The potable water test results shall be provided with STR permit application and renewals.

5. Septic System testing responsibilities. With the initial permit application and at least once every five years, thereafter, OR upon any change in ownership, the owner of any Short Term Rental, shall test that septic system in the manner established pursuant to the *Standards for Individual Subsurface Sewage Disposal Systems*, N.J.A.C. 7:9A, also known as Chapter 199; and additionally any and all other state, county and local laws, ordinances and regulations. The septic system test results shall be provided with STR permit application and renewals.

H. The STR permit holder shall publish the STR permit number issued by the Township in every print, digital, internet advertisement or any solicitation offering the STR for rent.

I. In no event shall a STR be rented to anyone younger than twenty-one (21) years of age. The party executing the lease or rental agreement for occupancy of the STR may allow occupants under the age of twenty-one (21) to stay with him/her during the rental period of the STR.

J. An STR can be occupied by two persons per bedroom, with an additional two persons permitted. For example, a three bedroom STR can be rented to no more than eight (8) people.

**§ 363A-7. Issuance of Permit and Appeal Procedure.**

A. Once a STR application is submitted, complete with all required information and documentation and fees, the Fairfield Township Code Enforcement/Housing Office, following any necessary investigation for compliance with this Chapter, shall either issue the STR permit and Certificate of Occupancy, or issue a written denial of the permit application (with the reasons for such denial being stated therein), within ten (10) business days.

B. If a STR permit is denied, the applicant shall have ten (10) business days to appeal in writing to the Township Administrator, by filing the appeal with the Township Administrator's Office.

C. Within thirty (30) days thereafter, the Township Administrator or his designee shall hear and decide the appeal.

**§ 363A-8. Short-Term Rental Operational Requirements.**

A. A STR and its occupants must comply with all applicable rules, regulations and ordinances of the Township, State of New Jersey and United States of America.

B. The Owner shall not install any advertising or identifying mechanisms, such as signage, including lawn signage, identifying the property for rent as a short-term rental property.

C. Occupants of a Short-Term Rental Property shall provide the Township with their home address, license plate number, year and make of automobile, copy of drivers' license, telephone number and address of the Short-Term Rental Property that is being occupied.

D. The Owner shall post the following information in a prominent location within the STR:

1. Owner name; if Owner is an entity, the name of a principal in the entity, and phone number for the Owner (individual);

2. The names and phone numbers for the Responsible Party and the Short Term Rental Property Agent (as those terms are defined in this Chapter);

3. The phone numbers for the New Jersey State Police, the Fairfield Township Fire Department, and the Fairfield Township Code Enforcement/Housing Office;

4. The maximum number of parking spaces available onsite;

5. Trash and recycling pick-up day, and all applicable rules and regulations regarding trash disposal and recycling;

6. A copy of the Ordinance authorizing this Chapter; and

7. Notification that an occupant, Owner or Short Term Rental Property Agent may be cited or fined by the Township for any violation(s) of the Township's Ordinance(s);

E. In the event any complaints are received by the Township regarding the STR or its occupants, and the Owner is unreachable or unresponsive, the Responsible Party and the Short-Term Rental Property Agent shall be authorized to and have the responsibility to take any action to resolve such complaints.

F. While a Short Term Rental Property is rented, the Owner, the Short-Term Rental Property Agent, or Responsible Party shall be available twenty-four hours per day, seven days per week for the purpose of responding within two (2) hours to complaints regarding the condition of the STR or its occupants.

G. If the Short Term Rental Property is the subject of two (2) or more substantiated civil and/or criminal complaints, the Mayor or his designee may revoke the STR permit issued for the property, in which case, the STR may not be the subject of a STR permit application for one (1) year following the date of revocation of the permit.

H. Failure to make application for, and to obtain the issuance of, a STR permit before advertising or soliciting occupants for the STR shall constitute a violation of this Title of the Code.

I. The person offering a dwelling unit for short-term rental use must be the owner of the dwelling unit. A tenant of a property may not apply for a STR permit, nor shall the property or any portion thereof be sub-leased by the tenant on a short-term basis, or operated as a STR.

J. The STR Owner must be current with all taxes, fines or any other amounts owed to the Township prior to the issuance of a STR permit. In the event that any code violations have been issued by the Township, such violations must be abated before a STR permit will be issued. A STR Owner must also close any open construction permits prior to the issuance of a STR permit.

**§ 363A-9. Violations and Penalties.**

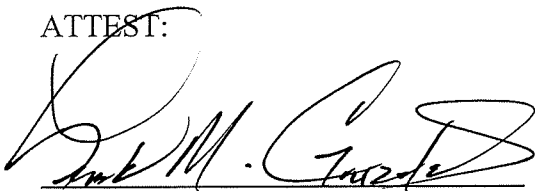
A. A violation of any provision of the within Chapter may subject the STR Owner, Transient Occupant(s), the STR Property Agent, or the Responsible Party or their agents to fines of between \$100.00 to \$500.00 per violation, per day, that the violation exists and/or the revocation of any STR permit.

**SECTION 2.** Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity of constitutionality of any other sections or parts thereof.

**SECTION 3.** Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

**SECTION 4.** This Ordinance shall take effect immediately upon final passage and publication in accordance with law.

ATTEST:

  
Linda M. Gonzales, Municipal Clerk

  
Mayor Benjamin Byrd, Sr.

FIRST READING: APRIL 21, 2021

PUBLICATION ON FIRST READING: APRIL 26, 2021

SECOND READING/PUBLIC HEARING: MAY 5, 2021

PUBLICATION ON SECOND READING: MAY 9, 2021

FINAL ADOPTION: MAY 5, 2021

David Cruzalca

Motion by:

Maurio Pierre, Jr.

Seconded by:

Vote:

TC ABSENT; DG 1st; MKP ABSENT; MP 2nd; BB ✓

STATE OF NEW JERSEY :

: SS

COUNTY OF CUMBERLAND :

Please take notice that the above Ordinance was adopted by the Township Committee of Fairfield Township after a public hearing on the 5th day of May, 2021.

ATTEST

Linda M. Gonzales

Linda M. Gonzales, Municipal Clerk