

COVINGTON TOWNSHIP

ORDINANCE NO. 2023-03

SHORT-TERM RENTAL ORDINANCE

AN ORDINANCE TO REGULATE SHORT-TERM RENTALS WITHIN THE TOWNSHIP AND TO ESTABLISH PENALTIES FOR VIOLATIONS

Section 1 – Short Title

This Ordinance shall be known and may be cited as the “Covington Township Short-Term Rental Ordinance.”

Section 2 – Findings and Purpose

The Board of Supervisors of Covington Township, Lackawanna County, Pennsylvania, have a duty to provide for the health, safety and general welfare of its citizens within the Township, and to protect all property owners and residents from the detrimental effects of unregulated short-term rentals in the Township. The Board finds and declares its findings and purpose in enacting this Ordinance as follows:

- A. Occupants of short-term rentals are generally transitory in nature, and enforcement against said occupants is often difficult.
- B. An Ordinance to regulate short-term rentals is necessary to assure that all units have sewage treatment systems in good working order, meet fire and safety codes, including fire suppression devices, and alarms for fire and carbon monoxide, to assure the safety of all occupants.
- C. The provisions of this Ordinance are intended to address all of the above concerns and to assure all occupants that the short-term rental units are safe to occupy, that the rental units comply with on-site sewage requirements, and to maintain a rural and recreational character of the Township for all residents, homeowners and visitors to enjoy.

Section 3 – Authority

Pursuant to the general powers as enacted and ordained by the Pennsylvania Second Class Township Code, Act of May 1, 1933 (P.L. 103 No. 69) reenacted and amended July 10, 1947 (P.L. 1481 No. 567) as amended, and the specific authority granted by Section 1506-General Powers, Section 1517-Building and Housing Regulations, Section 1527-Public Safety, and Section 1529-Nuisances, the Board of Supervisors for Covington Township, Lackawanna County, Pennsylvania hereby enacted this Ordinance.

Section 4 – Applicability

The provisions of this Ordinance shall apply to all short-term rentals which shall be defined as follows:

Any dwelling unit within a residential building, structure or dwelling which is rented for overnight lodging for a period of not less than one (1) day and not more than twenty-nine (29) days. The statutory meaning of this Ordinance is set forth hereinafter under “Definitions.”

Section 5 – Responsibility

The owner of the short-term rental unit shall be the party or entity responsible for compliance with the provisions of this Ordinance, and the failure of any agent, managing agency, subagent referring agency or local contact person shall be deemed noncompliance by the record owner.

Section 6 – Definitions

The words and phrases used in this Ordinance shall have the following meanings:

Bedroom: A room containing a minimum of eighty (80) square feet that is used as a sleeping room and for no other primary purpose.

Dwelling: A structure or portion thereof which is used primarily for human habitation.

Dwelling Unit: One (1) or more rooms in a residential dwelling structure, including a kitchen, sleeping facilities, bath and toilet, designed as a household unit for long term residency by not more than one (1) family at a time.

Local Contact Person: A local property manager, owner, or agent of the owner, who is available to respond to tenant and neighborhood questions or concerns, or any agent of the owner authorized by owner to take remedial action and respond to any violation of this Ordinance. The Township must be notified within five (5) days if there is a change in identity of the local contact person.

Manufactured Home: A dwelling that can be moved in one (1) or more sections, can be used as a home with or without a permanent foundation, and has electrical, plumbing, heating and a sewage treatment system connected to such a septic or central sewage facility.

Owner: The person or entity that holds legal or equitable title to the dwelling.

Rent: The consideration received by a vendor in money, credits, property, or other consideration valued in money for lodging, including electronic currency.

Short-Term Rental: Any dwelling unit within a residential structure rented for overnight lodging for a period of not less than one (1) day and not more than twenty-nine (29) days.

Section 7 – Short Term Rental Permit Requirements

The owner shall be responsible for obtaining all permits and permit renewals.

A. Permit Required – A short-term rental permit shall be required when any dwelling unit in a single-family dwelling or a two-family/multi-family dwelling is advertised for rent or is rented for a period of less than twenty-nine (29) consecutive calendar days.

B. Permit Renewal – A permit shall be renewed annually and at any time when any of the conditions of the rental which are governed by this Ordinance are changed.

C. Separate Permits – A separate permit is required for each short-term rental; for two-family or multi-family dwellings, a separate permit shall be required for each dwelling unit being rented pursuant to the definition of “short-term rental.”

D. Issuance to Owner – The permit shall be issued only to the owner of the short-term rental.

E. Forms and Procedures – The enforcement officer is authorized to prescribe forms and procedures for the processing of permits under this Ordinance.

F. Inspection Authorization – The owner, by making application for a permit and/or accepting issuance of a permit grants permission for all inspections authorized by Section 12.

G. Permit Not Transferrable

1. The permit issued to an owner pursuant to this Ordinance is personal to the owner identified in the application and does not run with the property. If the ownership of the property changes, either directly by sale or deed transfer, or indirectly by death, change in ownership of the entity owning the property, sheriff sale or court order, the new owner must apply for a permit under the provisions of this Ordinance prior to renting the property, but shall be entitled to get a permit provided such new owner complies with the terms of this Ordinance.

2. If an owner has been convicted of a violation of this Ordinance (hereinafter the “violating owner”), or if a violating owner’s permit has been revoked by the Township, then a transfer of the property by the violating owner to one or more family members, or to an entity owned by the violating owner, or such owner’s family members, then that new owner shall be subject to the violations and penalties and/or revocation imposed upon the “violating owner.”

Section 8 – Local Contact Person

Each owner of a short-term rental shall designate a local person, property manager or agent, as a local contact person who has access and authority to assume management of the unit and take remedial measures. An owner of a short-term rental who resides within thirty (30) miles of the short-term rental may designate himself as the local contact person. The local contact person shall respond to the enforcement officer within one (1) hour after being notified by the enforcement officer or other township official of the existence of a violation of this Ordinance or any disturbance requiring immediate remedy or abatement. If the local contact person is not the owner, the local contact person shall immediately advise the owner of any notification of a violation.

Section 9 – Application for Short-Term Rental Permit

A. Application Required; Information – An application for a permit shall be filed with the designated Township official before use of the property as a short-term rental. The application shall contain the following information:

1. The name, address, telephone number and email address of the owner of the short-term rental for which the permit is issued. If the owner does not have a managing agency, agent or local contact person, then the owner shall provide a 24-hour telephone number.
2. The name, address and 24-hour telephone number of the short-term rental owner's managing agency, agent or local person.
3. A photograph and address of the short-term rental taken from the primary entrance.
4. Acknowledgement that all designated bedrooms contain a minimum of eighty (80) square feet.
5. The number of bedrooms [each containing the required minimum of eighty (80) square feet] and the maximum number of overnight occupants.
6. If the building is more than a single family structure, the number of dwelling units and the number of dwelling units being used as a vacation rental.
7. The number of on-site parking spaces and the maximum number of vehicles allowed for overnight occupants.
8. The location, approximate age and capacity (if known) of the sewage disposal system.

9. Certification by the owner that the sewage disposal system is in good working order, free from malfunction, and not in violation of any law, regulation or ordinance governing the treatment and disposal of sewage.

10. Acknowledgment that the owner, agent, and/or local contact person have read all regulations pertaining to the operation of the short-term rental.

11. Acknowledgment that the owner, agent or local contact person will post and maintain the 911 Emergency Number within the unit.

12. A copy of a current Lackawanna County Hotel Room Tax Certificate and current Pennsylvania Sales Tax License.

The applicant shall be notified in writing of the decision to grant or deny the permit application upon thirty (30) days of a complete application and inspection. In the event of a denied application, the notification shall inform the applicant of the appeal rights and deadline to submit the appeal as set forth herein.

Section 10 – Application and Renewal Fees

A. Application Fee – An application for a short-term rental permit shall be accompanied by an initial fee established by Resolution of the Board of Supervisors.

B. Renewal Fee – An annual renewal fee shall be established by Resolution of the Board of Supervisors which permit holders shall pay when renewing their permit issued pursuant to this Ordinance. Failure to pay the renewal fee by February 15th will result in the assessment of a fee twice the amount of the normal renewal fee. If the fee is not paid by May 1st, the permit shall be null and void and application for a new permit, not a renewal, shall be required.

Section 11 – Operational Standards and Conditions

A. Standards – All permits issued pursuant to this Ordinance are subject to the following standards:

1. The owner shall by written agreement, limit overnight occupancy of the short-term rental to the specific number of occupants designated in the permit, with the number of overnight occupants not to exceed two (2) persons per bedroom.

2. The maximum number of day guests allowed at any one (1) time shall be fifty (50%) percent of the maximum occupancy of the short-term rental.

3. The number of bedrooms permitted for a short-term rental shall not exceed the number of bedrooms approved for the dwelling on the sewage permit issued for such property, and the Sewage

Enforcement Officer may require any additional testing as determined by himself to insure the on-site system is adequate for the use as a short term rental and complies with any applicable Pennsylvania Department of Environmental Protection sewage regulations.

4. Where there is no sewage permit on record, the short-term rental for such a dwelling shall be limited to the number of bedrooms that have been historically maintained in the dwelling based on documentation provided by the owner and which is verified by the Township. Should the Township determine that the evidence provided is not adequate to document the proposed number of bedrooms, the number of bedrooms shall be limited to three (3) and a dye test may be required by the Township Sewage Enforcement Office to confirm that the on-site system is functioning in accordance with applicable regulations.

5. In no instance shall the existing number of bedrooms be increased without proper Township and Pennsylvania Department of Environmental Protection approval being obtained.

6. If a sewage system malfunction occurs, the rental of the unit shall be discontinued until the malfunction is corrected in accord with Township and Pennsylvania Department of Environmental Protection requirements.

7. The short-term rental shall also have at least one (1) other habitable room containing a minimum of one hundred twenty (120) square feet. In the event that the dwelling unit does not have partitioned rooms, other than a bathroom, then the dwelling unit shall be deemed a one (1) bedroom unit confined to two (2) persons occupancy.

8. The owner shall by written agreement, limit the number of all vehicles of overnight occupants and day guests to the number designated in the permit with the number of all vehicles not to exceed the number of designated on-site parking spaces.

a. All parking for overnight guests and day guests shall be designated in the permit and shall be located on the owner's property and not in any private, community or public right-of-way.

b. A minimum of one (1) parking space per bedroom shall be provided. The required number of parking spaces may include spaces in a garage which can accommodate vehicles.

c. All parking spaces shall be improved to a mud-free condition with paving, stone or similar material.

d. Each vehicle parking space shall be a rectangle with a minimum width of nine (9) feet and a minimum length of eighteen (18) feet and adequate aisle width shall be provided to facilitate access and use of the spaces.

e. If the short-term rental is accessed directly by a Township or State Road, all parking spaces shall be accessed from the driveway serving the short-term rental and not directly from the Township or State road.

9. 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 violate the provisions of this Ordinance or any state law pertaining to noise or disorderly conduct by notifying the occupants of the rules regarding short-term rentals and responding when notified that occupants are violating laws regarding their occupancy. It is not intended that the owner, local agent, or contact person act as an enforcement officer or place himself or herself in harm's way.

10. 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 violated provisions of this Ordinance 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.

11. Any lights used for exterior illumination shall direct light away from adjoining properties. Lighting shall be pointed/shielded downward to minimize upward glare.

12. Occupancy of recreational vehicles, camper trailers and tents shall not be allowed.

13. Occupancy of manufactured homes is allowed.

14. The use of campfires, fire pit rings, fire pits, charcoal-burning grills or other devices (as applicable) shall be the responsibility of the owner or Local Contact.

15. The owner of the short-term rental shall post a copy of the permit and a copy of the conditions set forth in this Section 10 in a conspicuous place within the short-term rental.

16. Each short-term rental shall have a clearly visible and legible notice posted within the unit on or adjacent to the front door, containing the following information:

a. The name of the managing agency, agent, property manager, local contact, or owner of the unit, and a telephone number at which that party may be reached on a 24-hour basis.

b. The maximum number of occupants permitted to stay in the unit and the maximum number of day guests permitted at any one (1) time.

c. The maximum number of all vehicles allowed to be parked on the property and the requirement that all rent/guests parking must be on the property and not in any private, community or public right-of-way.

d. The number and location of on-site parking spaces and the parking rules for seasonal snow removal.

e. The trash pick-up day and notification that trash and refuse shall not be let or stored on the exterior of the property except on the day designated for trash pick-up unless a bear proof container exists for use by the occupants.

f. Notification that an occupant may be cited and fined for creating a disturbance or for violating other provisions of this Ordinance; and,

g. Notification that failure to conform to the parking and occupancy requirements of the structure is a violation of this Ordinance subject to a citation and fines.

Section 12 – Enforcement Officers

A. Appointment – The Board of Supervisors may appoint one (1) or more enforcement officers, who may be an individual, firm or agency of the Township, or enter into a third-party contract, to conduct inspections, make reports and administer other parts of this Ordinance as determined by the Board of Supervisors.

B. Duties – The administrative, inspection and enforcement responsibilities established by this Ordinance may be delegated to a third party agency.

C. Consultation – The enforcement officer, with the authorization of the Board of Supervisors, may engage the services of competent engineers or other consultants to determine the nature and extent of any violation.

Section 13 – Inspections and Access

A. Inspection – All places and premises in Covington Township shall be subject to inspection by the enforcement officer to verify application, permit or operating requirements or if there is an identifiable reason to believe that any provision of this Ordinance is being violated. Notice of such an inspection shall follow the procedures set forth in the “Notice” section herein. The owner may appeal the decision to inspect the premises in accordance with the appeal procedures set forth herein.

B. Interference – It shall be unlawful for any person to hinder, delay, resist or prevent the enforcement officer from having full access to any place or premises upon which a violation of this Ordinance is believed to exist.

Section 14 – Marketing

The marketing of a short-term rental which 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 subject to the penalties and costs set forth in this Ordinance. The owner or local contact person shall provide to the enforcement officer a copy of all advertisements relating to the short-term rental.

Section 15 – Action on Complaints

A. Violation in Progress – Upon receipt of a verbal complaint of a violation in progress, the enforcement officer shall immediately notify the owner and/or the local contact person of the complaint. If the enforcement officer believes a crime to be in progress, he/she shall immediately notify the appropriate police department. The enforcement officer shall have no obligation to respond to any violation in progress at the property in question, unless the Township has appointed a police officer or police department to act as the enforcement officer for this Ordinance.

Section 16 – Notice

A. Service of Notice – Whenever the enforcement officer determines that a violation of this Ordinance exists, or that an inspection of the short-term rental will take place, the enforcement officer shall prepare a written Notice of Violation or Notice of Inspection, to be served on the owner and/or occupant(s) of the premises on which the violation is located or originates, or where the inspection is needed. The written Notice of Violation or Notice of Inspection shall be served on the owner and local contact person within five (5) days of the determination of the violation or need for an inspection by the following methods:

1. Personal delivery.
2. Fixing a copy to the door of the building on the premises of the violation.
3. Certified mail to the owner and local contact person addresses on the permit.

B. Content of Notice

1. The Notice shall enumerate the conditions which constitute the violation and what action is required to abate the violation.

2. The Notice shall include a time frame for the abatement of the violation, with such time frame established by the enforcement officer based upon the nature of the violation and providing a reasonable period for the violator to take the required action but not more than ten (10) days. In the case of a public disturbance or in other cases as determined by the enforcement officer, immediate action shall be required. In the case of an inspection, the Notice shall include the specific reason(s) for the inspection and the date and time of the inspection. The Notice shall also include the right to appeal the Notice of Inspection as set forth herein.

Section 17 – Violations, Penalties and Costs

A. **Compliance** – Failure to comply with any provision of this Ordinance, and/or failure to abate an activity, use and/or condition, shall be deemed a violation of this Ordinance and subject to the following penalties:

First Violation - Warning

A. A written warning from the enforcement officer of non-compliance. The written warning shall specifically set forth the nature of the violation, with the location, date and events constituting a violation of the provisions of this Ordinance.

Subsequent Violations

B. A written notification from the enforcement officer of a subsequent violation at same location during the yearly permit period, shall constitute a violation which shall upon judgment thereof by any Magisterial District Judge be sentenced to pay a fine of not more than \$1,000.00 per day of violation, together with the costs of suit including, but not limited to, reasonable attorney fees, constable fees and staff time. Each day of violation shall constitute a separate offense, for which a summary conviction may be sought. All judgments, administrative, enforcement, security firm or police response, and other costs, interest and reasonable attorneys' fees collected for the violation of this Ordinance, shall be paid over to the Township.

C. **Other Remedies** – The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment. The Township shall also have the right to seek Injunctive Relief for violations of this Ordinance.

D. **Permit Revocation** – If an owner commits two violations which result in convictions under Section B as written above, then the permit shall be revoked by the Township and the short-term rental must be discontinued while the permit is revoked. The revocation shall be for one (1) year. The conviction for a third violation under Section B as written above shall be cause for permanent revocation of the permit. Any violation of the PA Sewage Facilities Act and applicable regulations may result in immediate permit revocation until the violation is corrected. (See also § 6G for license transfers.)

E. **Reinstatement** – The Board of Supervisors may in its sole discretion approve the reinstatement of a license, if satisfied that there has been an appropriate change of ownership and/or that the cause of the violations has been corrected and that all other requirements of this ordinance have been met.

Section 18 – Appeals

A. Appeal Process – 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, or to inspect a short-term rental, shall be filed with the Board of Supervisors within 30 days of the date of the denial of an application or revocation of a license. Appeals shall be processed as follows:

1. All appeals shall be in writing, state with specificity the reason(s) for the appeal, 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 resolution of the Township Board of 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 3, 1968 (P.L. 1133, No. 353), known as the “Local Agency Law”, and in accord with the following requirements:

1. Written notice shall be given to the appellant, the enforcement officer, and to any person who has made a timely request for same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Board of Supervisors, but not less than 15 days prior to the hearing.

2. The hearing shall be held within 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 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 of Supervisors 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 repetitions 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 advise 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.

Section 19 – Severability

Should any section, subsection, clause, provision, or other portion of this Ordinance be declared invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance; the Board of Supervisors having adopted this Ordinance as if such invalid portions had not been included therein.

Section 20 – Repealer

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed, including Ordinance 2021-01.

Section 21 – Effective Date

This Ordinance shall become effective on this ____ day of _____, 2023. The owner of the short-term rental shall have sixty (60) days from the effective date of this Ordinance to comply with its provisions.

[SIGNATURES ON FOLLOWING PAGE]

TOWNSHIP OF COVINGTON

Melissa A. Kearney, Chairwoman

Vicki L. Williams, Vice-Chairwoman

Marshall Peirce

William J. Willson

Wanda R. Andreoli

Draft