

**WATERFORD TOWNSHIP
ERIE COUNTY, PENNSYLVANIA
ORDINANCE NO. ____ - ____**

AN ORDINANCE AMENDING THE ZONING ORDINANCE AND REGULATING THE LOCATIONS, QUALIFICATIONS, AND REGISTRATION OF SHORT-TERM RENTAL PROPERTIES WITHIN THE TOWNSHIP, PROVIDING FOR DEFINITIONS, ESTABLISHING PROVISIONS REGARDING THE LOCATION OF SHORT-TERM RENTAL PROPERTIES, ESTABLISHING A PERMITTING PROCEDURE, PROVIDING FOR ENFORCEMENT OF THESE REQUIREMENTS, PROVIDING PENALTIES FOR VIOLATIONS, AND PROVIDING FOR SEVERABILITY, REPEALER, AND AN EFFECTIVE DATE.

WHEREAS, Waterford Township has had multiple requests from property owners to operate short-term rentals; and

WHEREAS, Waterford Township has received multiple comments regarding the operation of such business type uses, particularly as such use affects residential neighborhoods; and

WHEREAS, property owners and residents have requested clarification regarding the zoning of short-term rentals in Waterford Township; and

WHEREAS, Waterford Township does not specifically regulate such uses in its existing zoning ordinance; and

WHEREAS, Waterford Township specifically desires to define and regulate such uses for the benefit and protection of both the property owner and the residence of and visitors to such neighborhoods; and

NOW THEREFORE, be it enacted by the Board of Supervisors of the Township of Waterford, Pennsylvania:

1. **Recitals.** The recitals set forth above are hereby incorporated as if more fully set forth below.

2. **Title.** This chapter of the Waterford Township Zoning Ordinance shall be known as, and may be cited as, "Short-Term Rentals."

3. **Scope.** The provisions of this chapter shall apply to all residential dwelling units, conversions of nonresidential structures to residential dwellings, and all existing premises within the Township of Waterford. The owner of the subject property shall be responsible for compliance with the provisions of this chapter in the failure of an owner, agency, managing agency, local contact person, or renting occupants, to comply with the provisions of this chapter shall be deemed noncompliance by the owner.

4. **Interpretation.** This chapter is not intended to, and does not, excuse any landowner from compliance with the Waterford Township Zoning Ordinance, as amended from time-to-time. Whenever possible, this chapter in the Zoning Ordinance should be construed and interpreted as being consistent, and not in conflict.

5. **Definitions.** The words and phrases used in this Ordinance shall have the following meanings:

Bedroom: A room intended for or capable of being used for sleeping, and that is at least 70 square feet in area. Space used primarily for eating, cooking, bathrooms, toilet rooms, closets, halls, storage or other utility rooms, and similar uses, are not considered bedrooms. Space used or intended primarily for general and informal everyday use, such as a living room, den and sitting room, or similar uses, are not considered Bedrooms.

Contact Person: The owner, property manager or agent of the owner, who is available to respond to tenant and neighborhood questions, complaints or concerns, or any agent of the owner authorized by owner to take remedial action and respond to any violation of this Ordinance. The Contact Person shall have actual authority to represent the owner for purposes of emergency and non-emergency contact and communication regarding the owner's Short-Term Rental. A Contact Person must provide a 24-hour emergency contact number, be able and willing to come to, and be present at, the Short-Term Rental within one (1) hour following notification, to address any issue that is not capable of being addressed by telephone and be able to act as legal agent for the owner. The Contact Person may be the owner of the Short-Term Rental. The Township must be notified, in writing, within fourteen (14) days if there is a change in the identity of the Contact Person.

Dwelling: See definition of "Dwelling" in Part 6(a) of the Zoning Ordinance, as amended by Ordinance No. 2016-02.

Multi-Family Dwelling: See definition of "Dwelling, Single Family" in Part 6(d) of the Zoning Ordinance, as amended by Ordinance No. 2016-02.

Owner: The person or entity that holds legal or equitable title to the property.

Rent: The consideration received by an owner and/or renter in money, credits, property, or other consideration valued in money for lodging.

Single Family Dwelling: See definition of "Dwelling, Single Family" in Part 6(b) of the Zoning Ordinance, as amended by Ordinance No. 2016-02.

Short-Term Rental: An establishment in which the Owner rents any area of the establishment to one, or more, individuals for compensation or fee, including offer or exchange in kind, of any type, whether or not involving overnight accommodations or separate sleeping quarters, for a period of time which is primarily less than thirty (30) consecutive days. The term shall not include a bed-and-breakfast use, as that term is defined by the Zoning Ordinance.

Transient Use: Occupancy, use or possession of a dwelling by a person, or persons, primarily for a period of less than 30 consecutive days, other than the owner(s) of the dwelling or tenant(s) of the dwelling, with a lease for 30 consecutive days or more, and/or the family of such owner(s) or tenant(s); and further excluding temporary stays by unrelated individuals that are guests of the owner, or tenant of the dwelling, without the payment of any type of rent, compensation or other remuneration.

Two Family Dwelling: See definition of "Dwelling, Single Family" in Part 6(c) of the Zoning Ordinance, as amended by Ordinance No. 2016-02.

Unreasonable Noise: Any sound that is plainly audible to an unaided human ear at any boundary line of the lot(s) or parcel(s) of land on which the Short-Term Rental (or any activity, operation or use related to, or associated with, the Short-Term Rental) is located between the hours set forth below (1) for a continuous period in excess of fifteen (15) minutes, or (2) more than a total of thirty (30) minutes in any four (4) hour period:

Sunday From 10:00 PM To Monday at 8:00 AM

| | | | | |
|-----------|---------------|--------------|----|---------|
| Monday | From 10:00 PM | To Tuesday | at | 8:00 AM |
| Tuesday | From 10:00 PM | To Wednesday | at | 8:00 AM |
| Wednesday | From 10:00 PM | To Thursday | at | 8:00 AM |
| Thursday | From 10:00 PM | To Friday | at | 8:00 AM |
| Friday | From 11:00 PM | To Saturday | at | 8:00 AM |
| Saturday | From 11:00 PM | To Sunday | at | 8:00 AM |

6. **Short-Term Rental License Requirements:** The owner of a Short-Term Rental shall be responsible for obtaining the license and license renewals as required by this Ordinance.

A. **License Required.** A Short-Term rental license shall be required prior to renting out a dwelling as a Short-Term rental. Operating a Short-Term rental without a Short-Term rental license is a violation of this Ordinance and shall subject the owner to the enforcement proceedings and penalties set forth herein.

B. **Outstanding Violations.** A dwelling located on any premises that violates any Township code or Ordinance shall not be eligible for a Short-Term rental license until such violation is corrected in a manner acceptable to the Township.

C. **License Renewal.** A Short-Term rental license shall be renewed annually and at any time when any of the conditions of the rental, which are governed by this Ordinance, are changed.

D. **Separate Licenses.** A separate license is required for each Short-Term rental; for townhouses, rowhouses or apartments, a separate license shall be required for each dwelling being rented pursuant to the definition of "Short-Term rental."

E. **Issuance to Owner.** The license shall be issued only to the owner of the Short-Term rental.

F. **Forms and Procedures.** The enforcement officer is authorized to prescribe forms and procedures for the processing of licenses under this Ordinance.

G. **Two-Family/Multi-Family Short-Term Rentals.** No building shall be used as a Short-Term rental that has two or more dwellings, unless said building has been approved by the Township as a townhouse, rowhouse, or apartment, as defined in the Zoning Ordinance. If such approval has been granted by the Township and one or more of the dwellings, but not necessarily all, are being rented as set forth in the

definition of "Short-Term Rental", then the requirements of this Ordinance shall apply to such dwelling or units being rented.

H. Inspection Authorization. The owner, by making application for a Short-Term Rental license and/or accepting issuance of such a license, grants permission for all inspections deemed necessary by this ordinance.

I. License not Transferrable. The license issued to an owner, pursuant to this Ordinance, is personal to the owner identified in the application and does not run with the property. If the ownership of the property changes, either directly by sale or deed transfer, or indirectly by death, change in ownership of the entity owning the property, sheriff sale or court order, the new owner must apply for a license under the provisions of this Ordinance prior to renting the property as a Short-Term Rental, but shall be entitled to get a license, provided such new owner complies with the terms of this Ordinance.

7. **Contact Person:**

Each owner of a Short-Term Rental shall designate a person, property manager or agent as a contact person who has access and authority to assume management of the Short-Term Rental and take remedial measures. The contact person must be accessible by telephone 24 hours a day and must be able and willing to come to, and be present at, the Short-Term Rental within one (1) hour following notification, to address any issue that is not capable of being addressed by telephone and be able to act as legal agent for the owner. An owner of a Short-Term Rental may designate himself/herself as the contact person. The contact person shall respond to the enforcement officer within one (1) hour after being notified by the enforcement officer, or other Township official, of the existence of a violation of this Ordinance or any disturbance requiring immediate remedy or abatement. If the contact person is not the owner, the contact person shall immediately advise the owner of any notification of a violation.

8. **Application for Short-Term Rental License:**

Application Required: Information. An application for a Short-Term Rental license shall be filed with the Township Zoning Administrator, and, provided all Township standards and conditions precedent are met, a license issued, prior to the use of the property as a Short-Term Rental. All applications shall contain the following information:

- A. The name, address, telephone number and email address of the owner of the Short-Term Rental for which the license is being applied for. If the owner is the contact person, then the owner shall provide a 24-hour telephone number.
- B. The name, address, email address, and 24-hour telephone number of the contact person, if the owner is not the contact person.
- C. A photograph of the Short-Term Rental taken from the access roadside.
- D. A floor plan of the Short-Term Rental drawn to scale.
- E. Certification that all designated bedrooms contain a minimum of 70 square feet.
- F. The number of bedrooms (each containing the required minimum of 70 square feet) and the maximum number of overnight occupants.
- G. If the building is a townhouse, rowhouse or apartment structure, the number of dwellings, and the number of dwellings being used as a Short-Term Rental.
- H. A diagram or photograph of the premises showing and indicating the number and location of designated on-site parking spaces and the maximum number of vehicles allowed for overnight occupants.
- I. Certification that the owner or contact person, if different than the owner, have read all regulations pertaining to the operation of the Short-Term Rental.
- J. Certification that the owner or contact person will post and maintain, at the Short-Term Rental, the 911 emergency address sign in accordance with applicable requirements.
- K. Other information the Township and/or enforcement officer deems reasonably necessary to administer this Ordinance.

Term of License. Any Short-Term Rental license is good for a period not to exceed one (1) year from the date of issuance and must be renewed annually.

Inspection Fee. If the information supplied by the property owner on the application for a Short-Term Rental license, or any renewal thereof, is not consistent with Township records, an inspection may be required prior to, or after the issuance of the Short-Term Rental license, or any renewal thereof. An inspection fee, established by Resolution of the Board of Commissioners, shall be charged for any inspection deemed necessary by the Township. The Inspection Fee is to be set from time-to-time by resolution of the Board of Commissioners.

9. **Application and Renewal Fees:**

Application Fee. An application for a Short-Term Rental license shall be accompanied by an initial fee established by Resolution of the Board of Supervisors.

Renewal Fee. An annual renewal fee shall be established by Resolution of the Board of Supervisors that license holders shall pay when renewing their license issued pursuant to this Ordinance. Failure to pay the renewal fee on or before the one (1) year anniversary date of the issuance of the license, or on or before that same date each year thereafter, will result in the assessment of a fee twice the amount of the normal renewal fee. If the renewal fee is not paid within ninety (90) days of the date it is due, the license shall be null and void and application for a new license, not a renewal, shall be required thereafter, prior to renting the subject Short-Term Rental.

10. **Standards, Violations, and Penalties:** All Short-Term Rental licenses issued pursuant to this Ordinance are subject to the following requirements:

- A. The owner shall, by written agreement, limit overnight occupancy of the Short-Term Rental to the specific number of occupants designated in the license, with the number of overnight occupants not to exceed an average of two persons per bedroom. Children between the ages of 12 and 7 shall count as $\frac{1}{2}$ person each for purposes of this section, while children age 6 years old or younger shall not count towards the limit of overnight occupants.
- B. The owner shall maintain a log of tenants with corresponding rental dates that shall be made available to the Township for inspection upon request.
- C. The maximum number of non-registered guests allowed at any one time shall be 75 percent of the overnight occupancy of the Short-Term Rental.
- D. The number of bedrooms permitted for a Short-Term Rental shall not exceed the number of bedrooms approved for the dwelling on the sewage permit issued for such property. Where there is no sewage permit on record, the Short-Term Rental shall be limited to three bedrooms unless proof is provided to the Township Sewage Enforcement Officer that the sewage disposal system is adequate to handle additional flows. Any Short-Term Rental advertising or providing more than five bedrooms shall provide proof that the sewage disposal system is adequate to handle such flows, by having the system approved by the Sewage Enforcement Officer, or by providing a sewage disposal system permit previously issued by a Sewage Enforcement Officer. If a sewage disposal

system malfunction occurs, the use of the dwelling as a Short-Term Rental shall be discontinued until the malfunction is corrected in accordance with Township and Pennsylvania Department of Environmental Protection requirements.

- E. In no instance shall the existing number of bedrooms be increased without proper Township (and DEP if required) approval being obtained.
- F. The owner shall, by written agreement, limit the number of all vehicles of overnight occupants and day guests to the number designated in the short-term Rental license, with the number of all vehicles not to exceed the number of designated on-site parking spaces.
- G. The number and location of all parking for overnight guests and day guests shall be designated in the license and shall be located on the owner's property and not in any private, community or public right-of-way.
- H. A minimum of one parking space per bedroom shall be provided. The required number of parking spaces may include spaces in a garage which are available to accommodate vehicles. All parking spaces shall be improved to a mud-free condition with paving, stone, or similar material approved by the Township, and shall count as part of the maximum lot coverage established by the Zoning Ordinance.
- I. If the Short-Term Rental is accessed directly by a Township or state road, all parking spaces shall be accessed from a driveway serving the Short-Term Rental and not directly from the Township or state road.
- J. The owner shall use its best efforts to ensure that the occupants or guests of the Short-Term Rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this Ordinance, or any Township ordinance, or state law, pertaining to noise or disorderly conduct, by notifying the occupants of the rules regarding Short-Term Rentals and responding when notified that occupants are violating laws regarding their occupancy. It is not intended that the owner or contact person act as an enforcement officer or place himself or herself in harm's way.
- K. The owner of the Short-Term Rental shall post a copy of the license, and a copy of the conditions set forth in this section, in a conspicuous place within the Short-Term Rental.
- L. The name of the contact person and a telephone number at which that party may be reached on a 24-hour basis.

- M. The maximum number of all vehicles allowed to be parked on the property and the requirement that all renter/guest parking must be on the property and not in any private, community or public right-of-way.
- N. The number and location of on-site parking.
- O. Notice that trash and refuse shall not be left or stored on the exterior of the Short-Term Rental, and directions for the proper disposal of trash and refuse.

All Short-Term Rentals shall also comply with the following neighborhood standard. It is unlawful for any person to disturb the peace of any neighborhood, person, or family, by loud or unusual noises or by tumultuous and offensive conduct, public indecency, threatening, traducing, quarreling, challenging to fight, or fighting.

A Short-Term Rental shall comply with all applicable building codes and shall have the requisite number of functioning smoke and/or fire detectors, fire extinguishers, carbon monoxide monitors and other safety devices required under the applicable codes.

Additional Standards. The Planning Commission, at a duly convened public meeting, shall have the authority to impose additional standards applicable to Short-Term Rentals as necessary to achieve the objectives of this Ordinance.

License Conditions. The zoning administrator shall have the authority to impose additional conditions on any license or renewal in the event of any prior violation of the conditions of the license or the provisions of this Ordinance.

Inspections. All places and premises in Waterford Township used as a Short-Term Rental shall be subject to inspection by the enforcement officer or other authorized Township representative to verify application, licensing, operating requirements, or if there is reason to believe that any provision of this Ordinance is being violated. Inspections may be conducted at any reasonable time or, in the case of an alleged violation, at any time. Failure to provide access to an inspector or enforcement officer may result in a license being revoked or denied.

Violation. Upon receipt of a complaint of a violation, and if the complainant's name and address is provided, the enforcement officer shall notify the owner and/or the contact person of the complaint and may thereafter investigate the matter. The Township may proceed with a notice of violation if the Township enforcement officer, police officer, and/or other authorized Township representative, determines a violation of this Ordinance has occurred.

Service of Notice. If it appears to the enforcement officer that a violation of this Ordinance has occurred, the enforcement officer shall initiate enforcement proceedings by preparing a written Notice of Violation to be served on the owner or contact person (if applicable) of the premises on which the violation exists or originates. The written Notice of Violation shall be served on the owner or contact person by one or more of the following methods:

- A. Personal delivery to either the owner or the contact person; or,
- B. Fixing a copy to the door of the building on the premises of the violation; or,
- C. Certified mail to the owner or the contact person to the address on the license application (service to be complete upon mailing); or,
- D. Email to the owner or the contact person to the email address on the license application, together with first class mail to the owner or the contact person (whoever the email is sent to):
 - a. to the address on the license application (service to be complete upon first class mailing); or,
 - b. Other means of legal service deemed appropriate by the Township and recognized by law.

Compliance. Failure to comply with any provision of this Ordinance and/or failure to comply with an order to abate and/or correct a violation of this Ordinance, shall be a violation of this Ordinance and subject the owner to a civil action for the violation and the revocation of any short- term Rental license previously issued.

Fine. Any person who has violated or permitted the violation of any provision of this Ordinance shall, upon being found liable, pay a civil penalty of not more than \$500 per day per violation, together with all costs, including reasonable attorney fees. Each day of a violation shall constitute a separate count for which civil liability may be sought. All penalties, judgments, administrative, enforcement, and other costs, interest and reasonable attorney fees collected for the violation of this Ordinance, shall be paid over to the Township.

Other Remedies. The Township shall also have the right to seek any other appropriate legal or equitable remedies, including injunctive relief, for violations of this Ordinance.

License Revocation. If an owner is cited for three (3) violations which occurred in any rolling twelve (12) calendar month period, or one egregious violation as determined by

the Zoning Administrator, then the license shall be revoked by the Township for one (1) year and Short-Term Rental activity must be discontinued while the license is revoked. The conviction of a fourth or more violations shall be cause for permanent revocation of the license. Any violation of the PA Sewage Facilities Act and applicable regulations may result in immediate license revocation until the violation is corrected.

Reinstatement. The Board of Commissioners may, in its sole discretion, approve the reinstatement of a license, if satisfied that there has been an appropriate change of ownership and/or that the cause of the violations has been corrected and that all other requirements of this Ordinance have been met.

11. **Appeals:**

Filing of Appeal. Appeals of an action under this Ordinance to deny any application for, or to renew, a Short-Term Rental License, or to revoke a Short-Term Rental License, shall be filed with the Zoning Hearing Board within 30 days of the date of the denial of application or revocation of license. Appeals shall be processed as follows:

- A. All appeals shall be in writing and signed by the Appellant on forms prescribed by the Township, and shall be accompanied by a fee, the amount of which shall be established by Resolution of the Township Board of Supervisors, which may include notice and advertising costs, and necessary administrative overhead in relation to the hearing.
- B. Each appeal shall fully set forth the determination appealed from, a detailed reason or basis for the appeal, the relevant sections of this Ordinance, and the relief sought.

Hearings. The Zoning Hearing Board shall conduct hearings and make decisions pursuant to the Act of December 2, 1968 (P.L. 1133, No. 353), known as the "Local Agency Law", and in accordance with the following requirements:

- A. Written notice shall be given to the Appellant and to any person who has made timely request for same. Written notices shall be given not less than seven (7) days prior to the hearing.
- B. The hearing shall be held within 60 days from the date the appeal is filed unless the Appellant has agreed in writing to an extension of time.
- C. The hearing shall be conducted by the Zoning Hearing Board. The decision or, where no decision is called for, the findings, shall be in writing rendered by the

Zoning Hearing Board within 45 days after the conclusion of the hearing, unless the Appellant has agreed, in writing, to an extension of time, and shall be communicated to the Appellant and any other parties who have entered their written appearance and requested a copy of the decisions, at the addresses provided by them either by personal delivery or by United States First Class mail postage prepaid.

- D. The Chairman or Acting Chairman of the Zoning Hearing Board shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties.
- E. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- F. The Zoning Hearing Board may, but is not required to, make a stenographic record of the proceedings. In the event a stenographic record of the proceedings is not provided by the Zoning Hearing Board, a stenographic record shall be made and kept at the request of any party agreeing to pay the costs thereof. Any party or other person desiring a copy of the stenographic record shall order the copy directly from the stenographer who prepared the same and shall pay the cost imposed by the stenographer for the copy directly to the stenographer.
- G. The Zoning Hearing Board shall not communicate, directly or indirectly, with any party or any party's representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings after the commencement of hearings with any parties or any party's representative, unless all parties are given opportunity to be present.