

Egg Harbor Township

Ordinance No. 9

2020

An ordinance to amend Chapter 155 of the Code of the Township of Egg Harbor entitled "Motels", specifically to regulate Short Term Rentals of Residential Properties

WHEREAS, the New Jersey Legislature has, pursuant to N.J.S.A. 40:52-1(d) and (n), specifically authorized municipalities 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 Rentals 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 illegal de-facto hotels, motels, boarding houses and other commercial enterprises, in violation of the Township's Zoning and other Codes as well as state statutes; and

WHEREAS, the Township wishes to deter the cyber-social phenomenon of any Owner renting their 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 Code and other public nuisance ordinances; and

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

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 Code 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, fighting, 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 Township Committee of the Township of Egg Harbor, County of Atlantic and State of New Jersey that Chapter 155 of the Township Code entitled "Motels" is hereby amended by establishing Article II, entitled "Short Term Rental Property Prohibition," to the Code of the Township of Egg Harbor as follows:

SECTION 1. Chapter 155 of the Code of the Township of Egg Harbor is hereby amended to add a new Article to be known as:

Article II. Short Term Rental Property Prohibition

§ 155-10 Findings.

The Township Committee hereby find and adopt, as if set forth more fully herein, the fact assertions of the "Whereas" clauses of this Article, as their findings of fact.

§ 155-11 Short Term Rental Property Prohibited Uses.

- A. 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(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, as defined herein, for a period of thirty (30) days or less.
- B. Nothing in this Article will prevent formation of an otherwise lawful occupancy of a dwelling unit for a rental period of more than thirty (30) days. However, rental of a room or a portion of the premises, which includes accessory structures, recreational vehicles, tents or any similar structures, for any term is not permitted.

§ 155-12 Exception for Certain Neighborhoods.

Notwithstanding the restriction set forth in §155-11, minimum rentals of seven (7) days are permitted in the West Atlantic City section of the Township as well as the neighborhoods of Anchorage Poynte and Seaview Harbor during the period of May 15 through October 15.

§ 155-13 Definitions.

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 Article, 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 Article.

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 thirty (30) 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 possessory 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, 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.

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).

§ 155-14 Permitted Uses.

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.

§ 155-15 Commercial Rentals.

The lease or rental of any dwelling for commercial or corporate purposes is prohibited.

§ 155-16 Advertisement.

The print, electronic, or internet advertisement of any rental that is prohibited or fails to comply with provisions of this Article or any other applicable provision of the Township Code is prohibited.

§ 155-17 Registration.

Any owner, lessor, sub-lessor, any other person(s) or entity(ies) with possessory or use right(s) in a dwelling unit who chooses to rent their dwelling unit in accordance with this Article must register the dwelling unit with the Division of Inspections annually and obtain a certificate of continued occupancy (CCO) on an annual basis.

§ 155-18 Enforcement; Violations and Penalties.

- A. The provisions of this Article shall be enforced by the Building Code Official, Fire Official, other Sub-Code or Code Official, Zoning Officer or the Police Department as their

jurisdiction may arise, including legal counsel for the Township or other persons designated by the Township Administrator, to issue municipal civil infractions directing alleged violators of this Article and/or to appear in court or file civil complaints.

- B. A violation of this Article 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. Violation of any provision of this article shall, upon conviction thereof, be punished by a minimum fine of \$100 or a maximum of \$2,000 or by imprisonment for a term not exceeding ninety (90) days or by a period of community service not exceeding ninety (90) days. Each and every violation shall be considered a separate violation. Any person who is convicted of violating the provisions of this article within one (1) year of the date of a previous violation and who was fined for the previous violation may be sentenced by the court to an additional fine as a repeat offender. The additional fine imposed as a repeat offender shall not be less than the minimum or exceed the maximum fine provided herein, and same shall be calculated separately from the fine imposed for the violation of this Article.
- 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, or in such other Court or tribunal of competent jurisdiction, by either summary disposition or by zoning or construction code municipal proceeding.

SECTION 2. All ordinances and parts of Ordinances inconsistent with the provisions of this ordinance are, to the extent of such inconsistency, hereby repealed.

SECTION 3. Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

SECTION 4. This Ordinance shall become effective immediately upon final adoption and publication according to law.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE TOWNSHIP COMMITTEE OF EGG HARBOR TOWNSHIP, IN THE COUNTY OF ATLANTIC, STATE OF NEW JERSEY, HELD JUNE 17, 2020 AND WILL BE FURTHER CONSIDERED FOR FINAL PASSAGE AFTER A PUBLIC HEARING THEREON AT A REGULAR MEETING OF SAID TOWNSHIP COMMITTEE TO BE HELD IN THE TOWNSHIP COMMUNITY CENTER, IN SAID TOWNSHIP ON JULY 15, 2020.

Dated: June 17, 2020

Eileen M. Tedesco, RMC
Township Clerk