ORDINANCE NO. #09:12-23
BOROUGH OF BELLMAWR

ORDINANCE OF THE BOROUGH OF BELLMAWR, COUNTY OF CAMDEN AND STATE OF NEW JERSEY "SHORT TERM RENTAL PROPERTY PROHIBITION" OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF BELLMAWR

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 Bellmawr ("Borough") 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 interest 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 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 convert residential dwelling units into illegal de-facto hotels, swim clubs, 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 Terms Rental(s) by website businesses, of any Dwelling Unit(s), that constitutes 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 can result when the Borough's occupancy limits are exceeded; and

WHEREAS, problems also frequently associated with such Short-Term Rental(s) can result when the Borough's 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 Borough Council of the Borough of Bellmawr, in the County of Camden and State of New Jersey hereby creates Ordinance 09:12-2023 entitled "Short Term Rental Property Prohibition," of the Code of the Borough of Bellmawr, is hereby established and adopted as follows:

SECTION 1: Findings.

The Mayor and Borough Council 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 2: Short Term Rental Property Prohibited Uses.

A. Notwithstanding anything to the contrary contained in the Borough 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 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, or the appurtenances thereto, as defined herein, for a period of thirty (30) days or less.

B. Nothing in this Ordinance will prevent formation of an otherwise lawful occupancy of a Dwelling Unit for a rental period of more than thirty (30) days.

SECTION 3: Definitions.

ADVERTIS 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, swimming, 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).

SECTION 4: 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.

SECTION 5: Advertising Prohibited.

A. It shall be unlawful to advertise, solicit or promote by any means actions in violation of this Ordinance.

SECTION 6: Enforcement; Violations and Penalties.

A. The provisions of this Ordinance shall be enforced by the Housing Office, Zoning Official, Building Code Official, Fire Official, Health Department, other Sub-Code or Code Official, as their jurisdiction may arise, including legal counsel for the Borough 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, a 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 $2,000.00. Each day of such violation 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 Camden County, or in such other Court or tribunal of competent jurisdiction, by either summary disposition or by zoning or construction code municipal proceeding.

SECTION 7: Validity.

If any section, provisions, or clause of this Ordinance or the application thereof to any person or circumstance is judicially held invalid, a reviewing court may "blue pencil" the Ordinance to correct such invalidity and carry out the intent of this Ordinance. Such invalidity shall not affect any remaining portions or application of this Ordinance which can be given effect, without the invalid portion or application.

SECTIONS 8: Effect of this Ordinance on Other Laws.

This Ordinance shall supersede and replace any other provisions of the Code of the Borough of Bellmawr, now or later enacted, which have or may be construed to have differing or contrary terms or conditions relating to the subject of this Ordinance. This Ordinance is not intended to alter the current or later enacted amendments to the Borough's Zoning Code.

SECTION 9: Any article, section, paragraph, subsection, clause, or other provision of the Code of the Borough of Bellmawr inconsistent with the provisions of this Ordinance is hereby repealed to the extent of such inconsistency.

SECTION 10: If any section, paragraph, subsection, clause, or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

SECTION 11: This Ordinance shall take effect upon its passage and publication as provided for by law.

Introduction: September 12, 2023
Adopted: September 28, 2023

BOROUGH OF BELLMAWR

Charles J. Sauter, III

Charles J. Sauter, III, Mayor

ATTEST:

Francine M. Wright, RMC

Francine M. Wright, RMC, Borough Clerk

CERTIFICATION

I, Francine M. Wright, Clerk of the Borough of Bellmawr, hereby certify the foregoing to be a true and correct copy of an ordinance adopted by the Mayor and Borough Council at their meeting of September 28, 2023, in the Municipal Building, 21 East Browning Road, Bellmawr, New Jersey.

Francine M. Wright RMC

Francine M. Wright, RMC, Borough Clerk