

**TOWNSHIP OF MILLBURN  
ORDINANCE NO. 2565-20  
ORDINANCE TO AMEND AND SUPPLEMENT ARTICLE 4 OF THE MUNICIPAL CODE OF THE  
TOWNSHIP OF MILLBURN TO PROVIDE FOR THE LICENSING AND REGULATION OF SHORT  
TERM RENTALS IN OWNER-OCCUPIED DWELLINGS**

*Statement of Purpose: The purpose of this Ordinance is to provide regulations for the licensing and occupation of Short Term Rentals within the Township of Millburn.*

**WHEREAS**, the number of short term rentals (generally defined as stays of 30 days or less) of dwelling units; individual rooms within dwelling units; and building, structures and uses accessory to dwelling units has grown rapidly in recent years, aided in large part by the creation of Internet-based home-sharing hosting platforms which can create an easy connection between property Owners and individuals looking for short term rental housing; and

**WHEREAS**, the Township Committee seeks to permit the short-term rental use of certain legally permitted dwelling units throughout the Township of Millburn (the “Township” or “Millburn”) in order to facilitate the booking of reservations for such uses through internet-based booking platforms, and promote economic vitality in the Township; and

**WHEREAS**, the short-term rental of homes can provide a flexible housing stock that allows travelers a safe accommodation while contributing to the local economy, and tourism and supporting the local tourism industry and business community; and

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

**WHEREAS**, the needs of long-term residents should be balanced with the allowance of short-term rentals; 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 rentals of residential dwelling units in established residential neighborhoods can create negative compatibility impacts and nuisance violations, among which include, but are 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 in order to help preserve housing for long-term owners and tenants and to minimize any potential deleterious effects of short-term rental properties on other properties in the surrounding neighborhoods in which they are located.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MILLBURN IN THE COUNTY OF ESSEX, AND STATE OF NEW JERSEY, as follows:**

**Section 1.** Article 4 of the Municipal Code of the Township of Millburn is hereby amended, supplemented and revised to add the following sections:

Section 4-42.1 Definitions.

**Owner** shall mean an individual or entity holding title to a property proposed for short term rental, by way of a legally recorded Deed.

**Owner-Occupied** shall mean the Owner of the property resides in the short term rental property (also referenced as “STRP”), or in the principal residential unit with which the STRP is associated on the same lot, and identifies same as his or her principal residence as that term is defined in this Section. For purposes of this Section if the Owner of the property is an entity other than an individual or individuals, then at least one principal or member of the Owner entity must reside in the STRP, or in the principal residential unit with which the STRP is associated on the same lot, and identify same as his or her principal residence as that term is defined in this Section.

**Principal Residence** shall mean the address: (1) where at least one of the property Owners spends the majority of his or her non-working time, and (2) which is most clearly the center of his or her domestic life, and (3) which is identified on his or her driver’s license or State Identification Card as being his or her legal address. All the above requirement must be met in order for an address to constitute being a principal residence for purposes of this Section.

**Responsible Party** shall mean both the short-term rental property 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 short-term rental property, and, in the case of the property manager, to accept service of legal process of behalf of the Owner of the Short-Term Rental Property.

**Short-Term Rental:** Rental of an Owner-Occupied dwelling unit, or any part of a dwelling unit, including any accessory building, structure or use to the dwelling unit, which dwelling unit is regularly used and kept open as such for the lodging of guests, and which is advertised or held out to the public as a place regularly rented to transient occupants, as that term is defined in this Section, for twenty-eight (28) consecutive days or less up to a cumulative total period of not to exceed sixty (60) days in a calendar year, excluding community residences, shelters, adult family care homes, a residence temporarily occupied by the Owner of another residential property within the Township then undergoing construction activity, or the extension, on a month-to-month basis, of an existing lease with a term of at least six months duration, by the existing tenant.

**Short-Term Rental Property** (also referenced as “STRP”) shall mean a residential dwelling unit that is used and/or advertised for rent as a short-term rental by transient occupants as guests. Dwelling units rented to the same occupant for more than thirty (30) continuous days, licensed Bed and Breakfast establishments, licensed rooming or boarding houses, hotels, and motels shall not be considered Short-Term Rental Property.

**Short-Term Rental Property Agent** shall mean any New Jersey licensed real estate agent or other person designated and charged by the Owner of a short-term rental property, with the

responsibility for making the STR 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.

**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 Section.

#### Section 4-42.2 Regulations Pertaining to Short-Term Rentals

- a. It shall be unlawful for any owner of any property within the geographic bounds of the Township of Millburn, New Jersey, to rent or operate a short-term rental contrary to the procedures and regulations established in this Section or applicable State statute.
- b. Short-term rentals shall be permitted to be conducted in the following classifications of property in the Township of Millburn:
  1. Individually or collectively owned single-family residences, which one of the owners legally identifies as the address of his or her principal residence, as that term is defined herein;
  2. Up to two separate units within a two-family residential dwelling, where one of the two units is occupied by the owner and identified by the owner as his or her principal residence, as that term is defined herein;
  3. Not more than two bedrooms within a single-family residential dwelling unit, where the bedrooms share common kitchen and bathroom facilities with the occupant of the dwelling unit, and the remainder of the single-family dwelling unit is occupied by the owner and identified by the owner as his or her principal residence, as that term is defined herein;
  4. Guest houses, carriage houses, and any other qualifying structures located on the same property as an Owner-Occupied Dwelling.
- c. Notwithstanding the provisions of Subsection b. above, short-term rentals shall not be permitted in boarding or rooming houses, dormitories, foster homes, adult family care homes, assisted living facilities, community residences for developmentally disabled persons, community shelters for victims of domestic violence, or nursing homes. Further, short term rental of the following properties is prohibited:
  1. Condominiums or townhomes, where the Condominium Association By-Laws or Master Deed, or Condominium Rules and Regulations, do not permit such short-term rental of condominium units in the development;
  2. An individually or collectively owned single-family residential dwelling unit, which address none of the owners legally identifies as his or her principal residence;
  3. A unit in a two-family residential dwelling, where the other unit is not occupied by the owner nor legally identified by the owner as his or her principal residence;
  4. Apartments or units in a multi-family residential dwelling;

5. Any room within a single-family, two-family or multi-family residential dwelling unit, where the room shares common kitchen and bathroom facilities with the occupant(s) of the dwelling unit in which it is located, which occupant(s) is not the Owner of the dwelling unit.

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

Section 4-42.3 Short-Term Rental Permit, Permit Registration Fee/Application, and Certificate of Occupancy

- a. In addition to any land use requirement(s) set forth by the Township of Millburn Land Use Regulations, the owner/operator of a short-term rental property shall obtain a short-term rental permit from the Township of Millburn Business Administrator, before renting or advertising for rent any short-term rental.
- b. No person or entity shall operate a STRP, or advertise a residential property for use as a STRP, without the owner/operator of the property first having obtained a STR permit issued by the Township of Millburn Business Administrator. The failure to obtain a valid STR permit prior to advertising the short-term rental property in any print, digital, or internet advertisement or web-based platform, and/or in the MLS or any realtor's property listing shall be a violation of this Section. No STR permit issued under this Section may be transferred or assigned or used by any person or entity, other than the Owner to whom it is issued, or at any property location or dwelling unit other than the property for which it is issued.
- 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 Township of Millburn Business Administrator, a short-term rental permit application provided by the Township, along with an annual application/registration fee of \$250.00. Said fee shall be non-refundable, including in the event that the application is denied. The fee shall also constitute the required fee for the rental Certificate of Occupancy application, referenced below.
- d. The short-term rental permit, if granted, shall be valid for a period of one year from the date of issuance.
- e. The Owner of a STRP, or any agent acting on behalf of the owner, who intends to rent all of the property, or any permitted part thereof as a short-term rental, shall also make application

to the Business Administrator in conjunction with the short-term rental 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 short-term rental permit and rental Certificate of Occupancy shall be renewed on an annual basis, based upon the anniversary of the original permit issuance, by submitting to the Business Administrator, a short-term rental permit application and rental Certificate of Occupancy application and a renewal registration fee of \$250.00. A reinspection fee of \$85 shall apply for each failed reinspection.
- g. The short-term rental permit shall expire automatically when the short-term rental property changes ownership, and a new initial application and 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 registration fee shall also be required for any short-term rental that had its short term rental permit revoked or suspended.

#### Section 4-42.4 Application Process for Short-Term Rental Permit and Inspections.

- a. Applicants for a short-term rental permit shall submit, on an annual basis, an application for a short-term rental permit to the Township of Millburn Business Administrator, who shall review and issue said permits with the assistance of such other departments or individuals as s/he deems appropriate or necessary. The application shall be furnished, under oath, on a form specified by the Business Administrator, accompanied by the non-refundable application fee as set forth above. Such application shall include:
  - 1. The name, address, telephone number and email address of the owner(s) of record of the dwelling unit for which a permit is sought. If such owner is not a natural person, the application must include and identify the names of all 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, voter registration or state identification card of the owner of the short-term rental property, confirming, as set forth in this section, that the property is the principal residence, as that term is defined herein, of the owner making application for the STR permit;
  - 4. The owner's sworn acknowledgement that they comply with the requirement that the short-term rental property constitutes the owner's Principal Residence, as defined above, or that the owner is entitled to an exemption from that requirement as set forth above;
  - 5. 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 a day contact information;

6. The name, address, telephone number and email address of the short-term rental property responsible party, which shall constitute his or her 7 day a week, 24-hour a day contact information;
  7. 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 permit application;
  8. The number and location of all parking spaces available to the premises, which shall include the number of legal off-street parking spaces and on-street parking spaces directly adjacent to the premises. The owner shall certify that every effort will be made to avoid and/or mitigate issues with on-street parking in the neighborhood in which the short-term rental is located, resulting from excessive vehicles generated by the short-term rental of the property, in order to avoid a shortage of parking for residents in the surrounding neighborhood;
  9. The owner's agreement that all renters of the short-term rental property shall be limited to one (1) vehicle per two occupants in the short-term rental property;
  10. Copies of two (2) utility bills from the STRP that are less than thirty (30) days old;
  11. The owner's agreement to use his or her best efforts to assure that use of the premises by all transient occupants will not disrupt the neighborhood, and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties; and
  12. Any other information that this Section requires a property owner to provide to the Township in connection with an application for a rental certificate of occupancy. The Business Administrator or his designee shall have the authority to obtain additional information from the STRP owner/applicant or amend the permit application to require additional information, as necessary, to achieve the objectives of this Section.
- b. Every application for a short-term rental permit shall require annual inspections for the STRP's compliance with the Township's fire safety regulations and Property Maintenance Code. In addition, each application is subject to review to verify the STRP's eligibility for use as a short-term rental and compliance with the regulations in this section. Failure to abate any outstanding violations prior to occupancy shall result in a summons.
  - c. A zoning permit, which states that the premises are not being occupied or used in violation of the Township's Land Use Regulations and Zoning Ordinance, shall be required.
  - d. Attached to and concurrent with submission of the permit application described in this Section, the Owner shall provide:
    1. Proof of the Owner's current ownership of the short-term rental unit;
    2. Proof of general liability insurance in a minimum amount of \$500,000; 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 Section.

- e. The STRP owner/permit holder shall publish the short-term rental permit number issued by the Township in every print, digital, or internet advertisement, and/or in the Multiple Listing Service (hereinafter "MLS") or other real estate listing of a real estate agent licensed by the NJ State Real Estate Commission, in which the short-term rental property is advertised for rent on a short term basis.
- f. In no event shall a short-term rental property be rented to anyone younger than twenty-one (21) years of age. The primary occupant of all short-term rentals executing the agreement between the owner and the occupant must be over the age of twenty-one (21), and must be the party who will actually occupy the property during the term of the short-term rental. The primary occupant may have up to three (3) guests who will share and occupy the property with them. Both the primary occupant executing the short-term rental agreement and the STRP owner shall be responsible for compliance with this provision, and shall both be liable for a violation, where the property is not occupied by at least one adult over the age of twenty-one, during the term of the short term rental.

#### Section 4-42.5 Issuance of Permit and Appeal Procedure.

- a. Once an application is submitted, complete with all required information and documentation and fees, the Business Administrator, following any necessary investigation for compliance with this Section, shall either issue the short-term rental 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 denied, the applicant shall have ten (10) business days to appeal in writing to the Business Administrator, by filing the appeal with the Business Administrator's Office.
- c. Within thirty (30) days thereafter, the Business Administrator or his designee shall hear and decide the appeal.
- d. A permit shall only be issued after all outstanding violations have been abated.

#### Section 4-42.6 Short-Term Rental Operational Requirements.

- a. All short-term rentals must comply with all applicable rules, regulations and ordinances of the Township of Millburn and all applicable rules, regulations and statutes of the State of New Jersey, including regulations governing such lodging uses, as applicable. The STRP owner shall ensure that the short-term rental is used in a manner that complies with all applicable laws, rules and regulations pertaining to the use and occupancy of a short term rental.
- b. A dwelling unit shall be limited to a single short-term rental contract at a time.
- c. The owner of a STRP shall not install any advertising or identifying mechanisms, such as signage, including lawn signage or mailbox signage identifying the property for rent as a short-term rental property.
- d. Transient occupants of the STRP shall comply with all ordinances of the Township of Millburn including, but not limited to those ordinances regulating noise and nuisance conduct. Failure

of transient occupants to comply shall subject the transient occupants, the owner of the STRP, the Responsible Party and the Short-Term Rental Agent listed in the short term rental permit application, to the issuance of fines and/or penalties, and the possibility of the revocation or suspension of the STRP permit.

- e. The owner of a STRP shall post the following information on an 8.5 x 11" placard placed at eye level on the inside surface of the front door within the short term rental:
  - 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 Agent (as those terms are defined in this Section);
  - 3. The phone numbers for the Millburn Police Department, the Millburn Fire Department, the Township of Millburn Department of Code Enforcement and the Township of Millburn Business Administrator;
  - 4. Trash and recycling pick-up day, and all applicable rules and regulations regarding trash disposal and recycling;
  - 5. Notification that a guest, Transient Occupant, the Short-Term Rental Property Agent, the Responsible Party or STRP owner may be cited or fined by the Township of Millburn Police Department, the Township of Millburn Business Administrator, or Code Enforcement Official for violations of this Ordinance, or with any applicable Ordinance(s) of the Township of Millburn;
- f. In the event any complaints are received by the Millburn Police Department, Code Enforcement or the Business Administrator regarding the short-term rental and/or the Transient Occupants in the STRP, and the owner of the STRP is unreachable or unresponsive, both the Responsible Party and the Short-Term Rental Agent listed in the short-term rental permit application shall have the responsibility to take any action required to properly resolve such complaints, and shall be authorized by the STRP owner to do so.
- g. While a STRP is rented, the owner, the Short-Term Rental Agent, or the 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 STRP premises, maintenance of the STRP premises, operation of the STRP, or conduct of the guests at the STRP, or nuisance complaints from the Millburn Police Department or neighbors, arising by virtue of the short-term rental of the property.
- h. If the STRP is the subject of one (1) or more substantiated civil and/or criminal complaints, the Business Administrator or his designee may revoke the short-term rental permit issued for the property, in which case, the STRP shall not be eligible to apply for a new STRP permit for one (1) year following the date of revocation of the permit.
- i. Failure to make application for, and to obtain the issuance of, a short-term rental permit prior to advertising the STRP in print publications or newspapers, on any internet-based booking



platforms, or online, and/or in the MLS or other real estate listing of a real estate agent licensed by the NJ State Real Estate Commission, shall be equivalent to operation of the STRP without a permit, and shall constitute a violation of this Code, and will result in enforcement action and the issuance of a Summons, and shall subject the STRP owner, the Short-Term Rental Agent, and the Responsible Party to issuance of fines and/or penalties.

- j. 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 short-term rental permit, nor shall the property or any portion thereof be sub-leased by the tenant on a short-term basis, or operated as a STRP by the tenant. This STRP regulation shall supersede any conflicting provision in a private lease agreement permitting sub-leasing of the property, or any portion of the property. Violation of this Section will result in enforcement action against the tenant, the STRP owner, the Short Term Rental Agent, and the Responsible Party, and will subject all such parties to the issuance of a Summons and levying of fines and/or penalties.
- k. In the event that the Township receives three (3) substantiated complaints concerning excessive vehicles belonging to the transient occupants of a STRP, the short-term rental permit for the property is subject to revocation by the Business Administrator or his designee.
- l. The STRP owner must be current with all tax and sewer charges assessed to the property prior to the issuance of a short-term rental permit. In the event that any code violations have been issued by the Township relating to the STRP, a short-term rental permit shall not be issued until such time as such violations have been properly abated. The STRP owner must also close any open construction permits for the property prior to the issuance of a short-term rental permit.
- m. All fines or penalties issued by the Municipal Court for the Township of Millburn for any past code violations relating to the STRP, including penalties for failure to appear in Court, must be satisfied in full prior to the issuance of a short-term rental permit.
- n. Only one (1) vehicle per two (2) Transient Occupants is permitted per short-term rental.
- o. No more than 2 bedrooms in any dwelling unit may be rented concurrently.
- p. Short-Term Rentals may be occupied concurrently by no more than four (4) Transient Occupants.

#### Section 4-42.7 Violations and Penalties.

- a. The provisions of this Ordinance shall be enforced by the Zoning Officer, Building Code Official, Fire Official, Health Department, Police Department, Code Enforcement, Business Administrator or other Department Head or Sub-Code or Code Official, as their jurisdiction may arise or other persons designated by the Township Committee, to issue municipal civil infractions directing alleged violators of this Ordinance and/or to appear in court or file civil complaints.
- b. Any person found to have violated any provision of this Ordinance without regard to intent or knowledge, shall be liable for the maximum civil penalty, upon adjudicated violation or

admission of a fine not exceeding \$2,000.00. Each day of such violations shall be a new and separate violation of this ordinance.

- c. All fines and/or penalties issued for a violation of this Ordinance shall be due and payable to the Township within thirty (30) calendar days. If the Owner fails to remit payment to the Township within thirty (30) calendar days, the Township of Millburn may pursue any and all remedies available at law in order to recover the unpaid fine(s) or penalty(-ies).
- d. The fines and/or penalties imposed herein shall be in addition to any and all other remedies that may accrue under any other law, including, but not limited to, eviction proceedings and/or injunction, reasonable attorney's fees or other fees and costs, in the Township's Municipal Court or the Superior Court of New Jersey in the vicinage of Essex County or in such other Court or tribunal of Competent jurisdiction, by either summary disposition or by zoning or construction code municipal proceeding

#### Section 4-42.8 Collection of Taxes

- a. Charges for Short-Term Rentals are subject to Sales Tax in accordance with N.J.S.A. 54:32B-1 et seq. and the State Occupancy Fee in accordance with N.J.S.A. 54:32D-1 et seq.

**Section 3.** All other provisions of the Municipal Code of the Township of Millburn shall be unaffected and are hereby continued.

**Section 4.** All other Ordinances, parts of Ordinances, or other local requirements that are inconsistent or in conflict with this ordinance are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this Ordinance shall apply.

**Section 5.** This Ordinance shall be so construed as not to conflict with any provision of New Jersey or Federal laws. Notwithstanding that any provision of this Ordinance is, for any reason, held to be invalid or unconstitutional by a Court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance, which shall continue to be of full force and effect. The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

**Section 6.** This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey, following the required twenty-day period after adoption.

*Introduced: 9/15/2020*