

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2022- 8**

**AN ORDINANCE REGULATING SHORT-TERM RENTALS
OF RESIDENTIAL PROPERTIES AND AMENDING THE CODE
OF THE BOROUGH OF PENNINGTON**

BE IT ORDAINED by the Borough Council of the Borough of Pennington that the Code of the Borough of Pennington is hereby amended by the addition of the following new chapter under General Legislation regulating short-term rentals of residential properties in the Borough and providing for enforcement and penalties, as follows:

I. Findings.

- A. The rental of residential dwellings for short-term occupancy is a community concern due to the potential for increased traffic, noise, litter, sanitation issues, high occupant turnover, and increased density in residential neighborhoods;
- B. The number of individuals occupying short-term rentals has the potential to exceed standards for the design capacity of such structures and to cause health and safety risks for the occupants, neighbors, and nearby properties;
- C. The Borough is authorized by N.J.S.A. 40:52-1(d) to license and regulate by ordinance furnished and unfurnished rented housing or living units and all other places and buildings used for occupancy, sleeping and lodging purposes;
- D. The Borough is authorized by N.J.S.A. 40:52-1(n) to license and regulate by ordinance the rental of real property for a term of less than 175 consecutive days for residential purposes by a person having a permanent place of residence elsewhere; and
- E. The Borough is further authorized pursuant to N.J.S.A. 40:48-2.12a to regulate by ordinance buildings and structures and their use and occupancy to prevent and abate conditions harmful to the health and safety of the occupants of these buildings and structures and the general public.

II. Definitions.

- A. *Rental* shall mean the exchange of any legally recognized form of consideration including a promise or benefit, a quid-pro-quo, rent, fees, or other form of payment or thing of value for the use, occupancy or control of a dwelling unit.
- B. *Dwelling unit* shall mean 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 a house, an apartment, condominium, building, co-operative, converted space, or portions thereof, that is used or offered or made available for use for accommodations, lodging, cooking, sleeping, gathering and/or entertaining of occupant(s) and/or guest(s).
- C. *Occupant* shall mean any individual using, inhabiting, living, gathering, entertaining, being present as a guest, or sleeping in a dwelling unit, or portion thereof, or having other permission or possessory right(s) within a dwelling unit.
- D. *Owner* shall mean a Person who (1) by legally recorded Deed holds title to a property proposed for Short-Term Rental pursuant to this ordinance, and (2) shall be available to communicate with Borough authorities, in person or by Designated Representative, concerning the condition or use of the Short-Term Rental Property and related complaints, seven days per week and twenty-four hours per day during any such Short-Term Rental.
- E. *Owner's Designated Representative* means a person designated by the Owner who, in the Owner's absence, (1) shall have the Owner's authorization to take all actions necessary to effect Owner's compliance with the requirements of this ordinance and applicable laws, including but not limited to responding to complaints and resolving violations, and (2) shall be available to communicate with Borough authorities concerning the condition or use of the Short-Term Rental Property and related complaints, seven days per week and twenty-four hours per day during any such Short-Term Rental. The Owner's Designated Representative shall have a principal residence or principal place of business in Mercer County.

- F. *Person* shall mean 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.
- G. *Primary Occupant* shall mean the Occupant who signs the agreement for the Short-Term Rental on behalf of all Occupants and assumes responsibility as host.
- H. *Principal Residence* means the residence (1) in which a person spends the majority of their non-working time, (2) which is the center of their domestic life, and (3) whose address is identified on their driver's license or State identification card as being their legal address.
- I. *Short-Term Rental* means Rental of a residential Dwelling Unit for up to 174 consecutive days by a person or persons having a Principal Residence elsewhere.
- J. *Short-Term Rental Property* means a residential Dwelling Unit which is advertised, held out or otherwise made available or used for Short Term Rentals. A Short-Term Rental Property shall not include a hotel or motel.
- K. *Short-Term Rental Permit* means a one-year renewable permit obtained from the Borough authorizing use of a Short-Term Rental Property for one or more Permitted Short-Term Rentals subject to compliance with the terms, conditions and requirements of this ordinance and other applicable laws.
- L. *Permitted Short-Term Rental* is a Short-Term Rental for no fewer than five consecutive days, provided the Rental is authorized by a Short-Term Rental Permit and the duration of the Rental does not exceed ninety consecutive days or a cumulative total of ninety days in a single calendar year.

III. Prohibitions; Restricted Authorization of Short-Term Rentals

- A. Short-Term Rentals are prohibited in the Borough of Pennington unless the Rental qualifies as a Permitted Short-Term Rental.
- B. Ownership and operation of a Short-Term Rental Property is prohibited in the Borough unless the property and the use and occupancy of it comply with all applicable requirements of this ordinance and other local, state and federal laws. A Short-Term Rental Permit shall be required for each Short-Term Rental Property even if multiple Short-Term Rental Properties, as in a duplex or otherwise, have common ownership.
- C. The Owner and the Owner's Designated Representative shall ensure the availability of one of them seven days per week and twenty-four hours per day during any Permitted Short-Term Rental, for the purpose of communicating with Borough authorities concerning the condition or use of the Short-Term Rental Property and related complaints. It shall be a violation of this ordinance if neither the Owner nor the Owner's Designated Representative responds to a Borough communication within two (2) hours.
- D. All Short-Term Rentals shall be effected by a written agreement between the Owner and the Primary Occupant identifying the dates and duration of the Rental and each of the people to occupy the property during the Rental. Copies of such agreements shall be subject to inspection upon request by the Borough.

IV. Short-Term Rental Permit, Application Fee

- A. Before renting or advertising for rent any Short-Term Rental, in addition to any zoning or land use approvals required by law, the Owner(s) of a Short-Term Rental Property shall obtain a Short-Term Rental Permit by application to the Borough Clerk.
- B. An application fee of \$250 shall accompany the application for the Permit, which shall be non-refundable if denied. Fees for required inspections and re-inspections shall be payable separately to the inspecting agency with jurisdiction.
- C. The Short-Term Rental Permit, if granted, shall be valid for a period of one year from the date of issuance.
- D. Before a Short-Term Rental permit may be issued, the Owner of the Short-Term Rental Property shall be current with all tax and sewer charges, have resolved all

code violations, closed all open construction permits and paid all fines and penalties relating to the property.

- E. The person offering a property for Short-Term Rental must be the Owner of the property. A tenant of the property may not apply for a Short-Term Rental Permit, nor shall the property or any portion of it be sub-leased by the tenant on a short-term basis or otherwise operated as a Short-Term-Rental Property by the tenant.
- F. A Short-Term Rental Permit shall be renewed annually upon application to the Borough Clerk subject to the same procedures, requirements and fees as the initial application process.
- G. A Short-Term Rental Permit shall expire automatically upon revocation or a change of ownership of the Short-Term Rental Property. If the affected property is thereafter to be used again as a Short-Term Rental Property, a new application shall be required subject to the same procedures, requirements and fees as the initial application process.

V. Application Process for Short-Term Rental Permit; Inspections

- A. Applicants for a Short-Term Rental Permit shall submit, initially and for each renewal, an application to the Borough Clerk on such forms as may be required by the Clerk. The Clerk shall approve or deny the application with the assistance of such other departments or individuals as she deems appropriate. The application shall be submitted under oath. Each such application shall include:
 - 1. The address of the property proposed to be used as a Short-Term Rental Property together with a photograph and description of the property, with specific reference to the spaces and facilities to be rented or used by Occupants, including bedrooms, kitchen, bathroom facilities and parking spaces.
 - 2. The name, address, telephone number and email address of the Person or Persons who are Owner(s) of record of the Short-Term Rental Property for which a Permit is sought. If such Owner is not a natural person, the application must include and identify the names of all partners, officers and/or directors of any such entity, and the personal contact information, including address and telephone numbers for each of them.
 - 3. The name, address, telephone number and email address of the Owner's Designated Representative.
 - 4. A written calculation and explanation of maximum permitted occupancy under the restrictions in this ordinance.
 - 5. The number and location of all parking spaces available to the proposed Short-Term Rental Property, including the number of legal off-street parking spaces and on-street parking spaces directly adjacent to the property. The owner shall certify that best efforts will be made to avoid and/or mitigate shortage of parking and safety and circulation issues for residents in the surrounding neighborhood resulting from vehicles generated by any Short-Term Rental.
 - 6. The Owner's agreement to make best efforts to ensure that use of the premises by short-term renters and Occupants will not disrupt the neighborhood and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties.
 - 7. The Owner's sworn acknowledgment that they have received a copy of this ordinance, reviewed it and understand its requirements, also certifying under oath that all information provided in the permit application is accurate.
 - 8. A copy of the form of written agreement to be used in renting the property. Any such agreement shall be suitable for signing by the Owner and the Primary Occupant and shall contain a provision, as a condition of validity, promising that all Occupants under the agreement shall comply with applicable local, state and federal laws, rules and regulations.
 - 9. A copy of the 8.5 x 11" placard to be placed on the inside surface of the front door of the Short-Term Rental Property as required by this ordinance.

10. Any other information that this Ordinance requires an Owner provide to the Borough in connection with an application for a Short-Term Rental Permit.
 11. The Clerk or her designee shall have the authority to obtain additional information from the Owner or amend the permit application to require additional information, as necessary, to achieve the objectives of this ordinance.
- B. Every application for a Short-Term Rental Permit shall require a fire-safety inspection and such further inspections as may be undertaken by agencies having jurisdiction. Failure to abate any outstanding violations prior to occupancy shall result in denial or revocation of the Permit.
 - C. Attached to and concurrent with submission of the Permit application, the Owner shall provide:
 1. proof of general liability insurance in a minimum amount of \$1,000,000; and
 2. written certification by the Owner's Designated Representative that they agree to perform all of the duties of the Owner's Designated Representative specified in this ordinance.

VI. Issuance of Permit and Appeal Procedure

- A. Once a complete application and fees are submitted, the Clerk shall ensure the conduct of such investigations and inspections as warranted to confirm the applicant's compliance and the compliance of the property with this ordinance and all applicable local, state and federal laws, rules and regulations.
- B. The Clerk shall thereafter issue or cause to be issued the Short-Term Rental Permit or deny it in writing with a statement of reasons. Each Short-Term Rental Permit shall be assigned an identifying number.
- C. If denied, the applicant shall have ten (10) business days to appeal in writing to Borough Council by filing the appeal with the Borough Clerk describing the basis for appeal. Within thirty (30) days thereafter, unless the time is extended in writing by mutual agreement of the parties, Borough Council or its designee will hear and decide the matter. If the appeal is not decided within the thirty days and any agreed upon extension, it shall be deemed denied.
- D. If granted, the owner shall publish the identifying number of the Short-Term Rental Permit in every print, digital or internet advertisement and any real estate agency listing or multiple listing service advertising the property for Permitted Short-Term Rental.

VII. Short-Term Rental Operational Requirements

- A. Owners shall (1) maintain a ledger for all Permitted Short-Term Rentals recording for each such Rental the name(s) and address(es) of all Occupants and the dates and duration of the Rental; and (2) retain the ledger and copies of all related rental agreements for at least two years. These documents shall be subject to inspection by the Borough upon request.
- B. All Permitted Short-Term Rentals and Short-Term Rental Properties shall comply at all times with applicable rules, regulations and ordinances of the Borough of Pennington and the State of New Jersey. Failure to so comply shall be grounds for revocation of the Short-Term Rental Permit.
- C. All Permitted Short-Term Rentals and Short-Term Rental Properties shall comply with the following occupancy limitations:
 1. Total occupancy shall be restricted to no more than one (1) Occupant for the first 150 square feet of habitable floor space and one (1) additional Occupant for every additional 100 square feet of habitable floor space, as further defined below.
 2. Every room occupied for sleeping purposes by one Occupant shall contain at least 70 square feet of habitable floor space, and every room occupied for sleeping purposes by more than one Occupant shall contain at least 50 square feet of habitable floor area per Occupant.

3. Habitable floor space means floor space having a ceiling height of at least five feet in a room in which at least half the floor area has a ceiling height of no less than seven feet.
 4. A room located in whole or in part below the level of the ground may be used for sleeping purposes provided the walls and floors in contact with the earth have been damp-proofed in accordance with State standards and all other requirements in these occupancy restrictions are satisfied.
- D. The Primary Occupant executing the agreement for the Permitted Short-Term Rental must be over the age of twenty-one (21) and be the party who will actually occupy the property and be responsible as a host. .
 - E. Both the Primary Occupant and the Owner of the Short-Term Rental Property shall be responsible for ensuring that Occupants comply with applicable provisions of this ordinance and all other laws pertaining to use and occupancy of the property. Compliance with applicable laws shall include but not be limited to compliance with ordinances and other laws regulating noise and nuisance conduct.
 - F. Any Occupant, Owner or Owner's Designated Representative violating this ordinance or other applicable laws shall be subject to prosecution in a court of competent jurisdiction.
 - G. A Short-Term Rental Property shall be limited to a single Permitted Short-Term Rental at a time.
 - H. The owner of a Short-Term Rental Property shall not install signs, lawn signs, mailbox signs or any other advertising or mechanism on the property identifying the property as available for Short-Term Rental.
 - I. In the event any complaint is received by the Borough Clerk, the Borough Police Department or other agency having jurisdiction concerning the use or occupancy of the Short-Term Rental Property or alleged violation of applicable laws and regulations by the Occupants, the Owner or the Owner's Designated Representative shall be responsible for taking action required to resolve the complaint. The response to all complaints shall be coordinated through the Borough Clerk.
 - J. Whenever the Short-Term Rental Property has Occupants, the Owner or the Owner's Designated Representative shall be available twenty-four hours per day and seven days per week for the purpose of responding to complaints regarding the condition, maintenance or operation of the property, the conduct of Occupants or excessive noise or the presence of a nuisance. The required response time shall be two (2) hours or less. The failure of both the Owner and the Owner's Designated Representative to respond within this time shall constitute a violation of this ordinance and be subject to the penalties and other remedies provided in this ordinance.
 - K. The Owner of the Short-Term Rental Property shall post and keep current an 8.5 x 11" placard at eye level on the inside surface of the front door of the property, providing the following information:
 1. Name and phone number of the Owner.
 2. Name and phone number of the Owner's Designated Representative;
 3. Phone numbers for the Pennington Borough Police Department and Borough Clerk;
 4. Maximum number of permitted Occupants.
 5. Trash and Recycling Pick-up Day and all applicable rules and regulations regarding trash disposal and recycling;
 6. Rules concerning parking;
 7. Notification that an Occupant, as well as the Owner and Owner's Designated Representative, shall be subject to prosecution for violations of Borough ordinances and applicable laws.

VIII. Enforcement; Violations and Penalties.

- A. The provisions of this ordinance shall be enforced by the Borough Police Department, the Zoning Officer, the Health Officer, the Construction Code Official, the Fire Official and the Borough Administration as appropriate for their jurisdiction,

- B. Any person violating any provision of this Ordinance shall, upon notice, immediately cease and desist the conduct or condition which is the reason for the violation.
- C. Any substantiated violation of this Ordinance that has continued for three days after notice to the Owner and the Owner's Designated Representative shall require administrative suspension of the Short-Term Rental Permit pending a final adjudication of the merits, which may include revocation of the Permit.
- D. Violations of this Ordinance, without regard to knowledge or intent, shall be subject to a civil penalty up to \$2,000. Each day the violation has continued shall constitute a separate violation.
- E. The fines and/or penalties for violation of this ordinance shall be in addition to any and all remedies available under applicable laws and this ordinance, including but not limited to revocation of the Short-Term Rental Permit and/or actions for injunctive relief in a court of competent jurisdiction. Judicial relief may include payment of the Borough's reasonable attorneys' fees and other fees and costs.
- F. The penalties and other remedies prescribed in this ordinance shall be cumulative and not mutually exclusive.
- IX. The provisions of this Ordinance shall be in addition to and not in substitution for all zoning, planning, land use and building code regulations otherwise applicable.
- X. This Ordinance shall be construed in a manner consistent with State and Federal laws. If any provision of this Ordinance is declared to be invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of the remaining provisions of the Ordinance .
- XI. This Ordinance shall take effect upon final passage and publication as provided by law.

Introduced: _____

Advertised: _____

Public Hearing: _____

Adopted: _____

Published: _____

ATTEST:

APPROVED:

Elizabeth Sterling, Borough Clerk

James Davy, Mayor

BOROUGH OF PENNINGTON
ORDINANCE NO. 2022- 8

AN ORDINANCE REGULATNG SHORT-TERM RENTALS
OF RESIDENTIAL PROPERTIES AND AMENDING THE CODE
OF THE BOROUGH OF PENNINGTON

RECORD OF COUNCIL VOTE ON INTRODUCTION

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V | A.B. |
|------------|-----|-----|------|------|------------|-----|-----|-----|------|
| Angarone | | | | | Gross | | | | |
| Chandler | | | | | Marciante | | | | |
| Gnatt | | | | | Stern | | | | |

RECORD OF COUNCIL VOTE ON ADOPTION

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V | A.B. |
|------------|-----|-----|------|------|------------|-----|-----|-----|------|
| Angarone | | | | | Gross | | | | |
| Chandler | | | | | Marciante | | | | |
| Gnatt | | | | | Stern | | | | |