ORDINANCE 2017-16

Borough of Metuchen
County of Middlesex
State of New Jersey

ORDINANCE AMENDING THE CODE OF THE BOROUGH OF METUCHEN TO PROHIBIT SHORT TERM RENTAL PROPERTIES

WHEREAS, the purpose of this Ordinance is to establish a procedure and authorize rules and regulations thereunder for Short Term Rental Property Prohibition in the Borough of Metuchen; 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 Borough of Metuchen 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 fifty (150) days (“Short Term Rental”); and

WHEREAS, the Borough’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 Borough, and essentially converted residential dwelling units into illegal de-facto hotels, motels, boarding houses and other commercial enterprises, in violation of the Borough’s zoning and other codes as well as state statutes; and

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

WHEREAS, the Borough additionally wishes to prevent overcrowding, which occurs as a result of Person(s) effort to reduce the per-occupant cost of the Short Term Rental(s) which would unlawfully permit the Borough’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 Borough 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 violation of trash collection ordinances.

NOW, THEREFORE BE IT ORDAINED, by the Council of the Borough of Metuchen, County of Middlesex and State of New Jersey that the Code of the Borough of Metuchen is hereby amended to include Ordinance 2017-____ entitled “Short term Rental Property Prohibition” in the Code of the Borough of Metuchen, to state the following:

SHORT TERM RENTAL PROPERTY PROHIBITION

Section I. Findings

The Mayor and Council of the Borough of Metuchen hereby find and adopt, as if set forth more fully herein, the fact assertions of the "Whereas" clauses of this Ordinance, as their findings of fact.

Section II. Short Term Rental Property Prohibited Uses

Notwithstanding anything to the contrary contained in the Borough Code, it shall be unlawful for an Owner, lessor, sub-lesser, 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, 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 hundred fifty (150) 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 fifty (150) days.

Section III. Definitions

Unless otherwise specified herein, the following definitions shall be used for terms within this chapter:

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, 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

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 fifty (150) 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).

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**Section IV. Permitted Uses.**

The residential occupancy of an otherwise lawful and lawfully occupied Dwelling Unit for a period of one hundred fifty (150) 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 V. Advertising Prohibited**

It shall be unlawful to advertise, solicit or promote by any means actions in violation of this Ordinance.
Section VI. Enforcement, Violations and Penalties

The provisions of this Ordinance shall be enforced by the Zoning Officer, Building Code Official, Fire Official, Health Department, Police Department, Borough Administrator or other Department Head or Sub-Code or Code Official, as their jurisdiction may arise or other persons designated by the Borough Council, 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 $1,250.00. 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 Borough’s Municipal Court or the Superior Court of New Jersey in the vicinage of Middlesex County or in such other Court or tribunal of Competent jurisdiction, by either summary disposition or by zoning or construction code municipal proceeding.

Section VII. Severability

All provisions of this Ordinance are severable. If for any reason, any provision of this Ordinance is held to be invalid, the validity of the remainder of the Ordinance shall not be affected.

Section VIII. Effective Date

This Ordinance shall become effective upon adoption, final approval and publication, pursuant to law.

Introduction:
Date of Publication:

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I hereby certify the foregoing to be a true copy of an ordinance introduced by the Borough Council of the Borough of Metuchen, Middlesex County, New Jersey at a regular meeting held on October 2, 2017

________________________
Susan D. Jackson, RMC
Borough Clerk

Adopted:
Date of Publication:

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I hereby certify the foregoing to be a true copy of an ordinance adopted by the Borough Council of the Borough of Metuchen, Middlesex County, New Jersey at a regular meeting held on October 16, 2017

________________________
Susan D. Jackson, RMC
Borough Clerk

ATTEST: BOROUGH OF METUCHEN

________________________
Susan D. Jackson, RMC
Borough Clerk

By: ______________________
Peter Cammarano
Mayor