

**ORDINANCE NO. 3473-18**

**AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF RUTHERFORD AND CREATING CHAPTER 80, ENTITLED "SHORT TERM RENTAL PROPERTY" OF THE CODE OF THE BOROUGH OF RUTHERFORD, NEW JERSEY"**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Rutherford, County of Bergen and State of New Jersey that Chapter 80 of the Code of the Borough of Rutherford Entitled "Short Term Rental Property" is hereby created and that those portions of the Ordinance set forth below are hereby amended as follows and that those portions of the Ordinances not set forth below shall remain unchanged:

**Section 1.** Chapter 80, of the Code of the Borough of Rutherford, New Jersey, is hereby created in order to establish a new Section entitled "Short Term Rental Property," as follows:

**SECTION 1. Chapter 80. Prohibition of Short Term Rental Property.**

**80-1. Findings.**

The Mayor and Council of the borough of Rutherford, County of Bergen, State of New Jersey, hereby finds and adopts, as if set forth more fully herein the fact assertions of the "Whereas" clauses of this Ordinance as its findings of fact. **This ordinance shall become effective January 1, 2019 after being published in accordance with law.**

**80-2. Short Term Rental Property Prohibited Uses.**

A. Notwithstanding anything to the contrary in the Borough Code, it shall be unlawful for an Owner, Lessor, sublessor, any other person(s) or entity(ies) with possessory or use right(s) in a Dwelling Unit, their principals, partners 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, 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.

## **80-3 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 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, cooperative, 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).

### **80-4. Permitted Uses**

The residential occupancy of an otherwise lawful and lawfully occupied Dwelling Unit for a period of thirty (30) days or less by a person who is a member of the Housekeeping Unit of the Owner, without Consideration, such as house guests, is permitted.

### **80-5. Advertising prohibited.**

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

### **80-6. Enforcement; Violations and penalties.**

- A. The provisions of this Ordinance shall be enforced by the Zoning Official, Fire Official and/or other Sub-Code or Code Official, as their jurisdiction may arise, including other persons designated by the Mayor and Council, and in conjunction with the Rutherford Police Department when necessary, to issue municipal civil infractions directing alleged violators of this Ordinance to appear in court or to 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 a minimum civil penalty, upon adjudicated violation or admission, of \$750.00 up to the maximum civil penalty of \$1,250.00. 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 Bergen County, or in such other Court, or tribunal of competent jurisdiction by either summary disposition or by zoning or construction code municipal proceeding.

### **80-7. Severability.**

If any portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of this

Ordinance but shall be confined in its effect to the provision directly involved in the controversy in which such judgment shall have been rendered.

**80-8 Effect on other laws.**

This Ordinance shall supersede and replace any other provisions of the Code of the Borough of Rutherford, currently existing 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 currently existing or later enacted amendments to the Borough's Zoning Code **and is solely intended to address those situations set forth within Section 80-2.**

**SECTION 2.** Except as hereby amended, all other sections of the Code of the Borough of Rutherford shall remain in full force and effect.

**SECTION 3.** This Ordinance shall take effect after second reading and become effective on January 1, 2019 after being published in a newspaper of general circulation within the Borough.

**ATTEST:**

**BOROUGH OF RUTHERFORD**

Margaret M. Scanlon

Margaret M. Scanlon, Borough Clerk

Joseph DeSalvo Jr.

Joseph DeSalvo Jr., Mayor

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Mayor and Council at a meeting held on September 11, 2018.

Margaret M. Scanlon

Margaret M. Scanlon, Borough Clerk