

# THE COMMERCIAL USE OF RESIDENTIAL PROPERTIES



**MTRAC RECOMMENDATION #5**  
**A COMPREHENSIVE ORDINANCE**

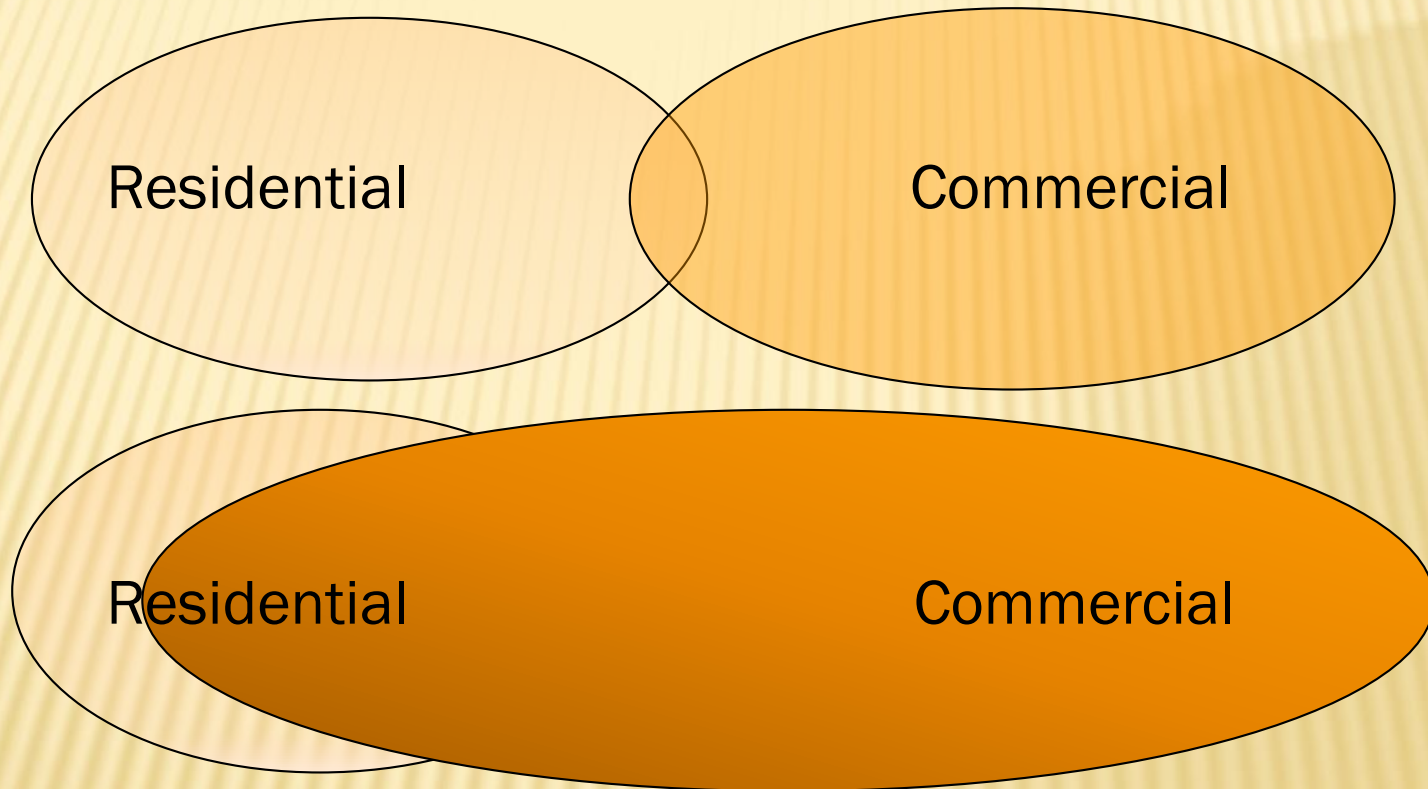
# THE EVOLUTION OF COMMERCE

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- Cape May has been in the Vacation Business for 250 years
  - Small Hotels
  - Boarding Houses
  - Large Hotels
  - Motels
  - Bed and Breakfasts
  - Guest Houses
- Surrounded by the homes and cottages of the residents

# THE NEW CAPE MAY IDENTITY

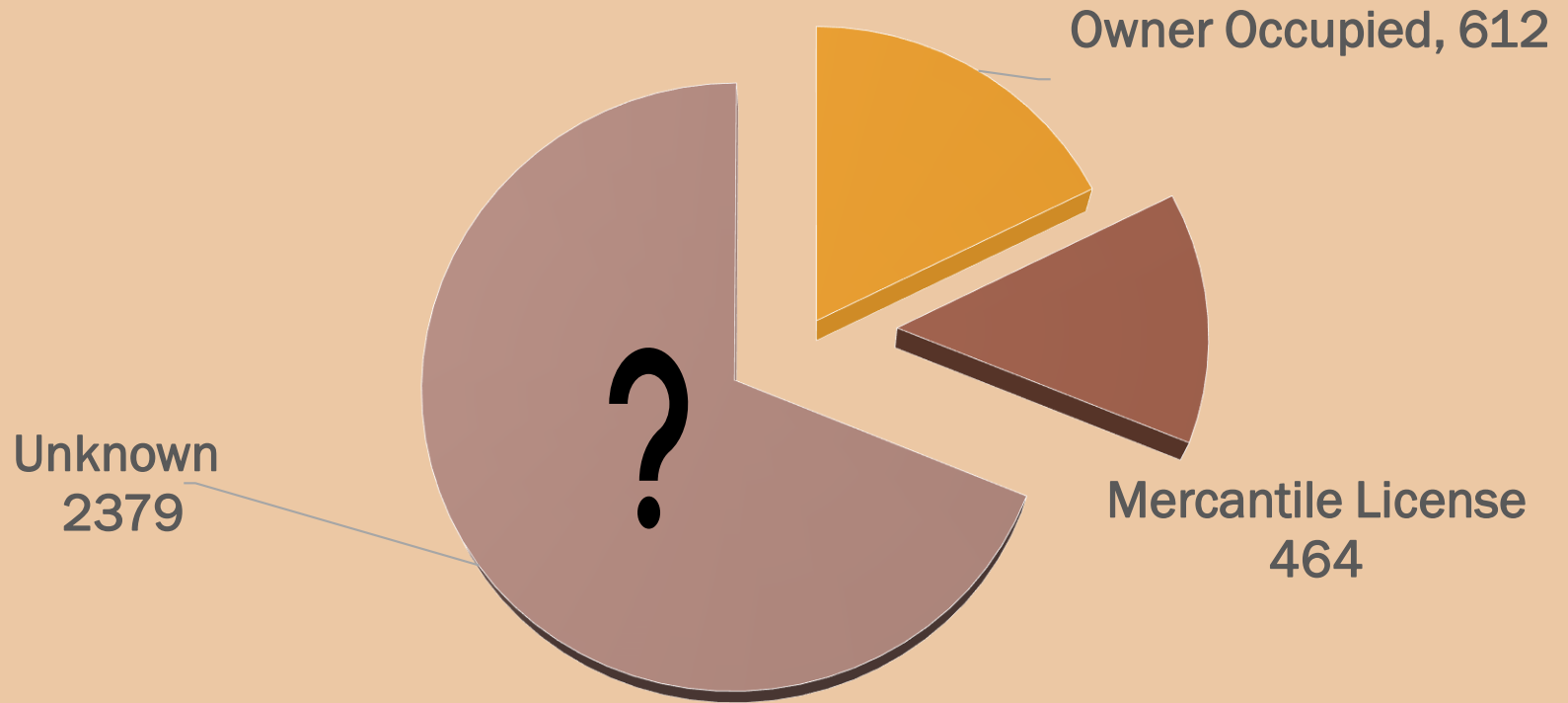
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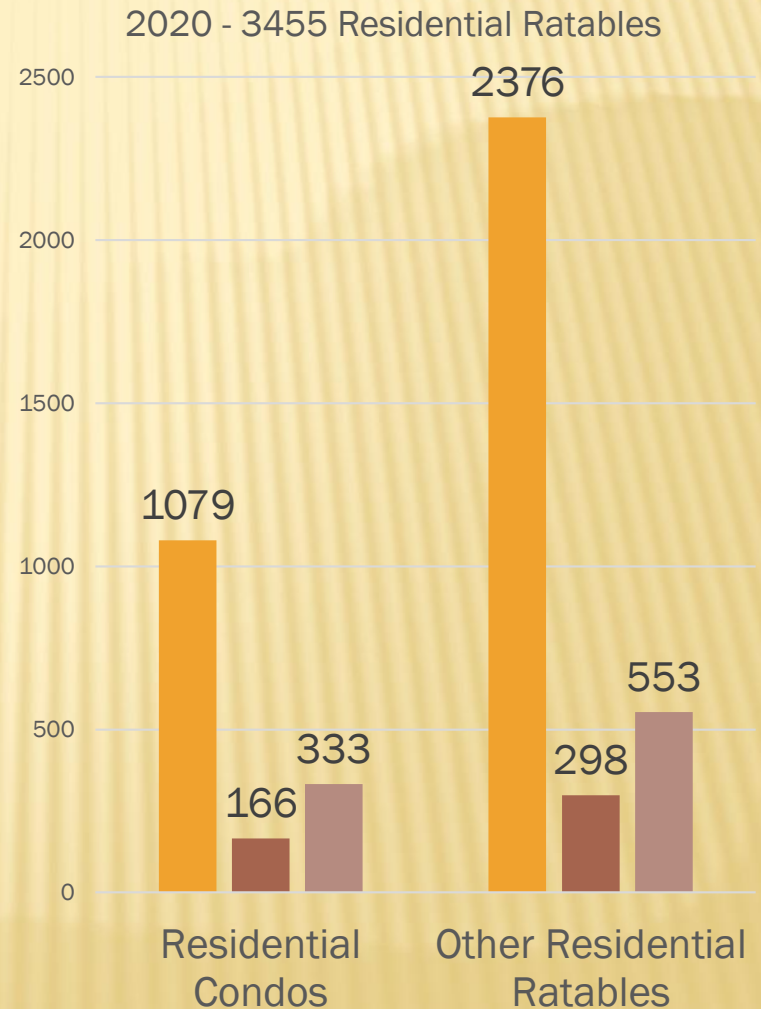
# 2020 RESIDENTIAL RENTAL INDUSTRY

## 3455 Residential Ratables



# THE RENTAL MARKET - 2021

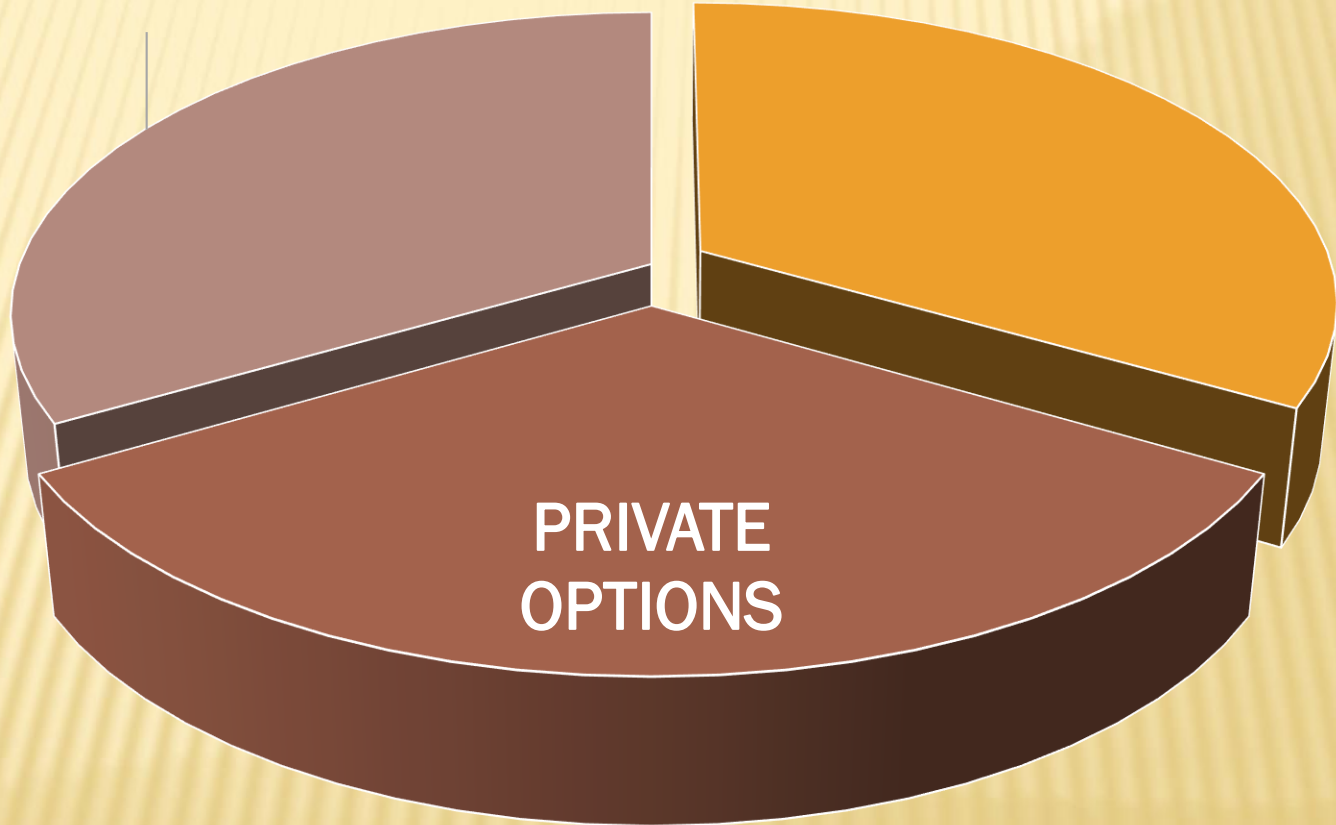
		2019	2020	2021
(23) Single-family		220	189	392
(24) Apartment	per unit	73	73	112
(25) Condominium	per unit	184	166	333
(26) Duplex	per unit	36	36	49
		513	464	886
		72.7%	90.9%	



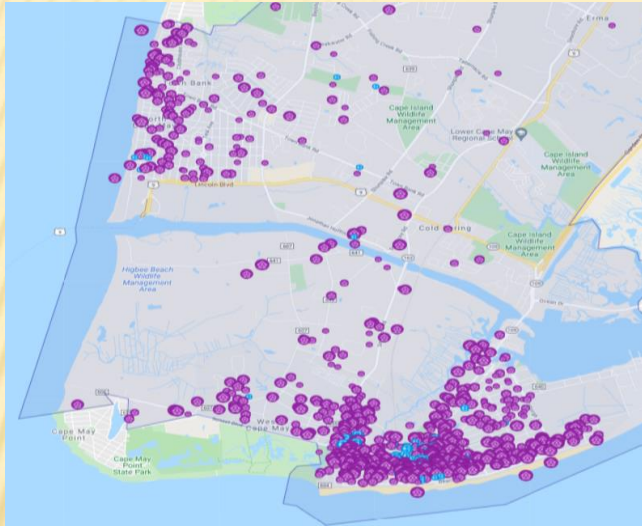
# A FRAGMENTED MARKETPLACE

LICENSED REAL  
ESTATE AGENT

TRANSIENT SPACE  
MARKETPLACE



# 08204 TRANSIENT MARKETPLACE STATUS - 8/2021



## Bedrooms:

Studio	1%
1	13%
2	22%
3	23%
4	20%
5	21%

Active Rentals	776
Whole House	92%
Est. 60% in Cape May City	465
Air B&B	44%
VRBO	44%
Both	12%
Average nightly rate	- \$401
Occupancy Rate	97%

[www.AirDNA.com](http://www.AirDNA.com)



# 2020 CM MASTER PLAN REEXAMINATION

## ❑ *“Avoiding the McMansion*

- ❑ *One of the concerns that has arisen in Cape May and many other communities is the issue of people buying an existing home, tearing down the dwelling, and then building a new home on the lot that is the maximum permitted by current zoning regulations. Such homes are often out of character with the surrounding neighborhood and are sometimes referred to as “Monster Homes” or “McMansions.” “*



# THE GAME HAS CHANGED



Know before you go COVID-19 travel restrictions, including testing and quarantine, are changing rapidly. [Check restriction](#)

**Vrbo** [Trip Boards](#) [Log in](#) [Sign up](#) [Help](#)

Where  
Cape May, New Jersey, United States of America

[Check-in](#) [Check-out](#)

[View all Cape May properties](#)

**Cape May 9BR Sleeps 24; 3 Blks to Beach/Town; Dogs OK (2)!** [Save](#)

[Share](#)

**\$1,563** avg/night  
★★★★★ 16 Review  
Wonderful! 4.9/5



**Property Highlights**

Type: Condo/Townhome  
Location: Cape May  
Street: 1520 New Jersey Ave  
Pet Policy: [24 hr](#)

**Bedrooms: 1**  
**Baths: 1**  
**Sleeps: 6**

**Description:**  
Recently renovated this beach block, one bedroom, one bath condo with heated pool awaits you this summer for your Cape M...Read More

# **BUT.....OUR RULES HAVE NOT:**

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Occasionally, Our Code speaks to the Commercial Use of Residential Property :

**SEC 247 – FIRE INSPECTIONS**

**SEC 310 – MERCANTILE FEES**

**SEC 401 – TENANT CONDUCT**

**SEC 434 – RECYCLING**

**SEC 463 – TENTS**

**SEC 505 – WASHINGTON MALL BID**

**SEC 525 – ZONING R3A & RS**



# OUR CODE IS SPARSE ON RESIDENTIAL RENTALS ON:

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- ❑ POLICY STATEMENT
- ❑ OWNER STANDARDS
- ❑ DEFINITIONS
- ❑ TENANT STANDARDS
- ❑ PROPERTY REGISTRATION
- ❑ OWNER REP STANDARDS\*
- ❑ OCCUPANCY STANDARDS
- ❑ COMPLIANCE

## § 310-1Purpose.

The purpose of this article is to provide a uniform set of procedures for administering the issuance, renewal and revocation of all licenses issued by the City, except alcoholic beverage licenses and dog licenses and except as may be otherwise specifically provided elsewhere in this City Code.



# THE PLAYING FIELD – 16 RESORTS

Municipality	Avalon ch22	Cape May City	Cape May Point ch126	North Wildwood ch344	Ocean City	Sea Isle City ch11	Stone Harbor ch205A	Wildwood City ch22	Wildwood Crest ch56A	Atlantic City ch194-6	Brigantine ch246	Longport ch136	Margate ch223	Ventnor ch181	West Cape May	Lower Twp
Comprehensive Ordinance	x		x	x		x	x	x	x	x	X	x	x	x		
Policy Statement	x		x		partial	x	x	x	x	x	X		x		x	
Definitions	x		x	x		x	x	x	x	x	X			x		
Rental Property Registration Requirements	x		x		partial		x	x	x	x	X	x	x	x	x	
License/Permit Requirement	x	x	x	x	x	x	x	x	x	x	X	x	x	x	x	x
Property Inspection Standards	x						x	x	x	x	X	x	x	x		
Fees	x	x	x	x	x	x	x	x	x	x	X	x	x	x	x	x
Occupancy Standards: space, numbers, sleep arrangements, registration	x		x	x		x	x	x		x	X		x	x		
Resort House Definition	x	x			x			x	x		X					
Short Term Rental Defined	x						x		x	x	X				x	
Decal Requirements	x	x		x		x	repealed				X				x	
Landlord Responsibilities	x	x	x	x	x	x		x	x	x	X			x		
Tenant Conduct Standards	x	x		x	x	x		x	x	x	X		x	x		x
Tenant Registration	x			x		x	x	x			X			x		
Rental Agent Standards	x		x	x	x			x			X					
Managing Agent Standards			x	x		x		x		x	X					
Fire Inspections	x	x	x	x	x	x	x	x	x	x	X	x	x	x	State	x
tax, fee paid current	x	x	x	x	x	x	x	x	x	x	X	x	x	x	x	x
Lease language													x			
State Registration	x	x				x	x		x		X				x	
Conduct Bond		x		x	x	x					X		x	x		
Rules and Regulations	x	x					x	x			X					
Violations	x	x	x	x	x	x	x		x	x	X		x	x	x	x
Enforcement	x	x		x	x	x	x		x	x	X		x	x	x	x
Penalties	x	x	x	x	x	x	x		x	x	X		x	x	x	x
Appeals Process	x			x		x	x		x		X		x	x		x
Tourism Assessment on Mercantile license	x	x		x	x	x		x	x							
Density reduction - conversion to seasonal														x		

# PURPOSE

- Identify the **ownership and location** of all such Rental Properties,
- Insure that **use and occupancy standards** are met and maintained,
- Provide adequate and effective **law enforcement services** to all residents and visitors of the City,
- Provide **emergency response** teams with adequate knowledge of the location of such units within the City,
- Determine adequate **infrastructure** facilities involving sewer, water, fire protection and sanitation.
- Preserve the **peace and tranquility** of our residential neighborhoods.
- Protect and promote the enforcement of **Land Use Ordinances**.
- Assist in the periodic review and updating of the **Municipal Master Plan**,
- Promote the **public health, safety, and welfare**.

# A COMPREHENSIVE MUNICIPAL ORDINANCE CODIFIES:

- THE **SCOPE AND VALUE** OF A MUNICIPALITY'S RESIDENTIAL RENTAL INDUSTRY
- THE ESSENTIAL **COMPONENTS** OF THAT INDUSTRY
- THE **ROLES AND RESPONSIBILITIES** OF ALL WHO PARTICIPATE
- CLEAR AND EFFECTIVE **STANDARDS**
- MUNICIPAL **COST RECOVERY**
- AN **EQUITABLE BALANCE** OF RESPONSIBILITY AND COST AMONG  
THE VARIETY OF PROVIDERS OF RESIDENTIAL RENTAL PROPERTIES.
- **ENFORCEMENT AND COMPLIANCE**



# 11 CORE ELEMENTS

# 1. POLICY

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When a residential property is used for commercial purposes and prior to lease or occupancy, every rental unit within the City shall be required to:

1. Register with the City,
2. Be licensed annually by the City,
3. Comply with any and all standards, regulations and inspections required by State Statute and Municipal Ordinance.

## 2. DEFINITIONS

- **RENTAL UNIT:**

- A **dwelling unit available for rent or lease** for any length of time not to exceed consecutive ninety days.

- **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 or a suite of rooms which is occupied, or intended, arranged, or designed to be occupied, for sleeping or dwelling purposes.

- **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



# 3A. OCCUPANCY STANDARDS (2018 IPMC C4:S404)

## A. Sleep Capacity Determines Maximum Occupancy

1. Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet (10x7) of floor area.
2. Every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor area for each room occupant.

**FOR EXAMPLE, If a bedroom sleeps:**

1	2	3	4	5	6
<b>7x10</b>	<b>10x10</b>	<b>10x15</b>	<b>10x20</b>	<b>15x17</b>	<b>15x20</b>

## 3B. BATHROOMS

(2018 IPMC C4:S404)

1. Every bedroom shall have access to not less than one Water Closet and one Lavatory without passing through another bedroom.
2. Every bedroom in a dwelling unit shall have access to not less than one Water Closet and One Lavatory on the same story as the bedroom or an adjacent story.

# 3C. OCCUPANCY STANDARDS

BASED ON: (2018 IPMC C4:S404)

## B. Minimum Living Space Capacity

Table 1: Minimum Occupancy Area Requirements (Sq Ft)					
Space	1-2 Occupants	3-5 Occupants	6 -12 Occupants	13-18 Occupants	19 Or More Occupants
Living Room	none	120	150	200	250
Dining Space	none	80	100	150	200

These areas and other habitable areas may not be included in determining the minimum occupancy area for sleeping purposes.

Can be combined into one space.



## 3D: MAXIMUM OCCUPANCY

- It shall be unlawful for any person, including a owner of record, tenant, guest, occupant, or invitee, to allow a greater number of persons than the posted maximum number of occupants to sleep in or occupy overnight the rental unit.
- Any person violating this provision shall be subject to the penalty provisions hereof.

# 4. RENTAL UNIT REGISTRATION

- ❑ Filed with the Licensing Clerk of the City.
- ❑ Required once prior to a rental unit being made available for rent.
- ❑ Required for each rental unit.
- ❑ The owner of record is responsible for accuracy of the rental unit registration.
- ❑ Registration Fee \$100/per Rental Unit

## A registration form shall include the following:

- ❑ Property Address, Property Classification, Block and Lot:
- ❑ Owner of Record
- ❑ Owner's Local Representative, if so desired.
- ❑ Rental Agent
- ❑ Solid Waste Contractor
- ❑ Off Street Parking Spaces
- ❑ Maximum Occupant/Sleeping Capacity
- ❑ Living Space Capacity
- ❑ Property Insurance Certification
- ❑ Heating Service
- ❑ Fire Inspection Certificate

# 5. RENTAL UNIT LICENSE

- ❑ Annual
- ❑ Each Unit
- ❑ Classified by Occupancy Standards

Residential Rental Unit Fee <i>(per Unit)</i>				
1-2 Occupants	3-5 Occupants	6 -12 Occupants	13-18 Occupants	19 Or More Occupants
\$ 100.00	\$ 150.00	\$ 200.00	\$ 300.00	\$ 400.00



# EQUITY IN THE ACCOMMODATIONS INDUSTRY

## OCCUPANCY TAX IN SUPPORT OF TOURISM

<ul style="list-style-type: none"><li>❑ Hotels</li><li>❑ Motels</li><li>❑ Internet Marketplace</li></ul>	<ul style="list-style-type: none"><li>❑ RE Agency Rentals</li><li>❑ Private Rentals</li></ul>
<ul style="list-style-type: none"><li>❑ Municipal Revenue</li></ul>	<ul style="list-style-type: none"><li>❑ Municipal Revenue</li></ul>
3% of Gross Receipts	\$0

## 6. TOURISM ASSESSMENT FEE (T.A.F.)

### ❑ Repeal:

- ❑ Mercantile License for Residential Rentals
- ❑ Tourism Utility Assessment (currently \$50)
- ❑ Parking Trust Assessment (currently \$25)
- ❑ Data Assessment (currently \$10)

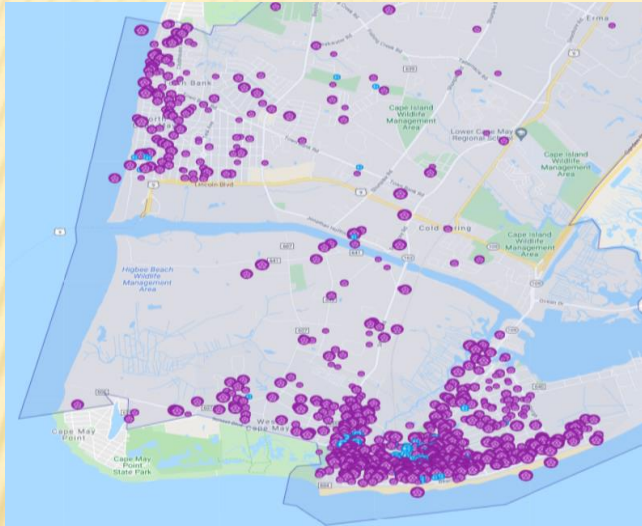
### ❑ Enact a (T.A.F.) per Rental Unit Lease

- ❑ *Exempt Rental Units included in Occupancy Tax Ordinance*

### ❑ \$100 (T.A.F.) per Municipal Mercantile License

- ❑ Revenue dedicated to Existing Parking Trust Fund
  - ❑ 2020 - 758 Licenses (Resi/Rent excluded) \$11,600
  - ❑  $758 \times 100 = \$75,800$

# 08204 TRANSIENT MARKETPLACE STATUS - 8/2021



## Bedrooms:

Studio	1%
1	13%
2	22%
3	23%
4	20%
5	21%

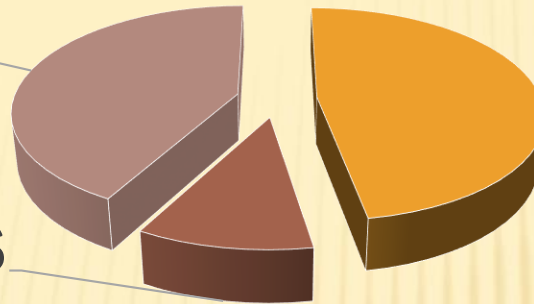
Active Rentals	776
Whole House	92%
Est. 60% in Cape May City	465
Air B&B	44%
VRBO	44%
Both	12%
Average nightly rate	- \$401
Occupancy Rate	97%

[www.AirDNA.com](http://www.AirDNA.com)



# WHAT COULD A T.A.F. BE .....

LICENSED REAL  
ESTATE AGENT  
PRIVATE  
OPTIONS



TRANSIENT SPACE  
MARKETPLACE

## ❑ Municipal Occ/Tax – A Residential Rental

- ❑ \$350/night x 3% = \$10.50
- ❑ 90 Nights x \$10.50 = \$945 User Fee
- ❑ 465 Cape May City Units x \$945 = \$439,425

## ❑ A Residential Rental by Agency/Private

- ❑ 12 weekly Leases (84 nights)
- ❑ 12 X \$75 = \$900 User Fee
- ❑ 465 Cape May City Units x \$900 = \$418,500

# HOW COULD ALL OF THIS WORK?

FOR EXAMPLE, If a bedroom sleeps:					
1	2	3	4	5	6
7x10	10x10	10x15	10x20	15x17	15x20

Minimum Occupancy Area Requirements (Sq Ft)					
Space	1-2 Occupants	3-5 Occupants	6 -12 Occupants	13-18 Occupants	19 Or More Occupants
Living room	none	120	150	200	250
Dining room	none	80	100	150	200

Residential Rental Unit Fee <i>(per Unit)</i>				
1-2 Occupants	3-5 Occupants	6 -12 Occupants	13-18 Occupants	19 Or More Occupants
\$ 100.00	\$ 150.00	\$ 200.00	\$ 300.00	\$ 400.00

# FOR EXAMPLE: ..... SLEEPS 2

CURRENT \$160



### Property Highlights

<b>Type:</b> Studio Apartment	<b>Bedrooms:</b> 1
<b>Location:</b> Cape May	<b>Baths:</b> 1
<b>Street:</b> 628 Hughes Street	<b>Sleeps:</b> 2
<b>Pet Policy:</b> No Pets Accepted	

**Description:**  
This is a simple & cute basement studio apartment perfect for one or two people. It is a seasonal rental and within wal...Read More

[DETAILS](#) [QUICK MAP](#) [FAVORITE](#)

- ❑ 1 bedroom – 100 sf (at least 10 x 10)
- ❑ Living Space - none
- ❑ Registration Fee \$100 (one time)
- ❑ License Fee \$100 (annual)
- ❑ Tourism Assessment Fee (per lease)
  - ❑ (waived if rented through Occ.Tax Ord)



FOR EXAMPLE: ..... SLEEPS 6 CURRENT \$160



#### Property Highlights

**Type:** Condo/Townhome  
**Location:** Cape May  
**Street:** 1520 New Jersey Ave  
**Pet Policy:**



**Bedrooms:**  
**Baths:**  
**Sleeps:**

1  
1  
6

#### Description:

Recently renovated this beach block, one bedroom, one bath condo with heated pool awaits you this summer for your Cape M...Read More

- ❑ 1 bedroom – 300 sf (at least 15 x 20)
- ❑ Living Space - 250 sf (at least 15 x 17)
- ❑ Registration Fee \$100 (one time)
- ❑ License Fee \$200 (annual)
- ❑ Tourism Assessment Fee (per lease)
  - ❑ (waived if rented through Occ.Tax Ord)

FOR EXAMPLE: ..... SLEEPS 10 CURRENT \$160



#### Property Highlights

**Type:** Duplex  
**Location:** Cape May  
**Street:** 488 West Perry  
**Pet Policy:** No Pets Accepted

**Bedrooms:** 3  
**Baths:** 2  
**Sleeps:** 10



#### Description:

Cape May Gem... located within walking distance to everything Cape May. Just a few blocks to the beautiful beaches and t...Read More

DETAILS

QUICK MAP

FAVORITE

- ❑ 3 bedrooms – each 200 sf (at least 10 x 20)
- ❑ Living Space - 250 sf (at least 15 x 17)
- ❑ Registration Fee \$100 (one time)
- ❑ License Fee \$200 (annual)
- ❑ Tourism Assessment Fee (per lease)
  - ❑ (waived if rented through Occ.Tax Ord)



FOR EXAMPLE: ..... SLEEPS 14 CURRENT \$160



**Property Highlights**

<b>Type:</b> House	<b>Bedrooms:</b> 5
<b>Location:</b> Cape May	<b>Baths:</b> 3
<b>Street:</b> 915 Washington Street	<b>Sleeps:</b> 14
<b>Pet Policy:</b> Pets Accepted	

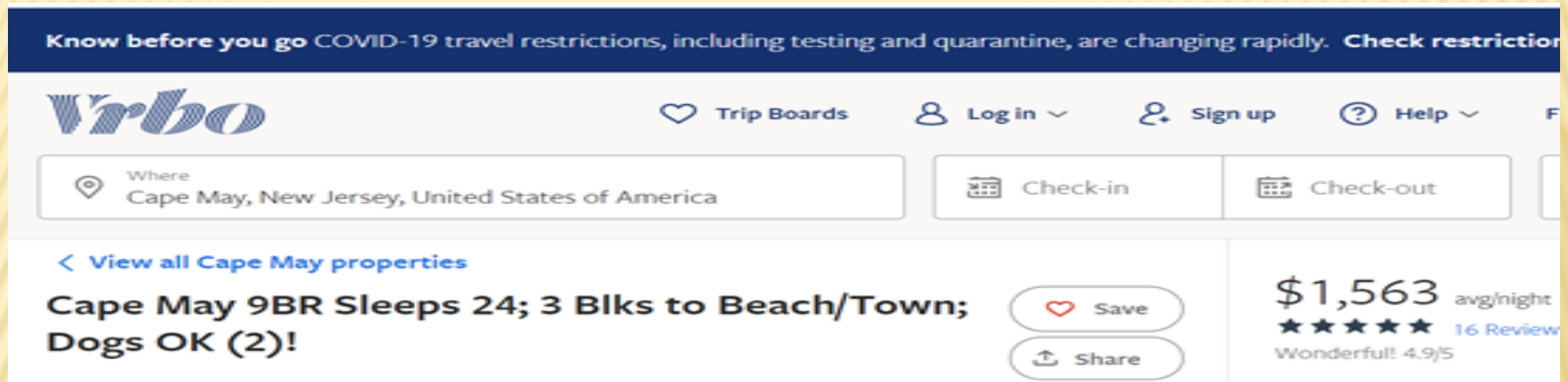
**Description:**  
Enjoy your Cape May vacation in this wonderful victorian modern home. Located on picturesque tree lined Washington Stree...Read More

[DETAILS](#) [QUICK MAP](#) [FAVORITE](#)

- ❑ 5 bedrooms – each 150 sf (at least 10 x 15)
- ❑ Living Space - 350 sf (at least 18 x 20)
- ❑ Registration Fee \$100 (one time)
- ❑ License Fee \$200 (annual)
- ❑ Tourism Assessment Fee (per lease)
  - ❑ (waived if rented through Occ.Tax Ord)



FOR EXAMPLE: ..... SLEEPS 24 CURRENT \$160



- ✖ 9 bedrooms – each at least 10 x 15
- ✖ Living Space - 450 sf (at least 20x23)
- ✖ Registration Fee \$100 (one time)
- ✖ License Fee \$400 (annual)
- ✖ Tourism Assessment Fee (per lease)
  - + (waived if rented through Occ.Tax Ord)

## **7. NOTIFICATION OF RESPONSIBILITIES FORM**

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- ❑ Summary of the obligations of the Owner of Record, Managing Agent, Tenant and Rental Agency under any and all ordinances of the City of Cape May.**
- ❑ Produced by the City and available through the City and online at no cost to either the Owner of Record, Managing Agent, Tenant and a Rental Agency .**

## **8. EVIDENCE OF LICENSE**

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- **Upon issuance of an annual Rental License each Owner of Record shall be issued a decal to be permanently affixed to the main door or window in the Rental Unit visible from the exterior of the premises.**
- **The failure to affix the decal as required by this section shall constitute a violation thereof.**
- **The absence of a decal shall constitute prima facie evidence that the Rental Unit has not been issued a Rental License.**
- **The maximum number of occupants shall be posted in each rental unit.**



# 9. OWNER OF RECORD RESPONSIBILITY

- Register the Rental Unit.
- Ensure that the Registration of the Rental Unit is complete and accurate annually.
- Secure an Annual License for the Rental Unit
- Post a license decal and Maximum Occupancy notice in Rental Unit.
- Designate a Local Representative or Agent, if so desired.
- Maintain a current Tenant Register on the rental or leased unit at all times.
- Provide copy of the Tenant Register to the tenant(s).
- Provide Tenant with "Notification of Responsibilities Form".
- Affix a copy of such notice to each copy of each lease of a Rental Unit and a copy shall also be posted and remain posted in each Rental Unit.
- Comply with the registration requirements of the Landlord Registration Act, N.J.S.A. 46:8-27, et seq. where applicable.

# 10. TENANT RESPONSIBILITY

- **Tenant Shall:**

- maintain a copy of the executed lease, tenant register and Notification of Responsibilities Form on the premises.
- make lease and tenant register shall be available for inspection by the officers of the Police Department and by a representative of the Licensing Clerk at all times and shall be produced upon the written request of the Municipal Prosecutor without subpoena.
- maintain the Rental Unit in such manner so as to avoid and prevent said premises from becoming loud or disorderly or a nuisance so as to interfere with the peace and tranquility and quality of life of other nearby residents and visitors.
  - Loud, offensive and disorderly conduct may include excessive noise, unruly behavior, obscene language, fighting, littering, parking of vehicles on lawns and on neighboring property, public urination and poor maintenance of the property and grounds.
- secure proper storage and disposal of solid waste and recyclable materials and to do so in accordance with applicable City Ordinances.
- comply strictly with the maximum occupancy limits established by this chapter for each Rental Unit and shall prevent occupancy by more than the maximum number of occupants permitted.

# 11. COMPLIANCE AND ENFORCEMENT

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- ❑ **INSPECTIONS**
- ❑ **VIOLATIONS**
- ❑ **PENALTIES**
- ❑ **DENIAL OF RENTAL LICENSE OR ANY RENEWAL**
- ❑ **APPEAL PROCESS**
- ❑ **RULES AND REGULATIONS**



# ADDITIONAL RECOMMENDATIONS

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- ❑ Fiscal Impact Statement
- ❑ Electronic Filing
- ❑ Upgrade Data Access System
- ❑ Additional Staffing
- ❑ Additional Administrative Services
- ❑ Review All Zoning Ordinances with Regard to the Commercial Use of Residential Properties
- ❑ Following the Council Introduction of a proposed comprehensive ordinance governing the Commercial Use of Residential Properties, Council should conduct a Town Hall Meeting on the draft proposal.