

**PROPOSED
MEETING DATE: 4/5/2022**

TOWNSHIP OF WASHINGTON

ORDINANCE 2022-_____

**AN ORDINANCE ENACTING CHAPTER _____
GOVERNING SHORT-TERM RENTAL PROPERTY PROHIBITION**

WHEREAS, the New Jersey Legislature has, pursuant to N.J.S.A. 40:52 1(d) and (n), specifically authorized municipal corporations, including the Township of Washington (“Township”) to regulate “furnished and unfurnished rented housing or living units and all other places and buildings used for sleeping and lodging purposes, and the occupancy thereof and the “rental of real property for a term of less than one hundred seventy-five (175) consecutive days for residential purposes by a person having a permanent place of residence elsewhere”; and

WHEREAS, in recent years, there has arisen a proliferation of internet and other media advertising often on websites dedicated to the rental of Dwelling Units for short terms and for a period of less than thirty (30) days (“Short Term Rental”); and

WHEREAS, the Township's experience, as well as common experiences, dictates the conclusion that Short Term Rental(s) frequently result in public nuisance, noise complaints, sanitation issues, overcrowding and illegal parking within the residential neighborhoods of the Township, and essentially convert residential dwelling units into uses equating to or similar to illegal de-facto hotels, motels, boarding houses and other commercial enterprises, in violation of the Township's Zoning and other Codes and Ordinances as well as state statutes; and

WHEREAS, the Township wishes to deter the cyber-social phenomenon of any Owner renting his/her residential Dwelling Unit(s) on various websites, as well as the listing of Short Terms Rental(s) by website businesses, of any Dwelling Unit(s), that constitute an Illegal business operating in violation of the Township 's Zoning Ordinance and resulting in public nuisances; and

WHEREAS, the Township additionally wishes to prevent potential overcrowding which results when Person(s), in an effort to reduce the per-occupant cost of the Short Term Rental(s), unlawfully permit the Township's occupancy limits to be exceeded;

WHEREAS, some property owners and/or their agents permit commercial boarding house type Short term Rental(s) and overcrowded conditions and other public nuisances, in order to unlawfully create a commercial enterprise and income, in violation of the Township Zoning Ordinance and to maximize their profit(s); and

WHEREAS, problems also frequently associated with such Short Term Rental(s) include overcrowding, excessive noise, unruly behavior, obscene language, littering, parking of vehicles on lawns, public urination, sanitation issues, poor maintenance of the property and grounds, and violation of trash collection ordinances;

NOW THEREFORE, BE IT ORDAINED, by the Committee of the Township of Washington, County of Burlington and State of New Jersey that the within Ordinance entitled "Short Term Rental Property Prohibition" is hereby established and adopted as follows:

SECTION 1. SHORT TERM RENTALS PROHIBITED USES.

- A. Notwithstanding anything to the contrary contained in the Township Ordinances, it shall be unlawful for an Owner, landlord, managing agent, lessor, sub-lessor, any other person(s) or entity(ies) with possessory or use right(s) in a Dwelling Unit, their principals, partner or shareholders, or their agents, employees, representatives and other persons(s) or entity(ies), acting in concert or a combination thereof, to receive or obtain actual or anticipated consideration for soliciting, advertising, offering, and/or permitting, allowing, or failing to discontinue the use or occupancy of any Dwelling Unit, or portion thereof, as defined herein, for a period of thirty (30) days or less.
- B. Nothing in this Ordinance will prevent formation of an otherwise lawful occupancy of a Dwelling Unit for a rental period of more than thirty (30) days.
- C. This Ordinance shall not be applicable to Rooming Houses that may be licensed throughout the Township of Washington via the Township of Washington Code and the State of New Jersey Rooming and Boarding House Act N.J.S.A. 55:13B-1, *et seq.*

SECTION 2. DEFINITIONS.

A. ADVERTISE OR ADVERTISING

Any form of solicitation, promotion, and communication for marketing, used to solicit, encourage, persuade, or manipulate viewers, readers, or listeners into contracting for goods and/or services violation of this Ordinance, as same may be viewed through various media including but not limited to, newspapers, magazines, flyers, handbills, pamphlets, commercials, radio, direct mail, internet websites, or text or other electronic messages for the purpose of establishing occupancies or uses of rental property, for Consideration, which are prohibited by this Ordinance.

B. CONSIDERATION

Soliciting, charging, demanding, receiving or accepting any legally recognized form of consideration including a promise or benefit, a *quid-pro-quo*, rent, fees, other form of payment, or thing of value.

C. DWELLING UNIT

Any structure, or portion thereof, whether furnished or unfurnished, which is occupied in whole or in part, or intended, arranged or designed to be occupied, for sleeping, dwelling, cooking, gathering and/or entertaining, as a residential occupancy, by one or more persons. This definition includes an apartment, condominium, building, co-operative, converted space, or portions thereof, that is offered to use, made available for use, or is

used for accommodations, lodging, cooking, sleeping, gathering and/or entertaining of Occupants and/or guest(s), for consideration, for a period of thirty (30) days or less.

D. HOUSEKEEPING UNIT

Constitutes a family-type situation, involving one or more persons, living together that exhibit the kind of stability, permanency and functional lifestyle equivalent to that of a traditional family unit, as further described in the applicable reported and unreported decisions of the New Jersey Superior Court.

E. OCCUPANT

Any individual using, inhabiting, living, gathering, entertaining, being entertained as a guest, or sleeping in a Dwelling Unit, or portion thereof, or having other permission or possessory right(s) within a Dwelling Unit.

F. OWNER

Any person(s) or entity(ies), association, limited liability company, corporation, or partnership, or any combination, who legally use, possess, own, lease, sub-lease or license (including an operator, principal, shareholder, director, agent or employee, individually or collectively) that has charge, care, control, or participates in the expenses and/or profit of a Dwelling Unit pursuant to a written or unwritten agreement, rental, lease, license, use, occupancy agreement or any other agreement.

G. PERSON

An individual firm, corporation, association, partnership, limited liability company, association, entity, and any person(s) and/or entity(ies) acting in concert or any combination therewith.

H. RESIDENTIAL OCCUPANCY

The use of a Dwelling Unit by an Occupant(s).

SECTION 3. PERMITTED USES.

- A. The residential occupancy of an otherwise lawful and lawfully occupied Dwelling Unit for a period of thirty (30) days or less by any person who is a member of the Housekeeping Unit of the Owner, without Consideration, such as house guests, is permitted.

SECTION 4. ADVERTISING PROHIBITED.

- A. It shall be unlawful to advertise, solicit or promote by any means actions in violation of this Ordinance.

SECTION 5. ENFORCEMENT; VIOLATIONS AND PENALTIES.

- A. The provisions of this Ordinance shall be enforced by the Zoning Officer, Building Department, Building Code Official, Fire Official, Fire Marshall, Health Department, other 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. A violation of this Ordinance is hereby declared to be a public nuisance, a nuisance per se, and is hereby further found and declared to be offensive to the public health, safety and welfare.
- C. Any person found to have violated any provision of this Ordinance, without regard to intent or knowledge, shall be liable for a penalty, upon adjudicated violation or admission, of a fine not exceeding \$1,250.00 as determined by the Municipal Court. Each day of such violation shall be a new and separate violation of this Ordinance.
- D. The penalty 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 Burlington County, or in such other Court or tribunal of competent jurisdiction, by either summary disposition or by zoning or construction code municipal proceeding.

SECTION 6. VALIDITY.

- A. In the event any section, part or provision of this Ordinance shall be held unconstitutional or otherwise invalid by any Court of competent jurisdiction, such determination shall not affect the validity of this Ordinance or the remaining provisions which shall remain in full force and effect.

SECTION 7. INCONSISTENCY.

- A. All ordinances or parts thereof which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such Inconsistency. Provided, however, withstanding the foregoing, this Ordinance shall not be applicable to Licensed Rooming houses that are licensed throughout the Township of Washington via Township of Washington Code and the State of New Jersey Rooming and Boarding House Act N.J.S.A. 55:138-1, *et seq.* which shall remain in force and effect.

SECTION 8. TOWNSHIP PLANNING BOARD.

- A. This Ordinance shall be subject to review and recommendation by the Township Planning Board in accordance with N.J.S.A. 40:55D-26 after Introduction.

SECTION 9. COUNTY PLANNING BOARD.

- A. The Burlington County Planning Board shall be provided notice of this proposed Ordinance in accordance with N.J.S.A. 40:27-6.10 after Introduction at least ten (10) days prior to public hearing thereon.

SECTION 10. COUNTY PLANNING BOARD.

- A. The Burlington County Planning Board shall be provided with a copy of this proposed Ordinance subsequent to its final adoption.

SECTION 11. EFFECTIVE DATE.

- A. This Ordinance shall take effect ten (10) days after adoption and publication in the manner prescribed by law.

Introduced on this _____ day of _____, 2022.

ATTEST:

Daniel James, Mayor

Lisa Hand, Municipal Clerk