

ORDINANCE NO. 2021-07
TOWNSHIP OF NORTH HANOVER
COUNTY OF BURLINGTON

**ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF NORTH HANOVER
TO INCLUDE A PENALTY PROVISION AND TO PROHIBIT SHORT TERM
RENTAL PROPERTIES**

WHEREAS, the purpose of this Ordinance is to establish a penalty provision in the Code of the Township of North Hanover in accordance with N.J.S.A. 40:49-5 and a penalty procedure and authorize rules and regulations thereunder for Short Term Rental Property Prohibition in the Township of North Hanover; and

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 North Hanover, 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 one hundred seventy-five (175) days (“Short Term Rental”); and

WHEREAS, the Township’s experience, as well as common experiences, dictates the conclusion that a Short Term Rental frequently results in a public nuisance, noise complaints, sanitation issues, overcrowding and illegal parking within residential neighborhoods of the Township, and essentially converted residential dwelling units into illegal de-facto hotels, motels, boarding houses and other commercial enterprises, in violation of the Township’s zoning and other code provisions, as well as state statutes; and

WHEREAS, the Township desires 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 Term Rental(s) by website businesses, of any Dwelling Units(s) that constitute an illegal business operating in violation of the Township’s Zoning and Land Use Codes and other public nuisance ordinances; and

WHEREAS, the Township additionally wishes to prevent overcrowding, which occurs as a result of a Person(s) effort to reduce the per-occupant cost of the Short Term Rental(s) which would unlawfully permit the Township’s occupancy limits to be exceeded; and

WHEREAS, property owners and/or their agents have permitted 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’s Zoning Code and to maximize their profit(s); and

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

WHEREAS, the Township Committee believes it is the best interest of the Township of North Hanover to include a penalty provision and Short Term Rental Property Prohibition in the Township Code.

NOW THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of North Hanover, in the County of Burlington, State of New Jersey, that Chapters 1 and 4 f the Revised General Ordinances of the Township of North Hanover be and are hereby amended to include a new Section 1-035 entitled “Penalty” and a new Section 4-090 entitled “Short Term Rental Property Prohibited Uses” as follows (deleted sections have strikethrough; added sections are bolded and underlined):

SECTION 1. 1-035 Penalty.

1-035.1 Maximum penalty. For violation of any provision of any chapter of this Code or any other ordinance of the Township where no specific penalty is provided regarding the section or sections violated, the maximum penalty, upon conviction, shall be a fine not exceeding \$2,000; or imprisonment in the county jail or in any place provided by the Township for the detention of prisoners, for any term not exceeding 90 days; or by a period of community service not exceeding 90 days; or any combination thereof.

1-035.2 Separate violations. Except as otherwise provided, each and every day in which a violation of any provision of this chapter or any ordinance of the Township exists shall constitute a separate violation.

1-035.3 Application. The maximum penalty stated in this article is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation.

SECTION 2. 4-090 Short Term Rental Property Prohibited Uses.

4-090.1 Short Term Rental Property Prohibited Uses. Notwithstanding anything to the contrary contained in the Township Code, it shall be unlawful for an Owner, lessor, sub-lessor, any other person(s) or entity(yes) with possessory or use right(s) in a Dwelling Unit, their principals, partner or shareholders, or their agents, employees, representative and other person(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, as defined herein, for a period of one seventy-five (175) days or less.

Nothing in this Ordinance will prevent formation of an otherwise lawful occupancy of a Dwelling Unit for a rental period of more than one hundred seventy-five (175) days.

4-090.2 Definitions. Unless otherwise specified herein, the following definitions shall be used for terms within this section:

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 in violation of this Ordinance, as same may be viewed through various media including but not limited to, newspapers, magazines, fliers, 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.

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.

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 one hundred seventy-five (175) days or less.

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.

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 possessor right(s) within a Dwelling Unit.

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, individual 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.

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.

RESIDENTIAL OCCUPANCY

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

4-090.3 Permitted Uses. The residential occupancy of an otherwise lawful and lawfully occupied Dwelling Unit for a period of one hundred seventy-five (175) 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.

4-090.4 Advertising Prohibited. It shall be unlawful to advertise, solicit or promote by any means actions in violation of this Ordinance.

4-090.5 Enforcement, Violations and Penalties.

A. The provisions of this Ordinance shall be enforced by the Zoning Officer, Building Code Official, Fire Official, Health Department, Police Department, Department Head, or 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 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 the maximum civil penalty, upon adjudicated violation or admission of a fine not exceeding \$1250.00. Each day of such violations 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 3. All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision,

clause or provision so adjudged and the remainder of the Ordinance shall remain valid and effective.

SECTION 5. This ordinance shall take effect upon final passage and publication according to law.

COMMITTEE	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
Deputy Mayor DeBaecke						X
Committeeman Forsyth		X	X			
Committeeman Kocubinski	X		X			
Committeeman O'Donnell			X			
Mayor Doyle			X			

NOTICE

This ordinance shall take effect immediately after final passage and publication according to law. This Ordinance published herewith was introduced and passed upon first reading at the regular meeting of the Township Committee of the Township of North Hanover held on August 19, 2021. It will be further considered for final passage after a public hearing to be held on September 16, 2021, at the Municipal Building, 41 Schoolhouse Road, Jacobstown, NJ at 7:00 p.m. or as soon thereafter as the matter may be heard, at which time and place any person's desire to be heard upon the same will be given an opportunity to be heard. Copies are available free of charge at the Municipal Clerk's Office prior to the public hearing.

Mary Picariello, RMC/CMR/CTC
Township Clerk

NOTICE

The ordinance read by title upon second reading herewith has been adopted at the meeting of the Mayor and Township Committee of North Hanover Township, held on September 16, 2021, and the 20-day period of limitation within which a suit, action or validity of such ordinance can be commenced, has begun to run from the date of the publication of this notice.

Mary Picariello, RMC /CMR/CTC
Township Clerk

Vote to Adopt Ordinance 2021-07:

COMMITTEE	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
Deputy Mayor DeBaecke	X		X			
Committeeman Forsyth			X			
Committeeman Kocubinski		X	X			
Committeeman O'Donnell			X			
Mayor Doyle			X			