

**CITY OF CAPE MAY, COUNTY OF CAPE MAY, STATE OF NEW JERSEY**

**ORDINANCE NO. 452 - 2021**

**AN ORDINANCE AMENDING CHAPTER 310 OF THE CODE OF THE CITY OF CAPE MAY REGARDING LICENSES AND PERMITS TO ESTABLISH PROVISIONS FOR RESIDENTIAL RENTAL LICENSING**

**WHEREAS**, Section 310 of the City of Cape May Municipal Code provides for licenses and permits for engaging or carrying on any business within the City; and

**WHEREAS**, the City of Cape May is a popular vacation destination and interest in the City's residential rental market has increased over the years; and

**WHEREAS**, for example, on March 17, 2021, Airbnb reported according to their own search data, the City of Cape May is the second most searched destination through their transient space marketplace (See <https://news.airbnb.com/the-great-outdoors-surge-for-spring-and-summer/>); and

**WHEREAS**, increased demand for residential rentals necessarily results in the need for the City to provide increased services including water and sewer utilities, police, fire, EMT, and other municipal services to accommodate visitors and assure continuity of service for permanent residents; and

**WHEREAS**, the increase in demand for City services will occur whether visitors rent through a transient space marketplace, realtor, or through private rental and the City will be required to make improvements to its infrastructure to service these increasing needs; and

**WHEREAS**, residential structures with more square footage may accommodate more visitors and vehicles and may also charge a premium for the increased space and amenities provided to guests, while requiring more of the City's services; and

**WHEREAS**, the City Council has reviewed the current mercantile license structure related to rentals and determined that the licensing fees are outdated and not reflective of the reality of the residential rental market and the varying types of rentals offered throughout the City; and

**WHEREAS**, the City Council intends to revise the license structure related to rentals to address safety and the unique range of property owners in the market and giving due consideration to the actual size and use of these properties and anticipated use of the City's services, resources, and infrastructure; and

**WHEREAS**, the City Council of the City of Cape May has reviewed the matter and determined that it is appropriate to amend Section 310 of the Code to adjust the licensing structure related to rental of residential units.

**NOW, THEREFORE BE IT ORDAINED** by the City Council of the City of Cape May in the County of Cape May and State of New Jersey as follows:

**SECTION 1.** Section 310-16 of the Code of the City of Cape May is hereby amended as follows (~~strike through~~ portions indicating deletions and **bold/underlined** portions indicating additions):

§310-16 Fees.

- A.** Fees for licenses issued for license year commencing on or after May 1, 2005. **Not later than November 1 of each year, the City Manager shall provide City Council with a report that includes the amount of revenue raised by the license fees, broken down by category and recommendations to the City Council as to whether the licensing fee ordinance should be modified to reflect cost of living adjustments and/or all other relevant factors. Council shall review this information and, in its discretion, make any adjustments to the licensing fee ordinance that it deems necessary.** The annual fees to be paid to the City for licenses issued for the license year commencing on or after May 1, 2005, for conducting a business or trade or combination thereof shall be as follows:
- (1) All businesses not classified herein: \$213.
  - (2) Amusements, including arcades, golf courses and games of skill, per establishment (Chapter 139, Article II, Automatic Amusement Devices): \$1,062.
  - (3) Artists (Chapter 151, Artists in Public, Licensing of): \$531.
  - (4) Artists (other than above): \$266.
  - (5) Bakery: \$213.
  - (6) Beach concessions renting chairs and umbrellas, selling soft drinks and beach boxes, each location: \$213.
  - (7) Bicycle rental stands: \$266.
  - (8) Boat marina, per boat slip (attach boat slip plan)[1]: \$22.
  - (9) Boat rental, per establishment: \$213.
  - (10) Boat repairs: \$266.
  - (11) Catamarans (Chapter 166, Article I, Catamarans): \$100.
  - (12) Coin-operated vending and amusement machines in addition to any other license fee which may be required, per machine: \$43.
  - (13) Dry-cleaning plant: \$213.
  - (14) Hotels, **Condotels**, and motels, per rental unit: \$32. **Condotels, where units are individually owned but rented similar to a commercial hotel operation with centralized booking and/or front desk service, shall be subject to the same per rental unit fee as hotels and motels. If a condominium unit owner does not rent through a centralized booking service offered or required through the condotel, and instead rents direct to consumer (for example, through a licensed realtor or transient space marketplace) the owner shall comply with the residential rental licensing requirements under Section 310, Article IV and pay the applicable residential**

**rental licensing fee based on square footage pursuant to (23) below.**

- (15) Laundries, including self-service: \$531.
- (16) Newspaper box: \$43.
- (17) Newspaper box in newsrack box assembly: \$97.
- (18) Nightclub: \$1,062.
- (19) Parking lot (per commercial space, \$75 minimum) (attach parking plan and hours of operation) [2]: \$15.
- (20) Peddlers (Chapter 379, Article I, Peddlers, Hawkers and Vendors), each person or vehicle: \$956.
- (21) Publishers or printers: \$480.
- (22) Restaurants, per seat (attach seating plan) [3]: \$7.
- ~~(23) Single family residential, house? \$7-5.~~
- ~~(24) Single family residential, per apartment unit : \$75.~~
- ~~(25) Single family residential, per condominium unit: \$75.~~
- ~~(26) Single family residential, per duplex unit: \$75.~~

**(23) All Residential Short-Term Rentals including but not limited to a house, apartment unit, condominium unit, or duplex unit:**

Square Footage of Rental	Fee
0-1,000 SF	\$100
1,001-2,000 SF	\$125
2,001-3,000 SF	\$175
3,001-4,000 SF	\$300
4,001-5,000 SF	\$400
5,000+ SF	\$500

**(24) [Reserved].**

(25) **[Reserved].**

(26) **[Reserved].**

- (27) Stores and sales areas (including food):
  - (a) Under 4,000 square feet: \$266.
  - (b) Over 4,000 square feet: \$956.

- (28) Tourist/guest house (commonly referred as a “Bed & Breakfast”), per unit: \$32.
- (29) Theaters, per seat: \$1 (\$300 minimum).
- (30) Tours (Chapter 469, Tours, Licensing of): \$797.
- (31) Tours (historic home/structure): \$160.
- (32) Walk-up sales establishments and stores (without sales areas including food): \$266.
- (33) Rental of real property, commercial: \$64.
- (34) Lawn cutting and maintenance, except for services provided by self-employed individuals without employees and without the use of any vehicle for the transporting of equipment used in connection with such services: \$175.
- (35) Property maintenance services: \$175.
- (36) House cleaning services: \$175.

**B.** Parking Trust Fund surcharge. In addition to the fee specified in Section 310-16A, each applicant for a mercantile license shall pay an annual parking surcharge of \$25.00. These surcharges shall be deposited into the City’s Parking Trust Account for the purpose of pursuing parking alternatives within the City. [Added 5-2-2017 by Ord. No. 305-2017].

**C. Tourism Fee. In addition to the fee specified in Section 310-16A, each applicant for a mercantile license shall pay an annual tourism fee surcharge of \$50.00.**

**SECTION 2.** Section 310 of the Code of the City of Cape May is hereby amended to include the following new section Article IV:

**ARTICLE IV**

**§310-29 Definitions.**

Unless the context clearly indicates a different meaning, the following words or phrases when used in this chapter shall have the following meaning:

**AGENT or MANAGING AGENT** - The individual or individuals designated by the owner as the person(s) authorized by the owner to perform any duty imposed upon the owner by this chapter, provided that in order to be an agent or managing agent the individual designated must reside in Cape May County, New Jersey as set forth in N.J.S.A. 46:8-28(c). The term does not include a licensed real estate broker or salesman of the State of New Jersey as those terms are defined by N.J.S.A. 45:15-3; unless such broker or salesperson shall affirmatively consent to act as such agent or managing agent.

**APARTMENT or DWELLING** - Any apartment, cottage, bungalow or other dwelling unit consisting of one or more rooms occupying all or part of a floor or floors in a building of one or more floors or stories, but not the entire building, whether designed with or without housekeeping facilities for dwelling purposes and notwithstanding whether the apartment be designed for residence, for office, or the operation of any industry or business, or for any other type of independent use.

**AVAILABLE FOR RENT OR LEASE** - Any action taken by the Owner of Record to advertise, solicit or contract to market a rental unit with or without a lease, by any means including but not limited to: a licensed real estate agency, transient space marketplace, print and electronic media, newspaper ads, personal referrals, Signage.

**BUILDING** - Any building or structure, or part thereof, used for human habitation, use or occupancy and includes any accessory buildings and appurtenance belonging thereto or usually enjoyed therewith. Consistent with the definitions contained in the Uniform Construction Code (UCC) and the Uniform Fire Code (UFC), "building" shall also mean a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind. When used herein, building and structure shall be interchangeable except where the context clearly indicates otherwise.

**DWELLING UNIT** - A single-family house, a unit within a multiple unit building, condominium, transient accommodation, apartment, cottage, bungalow, or other unit consisting of a room for a suite of rooms which is occupied, or intended, arranged, or designed to be occupied, for sleeping or dwelling purposes.

**GUESTS** - See definition of "visitors."

**LANDLORD** - See definition of "owner."

**LICENSE or RENTAL LICENSE** - The license issued by the City attesting that the rental unit has been properly inspected and licensed at required intervals in accordance with this chapter.

**LICENSE YEAR** - Shall be for a maximum term of 12 months as provided herein.

**LICENSEE** - The person to whom the license is issued pursuant to this chapter. The term "licensee" includes within its definition the term "agent" or "managing agent," where applicable.

**LICENSING CLERK** - The municipal official or employee designated to receive rental license applications and registrations and to issue licenses pursuant to this chapter.

**MANAGING AGENT** - See definition of "agent."

**OCCUPANT** - Person who resides in a rental unit, including, but not limited to, the named tenant(s). The term shall include residents, overnight visitors and children. The term shall not include those visitors or guests who are not

residing therein.

**OWNER** - The person who owns, purports to own or exercises control over any building. Consistent with the definitions contained in the Uniform Construction Code (UCC) and the Uniform Fire Code (UFC), "owner" shall also mean the owner or owners in fee of the property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee or any other person, firm or corporation, directly or indirectly in control of a building, structure or real property and shall include any subdivision thereof of the state.

**PERSON** - An individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.

**REALTOR** - An individual who is licensed by the State of New Jersey as a real estate salesperson, a real estate broker-salesperson, and/or a real estate referral agent, as those terms are defined in the New Jersey Real Estate Brokers and Salesmen Act ("Brokers Act"), N.J.S.A. 45:15-1 to -29.5.

**RENTAL AGENT** - The person who negotiates for the lease of the rental unit on behalf of the owner. Such person shall be the holder of the required license mandated by the State of New Jersey. The rental agent is not the managing agent under the terms of this chapter unless the rental agent should expressly consent to assume such duties or obligations.

**RENTAL PROPERTY** - A building or structure which contains one or more rental units including, but not limited to, resort houses, which is rented, leased, subleased or occupied by a tenant. The term "rental property" shall not include any property covered by the New Jersey Hotel and Multiple Dwelling Law. N.J.S.A. 55:13A-1, et seq.

**RENTAL UNIT** - Collectively the term apartment or dwelling, building, dwelling unit, as defined by this chapter. This definition shall not apply to any single-family home which is not available for rental purposes.

**SEASONAL RENTAL/SHORT-TERM RENTAL** - Any lease or tenancy, whether written or oral for any term of less than 175 consecutive days where the tenant(s) has/have a permanent place of residence elsewhere.

**TENANT** - Any person who occupies any rental unit, as a named lessee, pursuant to the terms of a lease agreement, whether written or oral, or who occupies a rental unit pursuant to permission or license of any kind granted by an owner or owner's agent. The term shall be construed liberally to include not only tenants but guests and occupants. The term shall also include subtenants.

**§ 310-30 Short title; scope and applicability.**

This article shall be known as the "Short-Term Rental License Regulations" of the City.

- A. Introduction. All rental properties, or properties containing rental units, including but not limited to resort houses, are subject to licensing and inspection by the City.
- B. License requirements. This chapter is applicable to each and every rental unit or rental property which shall include:
  - (1) A property with one or more rental units including owner-occupied properties with one or more rental units; and including but not limited to single family, multi-unit, and condominium buildings.
- C. Registration requirements.
  - (1) A property subject to this chapter shall file a rental unit registration with the City Clerk's office prior to a rental unit being made available for rent.
  - (2) Separate registration shall be required for each unit made available for rent.
  - (3) The owner shall be responsible for the accuracy of the information provided in the registration, which shall include the following:
    - (i) Property Address, Property Classification, Block and Lot
    - (ii) Owner of Record
    - (iii) Owner's Local Representative, if applicable
    - (iv) Rental Agent, if applicable
- D. In addition to the licensing requirements imposed by this chapter, certain properties must also be registered with either the City or the State of New Jersey pursuant to the Landlord Registration Act, N.J.S.A. 46:8-27 to 46:8-37.

**§310-31 Policy statement.**

- A. It is the stated policy of the City that every property containing rental unit(s) within the City shall be required to submit to inspection and be licensed to be leased or occupied.
- B. City Council finds that such licensing is necessary for the protection of the public; to establish the location of all such rental units in order to protect and promote the enforcement of land use ordinances, such as zoning, site plan, subdivision, and other similar ordinances of the City;
- C. The New Jersey Legislature, pursuant to N.J.S.A. 40:52-1(n) specifically authorized municipalities to license and regulate the "rental of real property for a term of less than 175 consecutive days for residential purposes by a person having a permanent place of residence elsewhere."
- D. Furthermore, most, if not all, such rental units are located within residential neighborhoods in the City and abut owner-occupied homes and residences and, if not responsibly managed, many such rental units may have a negative impact upon the immediate neighbors.

**§ 310-32 Dual responsibilities of owners of rental units.**

The owner of rental unit(s) has a dual responsibility as follows:

- A. Each rental property containing one or more rental units must be licensed and inspected, at least annually, by the City in accordance with this chapter; and
- B. Each property containing one or more rental units must, in addition, be registered in accordance with the Landlord Registration Act, N.J.S.A. 46:8-27 to 46:8-37 as follows:
  - (1) Owner-occupied one or two rental units: No registration is required.
  - (2) Non-owner-occupied one or two rental units: Must be registered (in addition to being licensed and inspected) with the Municipal Clerk or designee.
  - (3) Properties containing three or more rental units must be registered with the State of New Jersey.
- C. As an accommodation to City owners, and to the extent permitted by law, the application for a rental license shall contain the information required by the Landlord Registration Act and, when completed and filed by the owner, shall be indexed and made available for public inspection as required by said law. This dual filing accommodation shall not; however, relieve the owner of any other duty or responsibility imposed by the Landlord Registration Act as the same may be amended or supplemented.

**§ 310-33 License requirements for all rental properties; License Fees.**

- A. All rental properties located within the City shall be required to be inspected and licensed annually by the City. No rental property or rental unit shall be leased or occupied unless a rental license has been issued for the property or rental unit as provided in this chapter. This provision does not apply to hotels or motels.
- B. All rental units shall be licensed by the City. Application for a rental license shall be made on forms which shall be provided for that purpose by the City Licensing Clerk. Such licensing shall be required on an annual basis; that is, at least once in every consecutive twelve-month period or term as provided herein. An application form shall be required for each rental unit and a rental license shall be required for each individual rental unit.
- C. License Fees & Late Registration Fees. Residential Rental Licensing fees provided in

Section 316-10(A)(23) shall be applicable to properties covered by this Chapter. All inspection and registration fees shall be paid by May 1. If not paid by that date, an additional fee equal to the applicable square footage fee multiplied by each calendar month the applicant is late (beginning the 1<sup>st</sup> of each month),



representing a late registration fee, shall be paid at the time of registration in addition to all other fees required at that time. The City shall not refund any inspection, registration or late fee paid pursuant to this chapter unless approved by resolution of the City Council upon good cause shown.

**§310-35 Conditions for obtaining license.**

In order to qualify for a rental license, the following requirements shall be met by the applicant or applicant's agent:

- A. An application on a form supplied by the City shall be completed and shall contain all of the information, including any attachments which may be required and payment of applicable fees.
- B. All municipal taxes, water and sewer charges and any other municipal assessments are paid on a current basis, that is, paid through the tax quarter immediately preceding the initial application or any renewal thereof.
- C. Prior to the issuance of a rental license, on either an initial application or on any renewal application, the rental unit must be scheduled for inspection by the Fire Prevention Bureau pursuant to Section 247-9. All licenses are conditioned on continuing compliance with the provisions of the Uniform Fire Safety Act and Section 247 of the City Code.

**§310-39 Term.**

- A. Term. The license term shall be from May 1 to April 30 of the calendar.
- B. Transferability. In the event that a property containing one or more licensed rental units is sold, assigned or transferred during the license year, the rental license shall be transferable to the new owner for the existing term on the condition that the new owner provides the information required in connection with registration to the City pursuant to 310-30 above. Any unabated violations or outstanding fees shall be addressed as a condition of transfer.
- C. If the rental unit fails Fire inspection, a reinspection will be scheduled. Additional reinspection may be scheduled as circumstances at the rental unit may require.
- D. Should the rental property fail Fire inspection, either on an initial application for licensing or upon a renewal application, the owner shall be required to address to the City's satisfaction the reasons for the failed inspection and the rental property will be reinspected before a rental license is issued by the City and delivered to the owner or owner's agent.
- E. No rental unit shall be occupied for purposes of Short-Term Rental until such time as a valid rental license

is issued by the City and in the possession of the owner or the owner's agent.

- F. Any license may be denied, suspended, or revoked if the owner and/or property fails to address Fire inspection items, or any other condition set forth herein for the issuance of a license.

**§ 310-40 Evidence of license; decal to be affixed to each rental unit.**

In addition to the issuance of a rental license, each licensee shall be issued a decal, which shall be permanently affixed to the main door through which access is gained to the rental unit, or in a window in the rental unit, in such a way that the decal is visible from the exterior of the premises in which the rental unit is located.

**§ 310-41 Landlord prohibited from leasing unlicensed rental unit.**

Any landlord who leases a rental unit while such unit is unlicensed shall be deemed in violation of this article and subject to the fines and penalties herein. Each day that a tenant shall remain in occupancy of such unlicensed rental unit shall be considered a separate and distinct violation of this chapter for which the landlord shall be responsible.

**§310-45 Limitations on occupancy.**

Each owner granted a license pursuant to this section shall be permitted to lease or rent the rental unit subject to the following:

- A. Conformance with the provisions of the Uniform Fire Safety Act and Section 247 of the City Code.
- B. Prohibited occupancy. Kitchens, uninhabitable spaces and interior public areas shall not be occupied for sleeping purposes.

**§310-46 Rentals of amenities Prohibited.**

The lease or rental, for any purpose, of any amenity, feature, accessory, or appurtenance to or associated with a dwelling is prohibited. For the avoidance of doubt, this section prohibits property owners from renting any 'amenities,' such as swimming pools, independent from the principal structure and from advertising, either in print or online, pool rentals.

**§310-47 Enforcement.**

The provisions of any of the several articles of this chapter shall be enforced by any one or more of the following: the Chief of the City of Cape May Police Department or his/her designee, the Construction Code Official, the Fire Official, the Licensing Clerk, Code Enforcement Official and Zoning Official of the City, any employee designated by the City Council, and the Cape May County Department of Health.

The absence of a mercantile license for rental of a particular property shall not be deemed dispositive for purposes of a zoning determination as to whether a preexisting use has been abandoned.

§310-48 **Penalty.**

- (A) Any person violating any of the provisions of this article shall, upon conviction, be subject to a fine not to exceed \$1,000.00.
- (B) For any second or subsequent offense, a fine in the minimum amount of \$1,000 and not to exceed the sum of \$2,000.00.
- (C) The foregoing penalties shall be in addition to any other penalties provided by law

**SECTION 3.** All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency.

**SECTION 4.** Should any section, paragraph, sentence, clause or phase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

**SECTION 5.** This Ordinance shall become effective 20 days after final passage and publication, according to law.

CITY OF CAPE MAY, a municipal corporation of the State of

ATTEST: New Jersey

\_\_\_\_\_  
Erin C. Burke, City Clerk

BY: \_\_\_\_\_  
Zachary M. Mullock, Mayor

**NOTICE**

I, Erin C. Burke, City Clerk of the City of Cape May, County of Cape May, State of New Jersey, do hereby certify that Ordinance 452-2021 was introduced at a meeting of the City Council of the City of Cape May, held on January 11, 2022 and was further considered for final passage during a meeting of the City Council held at the Cape May City Hall Auditorium, 643 Washington Street, Cape May, New Jersey, on February 1, 2022, 6:00 P.M. at which time a Public Hearing was held.

\_\_\_\_\_  
Erin C. Burke, City Clerk

<b>Roll Call</b>	<b>Ayes</b>	<b>Nays</b>	<b>Absent</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
<b>Baldwin</b>						
<b>Meier</b>						
<b>Sheehan</b>						
<b>Yeager</b>						
<b>Mullock</b>						

cc: Clerk's Office-Licensing

Discussed & Tabled            November 15, 2021  
Discussed & Tabled            December 7, 2021  
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