

BENTON TOWNSHIP
ORDINANCE NUMBER: 2023- 11-1A

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SECTION 1 - SHORT TITLE

This Ordinance shall be known and may be cited as THE SHORT-TERM RENTAL ORDINANCE OF BENTON TOWNSHIP.

SECTION 2 – FINDINGS AND PURPOSE

The Board of Supervisors of Benton 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. Short-term rentals of dwellings and structures within the Township have become a segment of the local tourism economy.

B. Short-term rentals provide a community benefit by expanding the lodging facilities available within the Township, while assisting owners of short-term rental properties by providing

revenue which may be used for maintenance and upkeep of the structures, as well as providing income to said individuals.

C. Occupants of short-term rentals are generally transitory in nature, and enforcement against said occupants is often difficult.

D. An Ordinance to regulate short-term rentals is necessary to assure that all units meet any applicable fire, safety and building codes, including fire suppression devices, and alarms for fire and carbon monoxide, to assure the safety of all occupants.

E. 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 Benton Township, Lackawanna County, Pennsylvania hereby enacted this Ordinance.

SECTION 4 – APPLICABILITY

This ordinance shall apply to all short-term rentals as defined in Section 6 and all provisions of this ordinance shall apply in addition to all other applicable requirements of Township ordinances.

SECTION 5 - NUISANCE DECLARED

In the interest of protecting and promoting the public health, safety and welfare, and minimizing the burden on the Township and impacts on residential neighborhoods posed by short-term rentals, the violation of any of the provisions of this ordinance is declared to be a public nuisance if said violations also constitute a nuisance under any state law or ordinance of the Township.

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 Unit: One (1) or more rooms in a residential dwelling structure, including a kitchen, sleeping facilities, bath and toilet, designed as a household unit.

Local Contact Person: An owner, or agent of the owner, who is available to respond to tenant and neighborhood questions or concerns, will be authorized to take remedial action and respond to any violation of this ordinance.

Owner: The person or entity that holds legal or equitable title to the private property,

Rent: The consideration received by a vendor in payment for lodging.

Single Family: One or more persons, each related to the other by blood, marriage or adoption, or a group of not more than three persons not all so related maintaining a common household in a dwelling.

Single-Family Dwelling: A building intended for occupancy by one (1) family at one (1) time.

Short-Term Rental: Any dwelling unit rented for overnight lodging for a period of not less than one (1) day and not more than thirty (30) 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 is advertised for rent or is rented for a period of thirty (30) consecutive calendar days or less.

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 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 permit officer is authorized to administer forms and procedures for the processing of permits under this ordinance.

F. Inspection Authorization - The owner, by making application for a permit and 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, the new owner must apply for a permit under the provisions of this ordinance prior to renting the property.

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”.

H. Proof of Insurance — Proof of general liability insurance with a minimum amount of one million dollars (\$1,000,000.00) combined single limit and an agreement to indemnify, defend, and save harmless, the Township, from any and all claims and liabilities of any kind whatsoever resulting from or arising out of the permitting of the short-term rental.

I. Property Owners or Homeowners Associations — The owner shall provide proof that short-term rental is not prohibited by any applicable property owners or homeowner association or any declaration of conditions, covenants and restrictions.

SECTION 8 - LOCAL CONTACT PERSON

Designation - An owner of a short-term rental who resides within fifty (50) miles of the short-term rental may designate themselves as the local contact person. An owner of a short-term rental may designate an agent, as a local contact person who shall have access and authority to assume management of the unit and take remedial measures. The local contact person shall respond to the enforcement officer within two (2) hours after being notified by the permit officer or other Township official of the existence of a violation 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.

Responsibility - The owner of the short-term rental is responsible for compliance with the provisions of this ordinance and the failure of an agent, or local contact person to comply with this ordinance shall be deemed noncompliance by the owner.

SECTION 9 - APPLICATION FOR SHORT-TERM RENTAL PERMIT

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. Permit applications for properties presently used as short-term rental shall be filed within ninety (90) days of the effective date of this ordinance. 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 local contact person, then the owner shall provide a 24-hour telephone number.

2. The name, address, and 24-hour telephone number of the local contact person of the short-term rental.
3. *A photograph of the short-term rental taken from the access road side.*
4. The marketing entity identification number(s) for the short-term rental.
5. Acknowledgment that all designated bedrooms contain a minimum of eighty (80) square feet.
6. The number of bedrooms [each containing the required minimum of eighty (80) square feet] and the maximum number of overnight occupants, maximum of 5 bedrooms or less.
7. A diagram or photograph of the premises showing and indicating the number and location of designated on-site parking spaces and the maximum number of vehicles allowed for overnight occupants.
8. The location, and capacity of the sewage disposal system.
9. Acknowledgment that the owner, or local contact person have read all regulations pertaining to the operation of the short-term rental,
10. Acknowledgment that the owner, or local contact person will post and maintain the short-term rental with the notice required in Section 11 ____
11. Acknowledgment that the owner, or local contact person will post and maintain the 911 emergency address sign in accord with applicable requirements.
12. A copy of a current Lackawanna County Hotel Room Rental Tax Certificate and current Pennsylvania Sales Tax License.
13. Written notice to the homeowner's association, indicating the intent to make application for and use the subject residential property for a Short Term Rental, when applicable.
14. The owner shall provide proof of ownership of the structures by deed, tax bills or other acceptable proof.
15. Other information the enforcement officer deems reasonably necessary to administer this Ordinance.

Inspection Fee - If the information supplied by the property owner on the application for a short-term rental permit is not consistent with Township records, an inspection can be required prior to the issuance of the short-term rental permit. An inspection fee established by Resolution of the Board of Supervisors shall be charged for any inspection.

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 shall be required.

SECTION 11 - OPERATIONAL STANDARDS AND CONDITIONS

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 plus four (4) additional persons per residence or a maximum of sixteen (16) persons, whichever is less.

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 minimum age requirement for the person responsible for the short-term rental shall be twenty-five (25) years old.

4. The owner shall make sure the property is cleaned and free of damage at the end of each rental period.

5. 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, with the number of overnight occupants not to exceed two (2) persons per bedroom.

6. Where there is no sewage permit on record and 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.

7. In no instance shall the existing number of bedrooms be increased without proper Township and DEP approval being obtained.

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

9. The short-term rental shall also have at least one (1) other habitable room containing a minimum of one hundred twenty (120) square feet.

10. The owner shall by written agreement, limit the number of all vehicles not to exceed the number of designated on-site parking spaces.

a. All parking shall be designated in the permit and shall be located on the owner's property and not in any private, 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. All parking spaces shall be accessed from the driveway serving the short-term rental.

11. 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, or disorderly conduct by notifying the occupants of the rules regarding short-term rentals and responding when notified occupants are violating laws regarding their occupancy. It is not intended that the owner or contact person act as an enforcement officer or place himself or herself in harm's way.

12. The owner/contact shall, upon notification that occupants or guests of the short-term rental, have created unreasonable noise, disturbances, engaged in disorderly conduct or violated provisions of this ordinance, promptly use best efforts to prevent a recurrence of such conduct by those occupants or guests.

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

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

15. The use of open fires, fire pits, charcoal-burning grills or other devices shall be the responsibility of the owner /contact person and shall comply with the Benton Township Burning Ordinance. All open fires shall be extinguished by 9:00 p.m.

16. Trash shall be kept inside at all times and shall only be placed outside at the designated location and at the designated day and time for trash pick-up. The owner/contact shall be responsible for placement of trash at the designated location and day and time.

17. Subleasing all or a portion of the dwelling unit is prohibited.
18. Smoke detectors and carbon monoxide monitors must be installed per International Residential Building Code.
19. 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 local contact, or owner of the unit, and the 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 vehicles allowed to be parked on the property and the requirement that all vehicles must be on the property and not in any private or public right-of-way.
 - D. The indoor storage location for trash and instructions that trash shall only be placed outside at the designated location and at the designated day and time for trash pick-up.
 - E. Notification that an occupant may be cited and fined for creating a disturbance or for violating other provisions of this ordinance.
 - F. 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.
 - G. It is unlawful for any person to maliciously and willfully disturb the peace of any neighborhood, person, or family by loud or unusual noises or by offensive conduct, public indecency, threatening, or fighting.

Additional Standards — The Board of Supervisors and permit officer shall have the authority to impose additional standards applicable to short-term rentals as necessary to achieve the objectives of this ordinance.

SECTION 12 - INSPECTIONS AND ACCESS

- A. Inspection — All short-term rentals and premises in Benton Township shall be subject to inspection by the permit officer to verify application, permit or operating requirements or if there is reason to believe that any provision of this ordinance is being violated. By applying for a short-term rental permit, applicants consent to the inspections provided herein. If inspections are required during occupancy by a short-term tenant, the enforcement officer will obtain the consent of the tenant or otherwise obtain a search warrant from the applicable authority.

B. Interference – Provided the short-term rental unit is accessed in accord with this Section 10, it shall be unlawful for any person to hinder, delay, resist or prevent the enforcing officer from having full access to any place or premises upon which a violation of this ordinance is believed to exist.

SECTION 13 – 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 of Section 16. The owner or local contact person shall provide to the permit officer a copy of all advertisements relating to the short-term rental.

SECTION 14 - ACTION ON COMPLAINTS

A. Violation in Progress - Upon receipt of a verbal complaint of a violation in progress and if the complainant's name and address is provided, the enforcing officer shall immediately notify the owner and/or the local contact person of the complaint. If the enforcing officer believes a crime to be in progress, he/she shall immediately notify the appropriate police department. If the enforcing officer is a police officer, or if a police officer is called to the property to address possible criminal activity, then the Township may proceed with an action on a violation if the police officer in question confirms that a violation of this ordinance has occurred or provides information to the enforcing officer establishing that a violation has occurred.

B. Violation Preceding Complaint - Upon receipt of a complaint of a violation which occurred prior to the date of the complaint, such complaint must be made in writing and include the name and address of the person registering the complaint.

C. Confidentiality - The enforcing officer shall maintain the confidentiality of the name and address of the person registering the complaint unless otherwise required by law to release such information.

SECTION 15 - NOTICE TO VIOLATORS

Service of Notice - Whenever the enforcing officer determines that a violation of this ordinance exists, said officer shall prepare a written Notice of Violation, to be served on the owner and/or occupant(s) of the premises on which the nuisance is located or originates. The written Notice of Violation shall be served by one (1) or more of the following methods:

1. Personal delivery or certified mail.
2. Fixing a copy to the door of the building on the premises of the violation.

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 nuisance, with such time frame based upon the nature of the violation and providing a reasonable period for the violator to take the required action. In certain cases, immediate correction may be required.

SECTION 16 – VIOLATIONS, PENALTIES AND COSTS

A. Compliance - Failure to comply with any provision of this ordinance, and/or an order to abate an activity, use and/or condition, shall be a violation of this ordinance and subject to the revocation of the permit.

B. Fine - Any person who has violated or permitted the violation of this ordinance shall upon judgment thereof by any Magisterial District Judge be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00) per day of violation, together with the costs of suit including reasonable attorney fees. 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 attorney fees collected for the violation of this ordinance, shall be paid over to the Township,

C. Permit Revocation - If an owner commits two (2) or more violations which result in convictions, occur within a two (2) year period, the permit shall be revoked by the Township and the short-term rental will be revoked. The revocation shall be not less than one (1) year and not more than three (3) years. Any violation of the PA Sewage Facilities Act and applicable regulations may result in immediate permit revocation until the violation is corrected.

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

SECTION 17 – APPEALS

A. Appeal Process – If an initial application or renewal of an application is not granted within thirty (30) days after all required information is submitted by the applicant (unless additional time is requested in writing by the enforcement officer and granted in writing by the applicant), such application will be deemed denied. Appeals of a determination of the enforcement officer under this ordinance to deny any application for, or to renew, a short-term rental license, or to revoke a short-term rental license, shall be filed with the Board of Supervisors within 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 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 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 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 18 – 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 19 - REPEALER

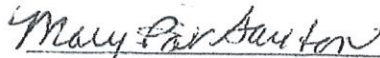
All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

SECTION 20 - EFFECTIVE DATE


This Ordinance shall become effective five (5) days after the adoption thereof.

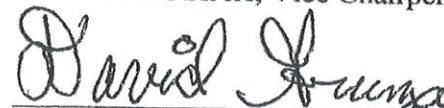
ENACTED AND ORDAINED into law by the Board of Supervisors of Benton Township, Lackawanna County, Pennsylvania, this 1st day of November, 2023.

(SEAL)


PAT SAXTON, Secretary


LARRY SEYMOUR, Chairman


BONNIE ROSIAK, Vice Chairperson


DAVID GRUNZA