

DRAFT

Bellefonte Borough

Centre County, Pennsylvania

ORDINANCE NO. ____

AN ORDINANCE OF THE BOROUGH OF BELLEFONTE AMENDING THE CODIFIED BOOK OF ORDINANCES, CHAPTER ____ to adopt regulations regarding Short term rentals

Be it enacted and ordained by the Council of the Borough of Bellefonte and it is hereby enacted and ordained by the authority of the same.

Intent and Purpose

It is the purpose of this ordinance to assure short term rentals in the Borough of Bellefonte are established and operate in the appropriate zoning district as to not become a nuisance. It is also the intent of this ordinance to protect the health, safety and general welfare of the homes, residents, families, neighborhoods, sense of community, and quality of life found here in Bellefonte. Short term rentals of a dwelling, property or portion thereof, is viewed as an income-producing commercial enterprise not appropriate for residential zoning districts. This ordinance amendment intends to address both existing rental housing permit holders, who operate properties as short term rentals and any new applications for a short term rental use.

Applicability

No person, firm, or corporation shall rent or lease to another, or advertise for rent or lease, or provide for short-term occupancy, any dwelling unit, rooming unit, property or portion thereof unless in compliance with the regulations contained herein and any other ordinances adopted by the Borough of Bellefonte.

Definitions

Dwelling – A building or portion thereof designed and used for residential occupancy.

Family – Any number of individuals living and cooking together as a single housekeeping unit, including not more than five (5) unrelated individuals. The term “unrelated individual” shall include any individual who is unrelated by blood, marriage,

legal adoption or foster relationship to any other individual in the dwelling unit. It is the express intent of the Borough to comply with all provisions of the Federal Fair Housing Act, as amended, and regulations promulgated thereunder, in the construction of this term.

Lease – An Agreement to rent. For use as a verb, see “rent.”

Nuisance property – A rental property that has accumulated five (5) violation points within a rolling twelve (12) month period. Nuisance properties will have rental permits revoked for a period of one (1) year.

Owner occupied or occupied by owner – A dwelling unit that is the primary, permanent residence and domicile of a person who is identified as the owner or one of the owners on the deed for the property. In order for a dwelling unit to be considered owner occupied, the dwelling must be considered the domicile of the record owner or at least one of the record owners under Pennsylvania law, and the owner must physically reside in the dwelling not less than nine (9) months each calendar year, and the owner cannot be registered to vote at any other address, and the owner must use the dwelling as the owners address for payment of taxes including, but not limited to earned income taxes.

Rent – Compensation paid for the use of a dwelling unit or portion thereof, including but not necessarily limited to, money, services, and/or property. As a verb, the term “rent” means to get or to give the use of a dwelling unit or portion thereof in return for such compensation or any compensation thereof. The term “rent” does not include arrangements where there is no compensation such as but not limited to money, services, and/or property provided.

Short-term Rental - Any dwelling unit, property, or portions thereof, that is offered for accommodations or lodging of guests, paying rent, leasing or other compensation for a period less than thirty (30) consecutive days

Tenant – A person, corporation, partnership, or group whether or not the legal owner of record, occupying a building or portion thereof as a unit

Siting and Operating Requirements

The following conditions are intended to provide for the siting and operating of short term rental properties while providing reasonable protection to the municipality and neighborhood in which the rental will be located against possible detrimental effects. In addition to the underlying district regulations specified in this ordinance, all short term rental properties shall meet the following requirements:

- A. Short term rental of a dwelling or portion thereof, is NOT PERMITTED IN ANY RESIDENTIAL ZONING DISTRICT of the Borough of Bellefonte. This includes

the renting of amenities such as swimming pools, gazebos, hot tubs, porches, finished basements, meeting rooms, etc.

- B. Short term rentals in dwellings are ONLY PERMITTED IN THE CENTRAL BUSINESS, **HIGHWAY COMMERCIAL** AND WATERFRONT BUSINESS DISTRICTS
- C. For any residential zoning district property currently permitted under the Rental Housing Code and being used as a Short term rental, it must be owner occupied at permit renewal and be owner occupied at least nine (9) months per calendar year.
- D. For new applications for Short term rental Units located in the Waterfront, **Highway Commercial** or Central Business Districts, If the owner does not permanently reside on site and would not be present to lead guests to safety in case of an emergency, automated systems must be installed to do this instead.
 - 1. Emergency lighting and exit signage are required
 - 2. Accessibility considerations (ADA) are required
 - 3. Fire suppression systems (sprinklers) and alarms are required
 - 4. .A secondary means of egress is required.
- E. Any property owner in the Central Business, **Highway Commercial** or Waterfront Business Districts currently having a rental housing permit and using a property as a Short-term rental shall meet all applicable UCC standards as described in Section D. for permit renewal, unless the dwelling meets the definition of owner occupied.
- F. Short term rental permits shall renew annually and must comply (supply proof of compliance) with all current regulations prior to permit being granted.
- G. Meals shall not be provided for compensation.
- H. All applicable off-street parking regulations must be complied with during the permit period.
- I. Property owners shall apply for and receive all required permits prior to operation. Failure to do so does not grant immunity, grandfathering, etc.
- J. An owner of a short term rental may provide short-term rentals up to six (6) times in one calendar year, with a maximum total number of days of short-term rental activity not exceeding thirty (30) calendar days in one calendar year. An applicant for a short term rental permit shall provide a schedule of the nights, events or other sufficient evidence for the Bellefonte Borough Zoning Officer to determine compliance with this section. An applicant will be permitted to amend the schedule on the condition that the above limitation of thirty (30) nights per calendar year is not exceeded.

- K. The occupancy of a short term rental dwelling or property may not exceed five (5) unrelated guests at anytime, no matter what the stated occupancy limitations may be. This regulation takes effect at enactment of this amendment.
- L. Short term rental use of a dwelling unit shall comply with all applicable federal, state and local government laws, rules, tax reporting, ordinances and/or regulations.
- M. Failure to register a short term rental is equivalent to operating without a permit and will result in enforcement action.
- N. No interior or exterior sign intended to be seen by the public shall be permitted.
- O. Advertising a short term rental that is not registered is prohibited

Permit Fees, Penalties and Violation Fees.

Fees for permits required under the provisions of this Ordinance shall be set by resolution of the Borough of Bellefonte.

Hazard and Liability Insurance.

All property owners renting or leasing a dwelling unit or portion thereof for occupancy in the Borough, for short term residential rentals, shall obtain minimum insurance coverage as indicated below.

1. General liability insurance in the amount of \$50,000 minimum coverage; and
2. Hazard and casualty insurance in amounts sufficient to either restore or remove the building in the event of a fire or other casualty.
3. Insurance declaration shall clearly indicate coverage specifically for short term rental or include written acknowledgement of same from insurance provider.
4. At the time of application, the applicant must provide a copy of the insurance certificate for the short term rental property that meets or exceeds the above requirements.

Nuisance Properties

Intent. In an effort to preserve and protect its neighborhoods, rental properties classified as a nuisance property will have its permit revoked for a period of one (1) year. A property is classified as a nuisance property when it has accumulated five (5) violation points within a rolling twelve (12) month period.

A. Violation point values:

- 1) One (1) point per refuse, grass/weed, snow/ice, property maintenance, or pet violations.
- 2) Two (2) points per rental permit violation, disorderly conduct, noise ordinance, alcohol, drugs, simple assault, harassment, fire prevention code, open lewdness, and indecent exposure.
- 3) Five (5) points or immediate revocation per furnishing alcohol to minor, aggravated assault, indecent assault, sexual assault, rape, and possession with intent to deliver controlled substances.

Additional Amendments

Effective after the date of enactment, this ordinance amends the Borough of Bellefonte Zoning District “Permitted Uses” in that Short-Term Rentals in Residential Districts are expressly “not permitted” uses as they are deemed to be a commercial enterprise.

For properties currently permitted under the Borough’s Rental Housing Code and being used as Short-term Rentals, they can continue to operate under current regulations, however, they must comply with all new regulations at permit renewal if a new permit is desired.

Short-term rentals are “permitted Uses” in dwellings situated in the Central Business, **Highway Commercial** and Waterfront Business Districts only.

The amendments stated herein are not to be construed to have any impact on Bed and Breakfast establishments in any residential district or Inns, hotels or motels in any commercial district of the Borough.

In all residential Districts, Single family dwellings are restricted to families, defined as “single housekeeping units.” The term Family is defined herein.

Severability

If any sentence or clause, section, or part of this ordinance is found to be unconstitutional, illegal or invalid, such findings shall not affect or impair any of the remaining parts of the ordinance. It

is hereby declared to be the intent that this ordinance would have been adopted had such part not been included.

Effective Date

This ordinance shall take effect immediately after enactment.

ENACTED AND ORDAINED, into an Ordinance this ____ day of _____, 2021 by the Council of the Borough of Bellefonte in lawful session assembled.

ATTEST:

BOROUGH OF BELLEFONTE

Ralph W. Stewart
Secretary

Joanne Tosti-Vasey
President of Council

DRAFT

*Please reply to:
Bellefonte Office*

MEMORANDUM

TO: Ralph Stewart, Manager, Bellefonte Borough
FROM: Jeffrey W. Stover, Esquire
RE: Short-term rental
DATE: April 30, 2021

This memo reflects my legal opinion based upon my review of the proposed short-term rental ordinance for Bellefonte Borough.

Background

The issue of the zoning and regulation of short-term rentals has become a hot topic with the advent of internet-based short-term reservation systems such as Airbnb, VRBO, and Pennsylvania HomeAway. As those rental systems have become more popular, communities have turned to the courts to wrestle with issues involving zoning and use regulations.

In Pennsylvania, a series of cases have made their way into the appellate courts, and finally the Pennsylvania Supreme Court. In *Slice of Life, LLC v. Hamilton Township Zoning Hearing Board*, 652 Pa. 224, 207 A.3d 886 (2019), the Supreme Court upheld a Hamilton Township, Monroe County zoning hearing board decision that found the use of a residential property for short-term rentals to violate the applicable zoning ordinance that prohibited such a use. Because the ordinance in that case was found by the Court to be unambiguous and valid, that ordinance provides a very useful template for similar zoning ordinances.

In *Slice of Life*, the Supreme Court relied heavily on the ordinance's definition of "family" and its requirement of "a single housekeeping unit". The Supreme Court noted that "single housekeeping unit" is a well-defined term of art that requires that "a group of individuals in a single household must not only function as a family within that household, but in addition, the composition of the group must be sufficiently stable and permanent so as not to be fairly characterized as purely transient." As such, the requirement that a dwelling be used as a single housekeeping unit in a particular residential zoning district can be an effective way to prohibit short-term rentals in specified districts.

Proposed Bellefonte Ordinance

The proposed ordinance amends the Bellefonte zoning ordinance in several areas. Among them is the addition of the definition of “family”. The proposed definition requires that a family is “any number of individuals living and cooking together as a single housekeeping unit, . . .” As such, it adopts the definition in the Hamilton Township ordinance before the Supreme Court in Slice of Life. The ordinance further adds a definition for “short-term rental” as “any dwelling unit, property or portions thereof, that is offered for accommodations or lodging of guests . . . for a period less than thirty (30) consecutive days.”

The proposed ordinance amends the zoning ordinance to prohibit short-term rentals within any residential zoning district of the Borough of Bellefonte. It further permits short-term rentals in the central business, highway commercial and water-front business zoning districts, but no others. It restricts the use to not more than six (6) times in one calendar year not to exceed thirty (30) calendar days. The owner of a property must obtain a short-term rental permit in order to engage in short-term rental usage.

In my opinion, the ordinance is properly drafted and should be effective for the control of short-term rentals. It will accomplish the goal of keeping that use out of the residential districts, relieving such areas from the traffic and parking congestion, and late-night disturbances, that often come with the short-term rental use.

One technical correction should be made under the “Siting and Operating Requirements section, at paragraph I. That paragraph includes the word “grandfathering”. Grandfathering is really not a legal term, but a lay term. I would amend that provision by substituting “non-conforming use status” for the word “grandfathering”.

Please let me know if you have any further questions concerning the ordinance or this Memo.

Cc: Don Holderman