

ORDINANCE NO. 2022- _____

AN ORDINANCE OF THE TOWNSHIP OF TOBYHANNA, COUNTY OF MONROE, COMMONWEALTH OF PENNSYLVANIA, RELATING TO THE USE AND REGULATION OF SHORT-TERM RENTAL (STR) UNITS WITHIN THE TOWNSHIP AND ESTABLISHING APPLICATION AND PERMIT STANDARDS AND PROCEDURES, PROVIDING FOR ADMINISTRATION AND ENFORCEMENT INCLUDING PENALTIES, AND OTHER MATTERS PERTAINING THERETO.

Section 1 - Title

- A. This Chapter shall be known as and may be cited as "The Township of Tobyhanna Short-Term Rental Ordinance."

Section 2 - Scope

- A. The provisions of this Chapter shall apply to all residential dwelling units, conversions of non-residential structures to residential dwellings, and all existing premises within the Township of Tobyhanna.
- B. The owner of the subject property shall be responsible for compliance with the provisions of this Chapter and the failure of an owner, operator, agency, managing agency, local contact person, or occupants to comply with the provisions of this Chapter shall be deemed as noncompliance.
- C. This Chapter shall not apply to a resort, camp, hotel/motel/inn, bed and breakfast, or boarding- or rooming house, as defined within the Zoning Ordinance.
- D. The Township Supervisors, under the authority granted by Section 1506 - General Powers, Section 1517 - Building and Housing Regulations, Section 1527 - Public Safety, and Section 1529 - Nuisances, of the Pennsylvania Second Class Township Code, Act of May 3, 2016, 1933 (P.L. 103, No. 69), reenacted and amended July 10, 1947 (P.L. 1481, No. 567), as amended, hereby adopt the following rules and regulations governing Short-Term Rentals within the boundaries of the municipality.

Section 3 – Interpretation

- A. This Chapter is not intended to, and does not, excuse any STR owner from compliance with the Township of Tobyhanna Zoning Ordinance, as amended from time to time. Whenever possible, this Chapter and the Zoning Ordinance should be construed and interpreted as being consistent, and not in conflict.
- B. This Chapter is not intended to and does not supersede the declarations or covenants in a planned community where a short-term rental may be located.

Section 4 - Definitions

For the purposes of this Chapter, words and terms used herein shall be interpreted as follows:

ANNUAL TERM – Twelve month rolling period in which an application is valid.

BEDROOM - A room or space designed to be used for sleeping purposes with two means of egress. Space used for eating, cooking, bathrooms, toilet rooms, closets, halls, storage or utility rooms and similar uses are not considered Bedrooms. Space used or intended for general and informal everyday use such as a living room, den, and sitting room or similar is not to be considered a Bedroom.

DAY GUEST - A visitor to the Short-Term Rental property who is neither an overnight guest, person in charge, or owner of the property.

DWELLING UNIT - A building or portion thereof providing complete housekeeping facilities for one family or a group of unrelated persons using such facilities in common.

OCCUPANT(S) – Either an Overnight Guest or a Day Guest

SHORT TERM ONLINE PLATFORM(S) - Any online search engine, digital service and/or brokerage firm that facilitates interactions between two or more distinct but interdependent sets of users who interact through the service via the internet, with the digital service provider promoting and acting as an agent in offering, providing and managing rental opportunities for specifically identified short term rental properties. This includes a person or entity that provides a means through which an operator may offer a dwelling unit for short-term rental use, and from which the person or entity financially benefits.

OVERNIGHT GUEST - Any individual lodging overnight at a Short-Term Rental for a period of thirty (30) days or less.

PARKING SPACE – Area used for the parking of a motor vehicle.

PERSON(S) IN CHARGE – Person(s) or agent(s) with authority to represent the owner for purposes of emergency and non-emergency contact and communication regarding the owner's Short-Term Rental.

SHORT-TERM RENTAL - Any Dwelling Unit utilized rented for the purpose of overnight lodging for a period of less than thirty (30) days, and which meets the definition of "Hotel" for the purpose of imposing an excise tax by the County of Monroe as defined in the County of Monroe Ordinance No. 2004-03, as amended.

SHORT TERM RENTAL CAPACITY LIMIT – The maximum overnight occupancy of a STR.

SHORT TERM RENTAL OPERATOR – Person(s) or agent with authority to make decisions with regard to the management of the short term rental. The STR Operator may be the owner, the Person(s) in Charge or a designated representative who can legally bind the STR owner in their absence.

SHORT-TERM RENTAL PERMIT - Permission granted by the Township to utilize a Dwelling Unit for Short-Term Rental Use.

SHORT TERM RENTAL PERIOD The minimum time period allowed for renting a Short Term Rental Unit.

SHORT TERM RENTAL PLATFORM – Any online platform and/or brokerage firm promoting and acting as an agent in offering, providing and managing rental opportunities for specifically identified short term rental properties.

SHORT TERM RENTAL PERMIT APPLICATION – An application by Township of Tobyhanna which must be completed, by the STR owner or operator.

SHORT TERM RENTAL PERMIT RENEWAL APPLICATION – An application required by Township of Tobyhanna which must be completed by the STR owner or operator for the renewal of a Short Term Rental Permit after the Annual Term.

VIOLATIONS – Any action or inaction by the STR Owner or Renter that is non-compliant with any provision of STR Ordinance.

Section 5 - Permit Required

- A. No owner of any property in Township of Tobyhanna shall operate a Short-Term Rental in Township of Tobyhanna without first obtaining a Short-Term Rental Permit from the Enforcement Officer. Operation of a Short-Term Rental without such Short-Term Rental Permit is a violation of this Chapter. Permits may be transferable to any new owner of the property provided an application with updated contact information is submitted to the Township and all prior violations of this chapter have been remedied.
- B. The issuance of a Short-Term Rental Permit is not a warranty that the premises are lawful, safe, habitable, or in compliance with this Chapter. Nor are there any guarantees for the protection of the owner or STR owner's property.

Section 6 – Claim of Contract Impairment

- A. It is not the intent of this ordinance to impair any existing contracts, leases, or reservations that are evidenced in writing.
- B. An owner who asserts the enacted ordinance impairs a short-term rental contract in effect on or before the adoption date of this ordinance shall submit the contract, lease or reservation, evidenced in writing, to the Enforcement Officer for review and consideration within sixty (60) days of the adoption date of the ordinance.

Section 7 - Permit Requirements

- A. Short-Term Rental Permit applications shall contain the following information:

- (1) The address of the subject property intended for rental.

- (2) The name, address, telephone number and email address of the owner.
- (3) The name, address and 24-hour telephone number of all Person(s) in Charge.
- (4) Floor plan identifying rooms on all floors, specific location of bedrooms, and location of any pools labeled as either in-ground or above-ground.
- (5) The total number of bedrooms.
- (6) If the building is a multi-unit structure, the total number of dwelling units in the structure and the number of dwelling units being used as Short-Term Rentals.
- (7) A diagram or aerial photograph showing the location and number of on-site parking spaces that comply with the definitions contained within the STR Ordinance # _____.
- (8) If not on a central sewer system, a septic system evaluation certifying the existing system is functioning as intended and proof the tank was pumped within the past three (3) years for approval by the Sewage Enforcement Officer.
- (9) If on a central sewer system, a “will serve” letter from the owner of the central sewer system certifying that sufficient capacity is present for use of the property as a Short-Term Rental with the number of bedrooms noted in the body of the letter.
- (10) Copy of current Monroe County Hotel Room Excise Tax Certificate or proof of same.
- (11) Copy of current Pennsylvania Sales and Use Tax Permit Certificate or proof of same.
- (12) To the extent permitted by the STR Platform, all STR owners are required to post the STR Permit Number in a designated field provided by the STR Platform and if no designated field for the Permit Number exists, then the Permit Number must appear within the property description. All platforms operating in the Township of Tobyhanna shall require that all short-term rental operators include a permit number in any listing for a short-term rental on the platform.
- (13) Copy of written notice to the homeowners’ association, indicating the intent to make an application for and use the subject residential property for a Short-Term Rental, when applicable.
- (14) Signatures of the owner, STR Operator and Person(s) in Charge if designated.

- B. A Short-Term Rental Permit shall be issued only to the owner of the Short-Term Rental property.
- C. A separate Short-Term Rental Permit is required for each Dwelling Unit. With respect to Two-Family or Multi-Family Dwellings, a separate Permit shall be required for each Dwelling Unit being rented as a Short-Term Rental.

- D. Short Term Rental Permits are subject to renewal at the expiration of the annual term, provided all conditions of the initial application and all subsequent renewal application requirements, as set forth in STR Ordinance _____, are met, or until any of the conditions of the Short-Term Rental Permit which are governed by this Chapter are changed, whichever shall first occur. Short-Term Rental permits may be applied for up to sixty (60) days before the start of the annual term expiration of a Short-Term Rental Permit.
- E. The STR owner must communicate to the Township Enforcement Officer any and all property improvements requiring STR Permit Modification prior to any renovation being completed. This notification shall not be construed as approval through zoning, building, or any other department or agency. Any improvements to the subject property after STR Permit is issued which would alter or invalidate any of the information provided in prior STR Permit applications will force the submission of a revised application indicating the nature of the improvements within thirty (30) days of completion of those improvements and/or a revised certificate of occupancy.
- F. The Township will prescribe forms and procedures for the processing of Permit Applications under this Ordinance.
- G. By signing the Short-Term Rental application, the STR owner gives authorization to the Enforcement Office to enter the property to inspect and ensure compliance with the STR Ordinance with 48 hours prior notice.
- H. Verification that the subject property has obtained a license from Monroe County and the Pennsylvania Department of Revenue to collect and remit sales taxes and confirmation from the taxing authority that all taxes remissions are current and up to date.

Section 8 - Short-Term Rental Standards

- A. The STR Capacity Limit will be limited to 2 per bedroom plus four but shall not exceed a total of 10. The STR Capacity Limit must be accurately reflected on all advertising and marketing materials whether printed or online.
- B. The maximum number of day guests allowed at any one time, in addition to the overnight guests, shall be fifty percent (50%) of the maximum overnight occupancy of the Short-Term Rental rounded up to the next whole number.
- C. 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. Where there is no sewage permit on record, the Short-Term Rental shall be limited to three (3) bedrooms unless proof is provided to the Sewage Enforcement Officer that the septic system is adequate to handle additional flows. Any Short-Term Rental advertising more than three (3) bedrooms shall provide proof that the septic system is adequate to handle such flows by having the system approved by the Sewage

Enforcement Officer, or by providing a septic permit previously issued by a Sewage Enforcement Officer.

- D. If a sewage 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.
- E. Outdoor parking for overnight and day guests shall be limited to available parking spaces on the Short-Term Rental property, in compliance with the current provisions of the zoning ordinance parking regulations and definitions. In no event shall parking for STR guests include spaces in any private, community, or public street right-of-way or on any lawns or vegetated areas.
- F. The STR owner and/or Person in Charge is responsible for the actions of all occupants and will ensure compliance with this chapter as well as any other applicable laws and regulations.
- G. A Person in Charge must either reside or have an office located within 2 hours drive of the Rental Unit, must provide a 24-hour emergency contact number, and be able and willing to come to the Short-Term Rental within two (2) hours following notification to address any issue, and be able to act as legal agent for the owner. The Person in Charge may be the owner of the Short-Term Rental. The Township shall be notified, in writing, prior to a change in the identity of the Person in Charge. The owner of a Short-Term Rental may designate more than one Person in Charge.
- H. Neither Short-Term Rental occupants nor guests shall engage in disorderly conduct, disturb the peace and quiet of any nearby neighborhood or person by loud, unusual or excessive noise, by tumultuous or offensive conduct, public indecency, threatening, traducing, quarreling, challenging to fight, or fighting, or creating a dangerous or physically offensive condition.
- I. Overnight occupancy of recreational vehicles, camper trailers and tents at the property where the Short-Term Rental is located shall not be allowed.
- J. Rentals shall be a minimum of XX nights and XX days.
- K. Outdoor overnight sleeping of occupants or guests of the Short-Term Rental is prohibited.
- L. A Short-Term Rental shall not have any outside appearance indicating a change of use from the surrounding residential uses.
- M. Fireworks and floating lanterns are prohibited.
- N. Subleasing all or a portion of the dwelling unit is prohibited.

- O. All Short-Term Rentals shall have a clearly visible and legible packet of information posted for review within the dwelling unit containing the following information:
- (1) The name of the owner of the unit or the Person in Charge and a telephone number at which that party can be reached on a 24-hour basis.
 - (2) The E-911 address of the property.
 - (3) The maximum number of occupants permitted to stay in the dwelling unit and the maximum number of day guests permitted at any one time in accordance with the STR Capacity Limit.
 - (4) The maximum number of all vehicles allowed to park on the property in accordance with the Parking Space definition and the requirement that all guest parking must be in the available and designated 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) The trash pick-up day and notification that trash and refuse shall not be left or stored outside of designated receptacles on the exterior of the property.
 - (6) Notification that an occupant or guest may be cited and fined for creating a disturbance, exceeding permitted noise limits or for violating other provisions of the Township of Tobyhanna Code, including parking and occupancy limits.
 - (7) Notification that STR occupants and guests are required to make the property available for inspection by the Enforcement Officer upon request and upon reasonable notice being provided.
 - (8) A full copy of The Township of Tobyhanna Short-Term Rental Ordinance.
 - (9) A copy of the Township of Tobyhanna Short-Term Rental Permit for the subject property.
- P. All STRs will comply with all applicable zoning and building codes as well as requirements of all lawful agencies.
- Q. Compliance with the requirements of this section shall be considered conditions of a Short-Term Rental Permit, the violation of which may result in a revocation of that permit by the Enforcement Officer and/or fines and penalties as prescribed in section 15.

Section 9 - Fees, Term and Renewal

- A. Short-Term Rental fees, payable to Township of Tobyhanna upon the filing of a Short-Term Rental Permit application, shall be in such amount as may be established by resolution duly adopted by the Board of Supervisors.

- B. Any Short-Term Rental Permit is good for a period not to exceed one (1) year on a rolling basis and must be renewed annually. Short-Term Rental Permit renewal fees, payable to the Township of Tobyhanna upon the filing of a Short-Term Rental Permit renewal application, shall be in such amount as may be established by resolution duly adopted by the Board of Supervisors.
- C. STR Permit renewal applications shall include any updated information regarding any Improvements Requiring STR Permit Modification from the immediately preceding application with respect to matters governed by this Ordinance.

Section 10 - Enforcement Officer

- A. The Township of Tobyhanna Board of Supervisors will appoint an enforcement officer for the purpose of enforcement of this article. The enforcement officer shall have the responsibility and authority to administer and enforce all provisions of this Chapter.

Section 11 – Inspections Required

- A. All STRs shall be subject to inspections by the Enforcement Officer to verify application information, Permit, Permit renewal and/or operating requirements.
- B. Inspections are conducted for the sole use of issuing an STR permit or ensuring compliance and enforcement with this Chapter. The information collected during the inspection will not be used to update public records nor as evidence for the Township to request a tax reassessment.
- C. The issuance of a STR Permit is not a guarantee that the premises is lawful, safe, habitable, or in compliance with this Chapter.

Section 12 - Marketing

- A. All advertising for rentals (including but not limited to, online platforms, personal websites, broker sites, etc.) must display the county and state license numbers prominently as well as the STR Capacity Limit.
- B. All platforms operating in the Township of Tobyhanna shall require that all short-term rental operators include a permit number in any listing for a short-term rental on the platform.
- C. The marketing of an STR in which the advertised occupancy exceeds the maximum occupancy requirements permitted by this Chapter, or which promotes any other activity which is prohibited by this Chapter, shall be a violation of this Chapter and subject to appropriate fines and penalties.

Section 13 - Notice of Violation

- A. In the event of a violation of this Chapter, the Enforcement Officer shall send a written Notice of Violation to the owner by personal delivery or by both United States first class and certified mail.
- B. The Enforcement 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 Chapter 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.

Section 14 - Nuisance

- A. In the interest of promoting the public health, safety and welfare of the Township of Tobyhanna residents and guests, and minimizing the burden on Township and community services and impacts on residential neighborhoods posed by STRs, a violation of any of the provisions of this Chapter is declared to be a public nuisance.

Section 15 - Violations and Penalties

- A. If there is reason to believe that any provision of this Chapter is being violated, the Board of Supervisors may or may cause, through an Enforcement Officer or authorized representative of the Township, entry onto property for the purpose of inspection of any and all premises, properties, buildings and/or structures located within the Township for ascertaining the existence of violations.
- B. In matters where the nature of an alleged violation potentially harms the safety, security and welfare of the occupants or the surrounding community, and provided there is no apparent immediate emergent threat, an inspection of the interior of a building or structure will be conducted and prior arrangements must be made with the STR Owner or Person in Charge to secure access thereof with forty-eight (48) hours' notice.
- C. In the event evidence of a violation with a more immediate threat is presented to the Township, the Zoning Officer with the assistance of the local police has the right to reasonably waive the rule requiring a minimum of forty-eight (48) hours' notice.
- D. This Chapter shall be enforced by action brought before a Magisterial District Judge in the same manner provided for in the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.
- E. Any person, partnership, corporation or other entity who or which violates or permits a violation of the provisions of this Chapter 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 of Tobyhanna in the enforcement proceedings, and/or be imprisoned to the extent allowed by law for the punishment of summary offenses.

- F. Each day or portion thereof that a violation exists or continues shall constitute a separate violation.
- G. The appropriate officers or agents of the Township of Tobyhanna are hereby authorized to seek equitable relief, including injunction to enforce compliance with this Chapter.
- H. All fines, penalties, costs and reasonable attorney's fees collected for the violation of this Chapter shall be paid to the Township of Tobyhanna for its general use.
- I. In addition to, but not in limitation of, the provisions of Subsection A and Section 13, the Enforcement Officer may either revoke, or deny an application to renew, a STR Permit for three (3) uncured or repeated violations of this Chapter in any rolling twelve (12) calendar month period.
- J. The revocation or denial to renew a Short-Term Rental Permit shall continue for six (6) months for the first set of three (3) uncured or repeated violations, and continue for one (1) year for any subsequent sets of violations.
- K. False/nuisance reporting shall be prohibited by this ordinance. Any person who reports an alleged violation of this Ordinance to an Enforcement Officer knowing that it did not occur shall, upon conviction thereof, be sentenced to pay a fine of not more than XX, together with costs, including reasonable attorney fees.

Section 16 - Owners Severally Responsible

- A. If the premises are owned by more than one owner, each owner shall severally be subject to prosecution for a violation of this Chapter.

Section 17 - Appeals

- A. Appeals of a determination of the Enforcement Officer under this Chapter to deny any application for, or to renew an STR Permit, or to revoke a STR Permit, 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 resolution duly adopted by the 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. 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 at such time and in such manner as shall be prescribed by rules of the Board of Supervisors, but not less than fifteen (15) days prior to the hearing.
- (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 Chairman or Acting Chairman 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 repetitious evidence may be excluded.
- (7) The Board of Supervisors may, but is not required to, make a stenographic record of the proceedings.
- (8) 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.
- (9) 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.
- (10) 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.

Section 18 - Severability

- A. 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.
- B. 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.

Section 19 – Repealer

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

Section 20 - Effective Date

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

ENACTED AND ORDAINED this _____ day of _____, A.D., 2021.

ATTEST:

TOWNSHIP OF TOBYHANNA
BOARD OF SUPERVISORS:

Crystal Butler, Township Secretary

John E. Kerrick, Chairperson

David Carbone, Vice Chairperson

John J. Holahan, III , Member

Brendon J. E. Carroll, Member

DRAFT FORWARDED TO BOS FOR COMMENT