

ORDINANCE NO. 20, 2018

AN ORDINANCE AMENDING THE CODE OF THE CITY OF LINWOOD TO ADD A NEW CHAPTER TO PROHIBIT SHORT TERM (30 DAYS OR LESS) RESIDENTIAL RENTALS AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED, THE PROVISIONS OF WHICH ARE INCONSISTENT HEREWITH.

WHEREAS, pursuant to N.J.S.A. 40:52-1 (d) and (n), municipal corporations have been specifically authorized to regulate “furnished and unfurnished 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 and seventy-five 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

WHEREAS, short term rentals frequently result in public nuisance, noise complaints, sanitation issues, overcrowding and illegal parking within residential neighborhoods; and

WHEREAS, the City of Linwood desires to amend and supplement the Code of the City of Linwood to provide for the regulation of “Short Term (30 days or less) Residential Rentals, as further defined below, and for the enforcement of said regulations; and

WHEREAS, the City of Linwood desires to impose penalties as permitted pursuant to N.J.S.A. 40:49-5 and N.J.S.A. 40:69A-29 for violations of the provisions established herein for Short Term Rental Prohibitions:

NOW THEREFORE, BE IT ORDAINED, by the Common Council of the City of Linwood, County of Atlantic and State of New Jersey as follows:

SECTION 1: Short Term Rentals Prohibited.

A. It shall be unlawful for an Owner, lessor, sub-lessor, any other person(s) or entity(ies) with possessory or use rights in a dwelling unit, their principals, partners or shareholders, or their agents, employees, representatives and other persons or entities 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 30 days or less.

B. Nothing in this Chapter will prevent the otherwise lawful occupancy of an entire dwelling unit for a rental period of more than 30 days. However, rental of a room or a portion of the premises for any term is not permitted.

SECTION 2: 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 the provisions of this Chapter, 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 Chapter.

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, house, 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 guests, for consideration, for a period of 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 rights within a dwelling unit.

OWNER

Any person or entity, 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 and/or entity acting in concert or any combination thereof.

RESIDENTIAL OCCUPANCY

The use of a dwelling unit by one or more occupants.

SECTION 3: Permitted Uses.

The residential occupancy of an otherwise lawful occupied dwelling unit for a period of 30 days or less by a person who is a member of the housekeeping unit of the owner, without consideration, such as houseguests, is permitted.

SECTION 4: Advertising Prohibited.

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

SECTION 5: Enforcement; Violations and Penalties.

- A. The provision of this Chapter shall be enforced by the Zoning Official, Building Code or Sub-Code official or by any other City Official or employee so designated by the Mayor and/or Council.
- B. A violation of this Chapter 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 Chapter, without regard to intent or knowledge, shall be liable for the maximum civil penalty, upon adjudicated violation or admission, of a fine not exceeding \$1,000.00. Each day of such violation, after receiving written notice of same, shall be a new and separate violation of this Chapter.
- D. The penalty imposed herein shall be in addition to any and all other remedies that may accrue under any other law.

SECTION 2: All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 6: Should any sentence, 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 7: This ordinance shall take effect upon its final passage, publication and adoption in the manner prescribed by law.

<i>FIRST READING:</i>	<i>August 22, 2018</i>
<i>PUBLICATION:</i>	<i>August 27, 2018</i>
<i>PASSAGE:</i>	<i>September 12, 2018</i>

The within Ordinance was introduced at a meeting of the Common Council of the City of Linwood, County of Atlantic and State of New Jersey held on, August 22, 2018 and will be further considered for final passage after a public hearing thereon at a meeting of said Common Council on September 12, 2018.

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

RICHARD L. DEPAMPHILIS, III, MAYOR