

**CITY OF UNION CITY
COUNTY OF HUDSON, STATE OF NEW JERSEY**

ORDINANCE

**AN ORDINANCE AMENDING CHAPTER 296
OF THE CODE OF THE CITY OF UNION CITY
ENTITLED “PEACE AND GOOD ORDER”**

WHEREAS, the City of Union City (“City”) consists of just 1.28 square miles, which is home to an estimated 69,000 residents; and

WHEREAS, the City’s primary housing goals include preserving its housing stock and preserving the quality and character of its existing single and multi-family residential neighborhoods. In order to continue to flourish, the City must preserve its available housing stock and the character and charm which result, in part, from cultural, ethnic, and economic diversity of its resident population; and

WHEREAS, the City must also preserve its unique sense of community which it derives, in large part, from residents’ active participation in civic affairs, including local government, cultural events, and educational endeavors; and

WHEREAS, operations of vacation rentals, where residents of the City rent-out entire units to visitors and are not present during the visitors’ stays are detrimental to the community’s welfare and are prohibited by local law, because occupants of such vacation rentals, when not hosted, do not have any connections to the City community and to the residential neighborhoods in which they are visiting; and

WHEREAS, the presence of such visitors within the City’s residential neighborhoods can sometimes disrupt the residential character of the neighborhoods and adversely impact the community; and

WHEREAS, judicial decisions have upheld local governments’ authority to prohibit vacation rentals.

WHEREAS, the Board of Commissioners of the City of Union City finds it to be in the best interest of the City and its citizens to adopt an ordinance to prohibit such short-term vacation rentals in residential properties that may jeopardize the community’s welfare and degrade the quality of life within the City.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the City of Union City, County of Hudson, State of New Jersey as follows:

Chapter 296 entitled “Peace and Good Order” of the Code of the City of Union City is hereby amended and revised to add and create a new Article V entitled “Short Term Vacation Rentals in Residential Properties Prohibited” and a new **Section 296-13** entitled “**Short Term Vacation Rentals in Residential Properties - Prohibited**” to read as follows:

SECTION ONE

DEFINITIONS.

- a. **Hosting Platform.** A marketplace in whatever form or format which facilitates the Vacation Rental, through advertising, match-making or any other means, using any medium of facilitation, and from which the operator of the hosting platform derives revenues, including booking fees or advertising revenues, from providing or maintaining the marketplace.
- b. **Vacation Rental.** Rental of any dwelling unit, in whole or in part, within the City of Union City, to any person(s) for exclusive transient use of thirty (30) consecutive days or less, whereby the unit is only approved for permanent residential occupancy and not approved for transient occupancy by this Chapter. Rental of units within City approved hotels, motels and bed and breakfasts shall not be considered Vacation Rental.

SECTION TWO

PROHIBITIONS.

- a. No person, including any Hosting Platform operator, shall undertake, maintain, authorize, aid, facilitate or advertise any Vacation Rental activity that does not comply with this Code.

SECTION THREE

REGULATIONS.

- a. The Board of Commissioners of the City may promulgate regulations, which may include but are not limited to permit conditions, reporting requirements, inspection frequencies, enforcement procedures, advertising restrictions, disclosure requirements, or insurance requirements, to implement the provisions of this Chapter. No person shall fail to comply with any such regulation.
- b. The Board of Commissioners of the City may establish and set by Resolution all fees and charges as may be necessary to effectuate the purpose of this Chapter.

SECTION FOUR

ENFORCEMENT.

- a. Violation of any provision of this chapter shall be cause for a Municipal Court summons to be issued by the Police Department, Code Enforcement Official, Health Officer.

- b. Violation of the provisions of this chapter shall be punishable as provided in Chapter 1, General Provisions, Article IV, General Penalty, except that with each violation there shall be a minimum fine of two hundred fifty (\$250.00) dollars payable through the Municipal Court Violations Bureau.
- c. Any person convicted of violating any provision of this Chapter in a criminal case or found to be in violation of this Chapter in a civil case brought by a law enforcement agency shall be ordered to reimburse the City and other participating law enforcement agencies their full investigative costs and remit all illegally obtained rental revenue to the City so that it may be returned to the victims of illegal short term rental activities.
- d. Any interested person may seek an injunction or other relief to prevent or remedy violations of this Chapter. The prevailing party in such an action shall be entitled to recover reasonable costs and attorney's fees.
- e. The remedies provided in this Section are not exclusive, and nothing in this Section shall preclude the use or application of any other remedies, penalties or procedures established by law.

SECTION FIVE

Applicability. The terms of this ordinance shall not be deemed and are not intended to impair the provisions and enforcement of Chapter 261 of this Code, which shall remain in full force and effect.

SECTION SIX

Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not effect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION SEVEN

Repealer. All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION EIGHT

This Ordinance shall take effect upon passage and publication as required by law.

I HEREBY CERTIFY this to be a true and correct Ordinance of the City of Union City Board of Commissioners, adopted on **December 1, 2015** and will be further considered after a Public Hearing held on **December 15, 2015** at the Robert Water Elementary School, Located at 2800 Summit Avenue at 7:00 p.m.

INTRODUCED: **December 1, 2015**

ADOPTED: December 15, 2015

ATTEST:

Dominick Cantatore
Acting City Clerk

DATE

Summary of Ordinance

This ordinance prohibits short term vacation rentals in residential properties throughout the City.

**CITY OF UNION CITY
COUNTY OF HUDSON, STATE OF NEW JERSEY**

ORDINANCE

**AN ORDINANCE AMENDING CHAPTER 296
OF THE CODE OF THE CITY OF UNION CITY
ENTITLED “PEACE AND GOOD ORDER”**

WHEREAS, the City of Union City (“City”) has received complaints regarding excessive and unreasonable noises, which have become a nuisance to the residents of the City; and

WHEREAS, the City currently has no mechanism to regulate such nuisances; and

WHEREAS, New Jersey Courts have reviewed and approved municipal ordinances which regulate noise as a nuisance within a municipality; and

WHEREAS, to address these concerns, the Township desires to adopt an ordinance to regulate noise which rise to the level of a nuisance, specifically following the ordinance reviewed and found enforceable by the New Jersey Appellate Division in State v. Clarksburg Inn, 275 N.J. Super. 624 (App.Div.2005); and

WHEREAS, the Board of Commissioners of the City of Union City finds it to be in the best interest of the City and its citizens to adopt an ordinance to establish regulations of noise as a nuisance to prevent excessive sound that may jeopardize the health, welfare and safety of its citizens or degrade the quality of life within the City.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the City of Union City, County of Hudson, State of New Jersey as follows:

Chapter 296 entitled “Peace and Good Order” of the Code of the City of Union City is hereby amended and revised to add and create a new Article IV entitled “Nuisances Prohibited” and a new **Section 296-12** entitled “**Nuisance Prohibited - Noise**” to read as follows:

SECTION ONE

Noise Prohibited.

It shall be unlawful for a person or entity to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which does or is likely to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others. Specifically exempted hereunder is noise presumed not to be a nuisance pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1 et seq. This ordinance mirrors the municipal nuisance ordinance which was reviewed

and found to be enforceable by the New Jersey Superior Court, Appellate Division, in State v. Clarksburg Inn, 275 N.J. Super. 624 (App.Div.2005).

SECTION TWO

Definition of Noise.

Without intending to limit the generality of Subsection 1 of this Section, the following acts are hereby declared to be examples of loud, disturbing and unnecessary noise in violation of this Section:

- a. *Radios; Televisions; Phonographs.* The playing, use or operation of any radio receiving set, television, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants or with louder volume than is necessary for convenient hearing for persons who are in the room, vehicle or chamber in which the machine or device is operated and who are voluntary listeners. The operation of such a set, instrument, phonograph, machine or device so that it is clearly audible at a distance of one hundred (100') feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- b. *Yelling; Shouting.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place, which annoys or disturbs the quiet, comfort or repose of persons in any office, dwelling, hotel, motel or other type of residence or of any persons in the vicinity.
- c. *Animals; Birds.* The keeping of animals or birds which, by causing frequent or long-continued noise, disturbs the comfort or repose of any person in the vicinity; but nothing herein contained is intended to apply to a dog pound or kennel licensed in accordance with Chapter 1 Article IV of this Code.
- d. *Horns.* The sounding of a horn or warning device on an automobile, motorcycle, bus or other vehicle except when required by law, or when necessary to give timely warning of the approach of the vehicle, or as a warning of impending danger to persons driving other vehicles or to persons on the street. No person shall sound a horn or warning device on an automobile, motorcycle, bus or other vehicle which emits an unreasonably loud or harsh sound, or for an unnecessary or unreasonable period of time.

SECTION THREE

Violations and penalties.

A. Violation of any provision of this chapter shall be cause for a Municipal Court summons to be issued by the Police Department, Code Enforcement Official, Health Officer, or any member of the general public who is affected by excessive noise.

B. Violation of the provisions of this chapter shall be punishable as provided in Chapter 1, General Provisions, Article IV, General Penalty, except that with each violation there shall be a minimum fine of two hundred fifty (\$250.00) dollars payable through the Municipal Court Violations Bureau.

SECTION FOUR

Applicability. The terms of this ordinance shall not be deemed and are not intended to impair the provisions and enforcement of Chapter 261 of this Code, which shall remain in full force and effect.

SECTION FIVE

Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not effect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION SIX

Repealer. All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION SEVEN

This Ordinance shall take effect upon passage and publication as required by law.

I HEREBY CERTIFY this to be a true and correct Ordinance of the City of Union City Board of Commissioners, adopted on _____ 2015 and will be further considered after a Public Hearing held on _____ at the _____ at _____ m.

INTRODUCED: September 15, 2015
ADOPTED: October 6, 2015

ATTEST:

Dominick Cantatore
Acting City Clerk

DATE

Summary of Ordinance

This ordinance establishes the regulation of nuisances caused by excessive and unreasonable noise within the City.