



CITY OF BETHLEHEM

OFFICE OF THE CITY SOLICITOR

INTEROFFICE MEMORANDUM

To: Robert G. Vidoni, Esquire, City Clerk

CC: The Honorable Robert J. Donchez, Mayor; W. Alexander Karras, Chief of Staff

From: Edmund J. Healy, Esquire, First Assistant City Solicitor

Re: CD Committee alterations to bill affecting Article 1741

Date: February 27, 2020

Director Karner has asked me to furnish this Memorandum and attachment for distribution to City Council.

On February 20, 2020, Community Development Committee reviewed Director Karner's January 27, 2020 memo and draft amendments to Article 1741. The Committee desired certain changes, which the attachment implements. In connection with the enhanced penalties requested, attention was given to potential compliance issues with state law. Toward that end, additional clarifying language was added to Section 1741.99.

You will notice three other non-substantive changes have been included in the attachment. First, the insertion of the header for "Section 1" has been added to establish that the prior edition of 1741 is being "repealed, replaced and restated" by the ensuring ordinance. Second, the Table of Contents has been corrected to match the content of the proposed ordinance. Lastly, the definition of "Short Term Lodging Facility" was restructured slightly to eliminate a potential hidden double negative buried in the placement of the words "does not" relative to clauses (1) and (2).

A redlined version of the bill highlighting the exact revisions accompanies this Memorandum. A clean copy has been separately given to the Office of the City Clerk for its convenience.

Please present this Interoffice Memorandum and attachment to City Council for review and appropriate action.

Respectfully,

Edmund J. Healy, Esq.
Edmund J. Healy, Esq.
First Assistant City Solicitor

BILL NO. _____~~-2019~~2020

ORDINANCE NO. ~~2019~~2020-_____

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, REPEALING AND
RESTATING ARTICLE 1741 OF THE CODIFIED ORDINANCES OF
THE CITY OF BETHLEHEM RELATING TO “SHORT
TERM LODGING FACILITIES”

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1: Article 1741 of the Codified Ordinances of the City of Bethlehem, entitled “Short Term Lodging Facilities”, is hereby repealed, replaced and restated in its entirety to read as follows:

Article 1741

SHORT TERM LODGING FACILITIES

- 1741.01 Purpose.
- 1741.02 Definitions.
- 1741.03 ~~Restrictions on Transient Rentals; Types of Short Term Lodging Facilities.~~
- ~~1741.04~~ Annual License Term, Fee and Occupancy Limit.
- 1741.~~05~~04 Performance Standards.
- 1741.~~06~~05 Grounds for Suspension, Revocation or Nonrenewal of License.
- 1741.~~07~~06 Procedure for Non-Renewal, Suspension or Revocation of License and Appeal.
- 1741.99 Penalties.

1741.01 PURPOSE

It is the purpose of this Ordinance and the policy of the City of Bethlehem, in order to protect and promote the public health, safety and welfare of its citizens, to establish rights and obligations of Owners and Transient Visitors to maintain and improve the quality of life around residences throughout the City through a regular licensing and inspection program not hitherto in place for transient rentals of Short Term Lodging Facilities.

There is a greater incidence of disturbances and violations of various Codes of the City which adversely affect the peace and quiet of the neighborhood at residential properties where Owners allow unregulated Transient Visitors.

If unregulated, Short Term Lodging Facilities can create negative compatibility impacts in neighborhoods and districts, including inappropriate commercialization, excessive noise and increased demands for on-street parking that overwhelms use by local residents, increased risk of inappropriate conduct for which enforcement against transients may be difficult, and accumulation of rubbish and trash.

The City Council of the City of Bethlehem declares the following purposes for enacting this Ordinance:

1. to enhance accountability of property owners and Transient Visitors, minimize the risk of communal disturbances and conflict and violations of various Codes of the City which are capable of repetition but evading review, and otherwise protect and promote the public health, safety and welfare of its citizens;
2. to ensure safe, healthy and nondiscriminatory housing arrangements for Transient Visitors through a regular licensing and inspection program not hitherto in place for Short Term Lodging Facilities;
3. to minimize negative compatibility impacts from excessive noise, on-street parking that overwhelms use by local residents, increased risk of inappropriate conduct for which enforcement against transients may be difficult, and accumulation of rubbish and trash;
4. to impose corresponding owner licensing and inspection arrangements for transient accommodations already in place for other regulated rental units.

1741.02 DEFINITIONS

Board of Appeal: The Board of Appeal identified in Article 150 of the Codified Ordinances of the City of Bethlehem and/or occasionally known as the “Codes Board of Appeals”.

Rent or Rental: Under this Ordinance means an arrangement whereby a Transient Visitor or Visitors obtain permission to occupy a ~~property or portion thereof of an owner occupied single family dwelling~~ for the purpose of ~~Short Term Lodgings~~ short term lodging.

Short Term Lodging Facility: An owner-occupied single family dwelling at which the owner allows the temporary rental of a portion of the dwelling unit ~~or portion thereof~~ for not more than 30 consecutive nights by a Transient Visitor or Visitors under an agreement providing compensation to an owner and which dwelling (1) does not ~~(1)~~ operate or is not licensed as a regulated rental under Article 1739 or (2) does not qualify as a hotel or bed and breakfast home within the meaning of the Zoning Ordinance or the law of nonconforming uses.

Transient Visitor: An occupant of a portion of a single family dwelling ~~unit or sleeping unit~~ for not more than 30 consecutive nights under a rental agreement for Short Term Lodging, unless the occupant is related to the Owner as married spouse, parent or child, grandparent or grandchild, or brother or sister.

1741.03 ANNUAL LICENSE TERM, FEE AND OCCUPANCY LIMIT

- A. To the extent authorized under the Zoning Ordinance or the law of nonconforming uses, before operating a Short Term Lodging Facility, property owners must obtain and keep current a Short Term Lodging License for each property to be designated as a Short Term Lodging Facility. Such License shall only be issued if the requirements of this Ordinance are met.
- B. Upon application in such form as may be required by the City Department of Community and Economic Development for a Short Term Lodging License or renewal thereof, each applicant shall pay to the City an annual License and inspection fee in accordance with the Housing Inspection Fee Schedule Resolution. A license for a Short Term Lodging Facility shall not be transferred or sold and will expire upon the conveyance of the property.
- C. Each License will note how many lodgers are permitted for short term rental and require the applicant to submit proof of, and remain in constant compliance with, the following:
 - 1. An accurately-drawn floor plan of the residence showing the number of bedrooms and location of smoke alarms and carbon monoxide detectors. Floor plans must show details for every level of the residence and any attached structures, and the location of windows and all interior and exterior doorways.
 - 2. In the case of Short Term Lodging where the owner-occupant rents a specific bedroom accommodation, the floor plan must clearly designate ~~bedrooms~~ each specific bedroom to be used for Short Term Lodging, which must be located within the principal dwelling unit and not in an accessory building.
 - 3. In the case of Short Term Lodging where the owner-occupant rents a suite of rooms as an accommodation, the floor plan must clearly designate which specific rooms constitute the suite of rooms to be used as a single accommodation for Short Term Lodging, which suite cannot be reconfigured during the term of any license period to include different rooms than those depicted on the approved floor plan except upon application and issuance of a new license and required building code approvals and permits.
 - 4. The owner shall comply with the requirements of Section 1741.04 - Performance Standards of this Ordinance to maintain a License in good standing.

1741.04 PERFORMANCE STANDARDS

Under any Short Term Lodging arrangement allowed under this Ordinance, property owners and Transient Visitors must meet all of the following standards:

- A. The current City of Bethlehem Housing Code will determine the maximum occupancy of the Short Term Lodging Facility and, in the case where the owner-occupant rents a specific bedroom accommodation, the number of individuals permitted in the designated bedroom.
- B. A Short Term Lodging Facility shall be used by any Transient Visitor only for Short Term Lodging and not for other purposes, such as, but not limited to, the hosting, lease or use of the property as reception space, party space, social or business meeting space or for other similar events open to the public or invitees. Owners shall not circumvent the preceding limitations by hosting such events for the benefit of a Transient Visitor.
- C. A Short Term Lodging Facility may not change or mix the licensed configuration of transient accommodation during a licensed period unless a new Short Term Lodging License is obtained and a new license fee is paid and inspection secured.
- D. Transient Visitors shall not generate noise, vibration, glare, odor or other effects that unreasonably interfere with a person's enjoyment of his or her neighborhood, nor shall an Owner allow any Transient Visitor to do so.
- E. The owner and Transient Visitors shall be responsible for monitoring conduct of occupants, Transient Visitors, guests and invitees of a Short Term Lodging Facility to prevent violation of City Article 705, Sections 705.01 Disorderly Conduct; Peace Disturbance and 705.04 Disorderly Houses.
- F. There shall be an annual inspection, conducted by the City of Bethlehem Bureau of Housing, in accordance with the fee schedule resolution. The owner of the Short Term Lodging Facility is responsible for scheduling the inspection and paying the fee. Failure to do so will result in revocation of the Short Term Lodging license.
- G. The owner of the Short Term Lodging Facility must apply for and keep current with a City of Bethlehem Business Privilege Tax License.
- H. The owner of the Short Term Lodging Facility shall submit a Certification of Trash Hauler to the City on an annual basis. The owner of the Short Term Lodging Facility is responsible for trash and recycling removal. Lodgers must be notified of trash and recycling collection days.
- I. With respect to making the property available for use, the owners of the Short Term Lodging Facility shall comply with the anti-discrimination provisions of Article 145 and 1737 of the City of Bethlehem Codified Ordinances.
- J. The owner of the Short Term Lodging Facility must maintain a ledger which details the length of stay of each Transient Visitor and present same to a City of Bethlehem Code Enforcement officer when requested.

- K. The owner shall furnish to the Code Official in writing any change of address or contact information pertaining to Owner within five (5) calendar days of any change.

1741.05 GROUNDS FOR SUSPENSION, REVOCATION OR NONRENEWAL
 OF LICENSE

- A. General. Aside from seeking fines under Section 1741.99 of this Ordinance, the Code Official may take administrative disciplinary action against an owner that may result in a formal warning, non-renewal, suspension or revocation of the Short Term Lodging Facility License, for violating any provision of this Ordinance that imposes a duty upon the owner and/or for failing to regulate the breach of duties by Occupants as provided for herein.
- B. Definitions of Options to the Code Official.
1. Formal Warning - Formal written notification of at least one violation of this Ordinance. Upon satisfactory compliance with this Ordinance and any conditions imposed by the Code Official and/or the City of Bethlehem, the formal warning shall be removed when the Owner applies for License renewal at a time set by the Code Official or by City of Bethlehem.
 2. Suspension - The immediate loss of the privilege to rent the Short Term Lodging Facility for a period of time set by the Code Official not to exceed one year from the date of suspension of the License. The Owner, after the expiration of the suspension period, may apply for License renewal without the need to show cause why the Owner's privilege to apply for a License should be reinstated, provided the Owner has paid a new license fee. Upon suspension, the Owner shall take immediate steps to evict, and disallow any further use by, all Transient Visitors at the Short Term Lodging Facility through the end of the suspension period and any unlicensed period.
 3. Revocation - The immediate loss of the privilege to rent the Short Term Lodging Facility for any period of time longer than one year or for a second or subsequent suspension of the license for the same Facility, as may be determined by the Code Official. Upon revocation, the Owner shall take immediate steps to evict, and disallow any further use by, all Transient Visitors at the Short Term Lodging Facility through the end of the suspension period and any unlicensed period.
 4. Reinstatement – A Short Term Lodging license shall be reinstated from suspension or revocation if the owner or operator of a Short Term Lodging facility corrects all reason(s) for the suspension or revocation of the Short Term Lodging License and has paid a new license fee and all court penalties, if any, obtained pursuant to Section 1741.99 of this Ordinance.
 5. Non-Renewal - The denial of an application for License renewal after expiration of any License term due to the failure of the Owner to comply with the requirements of this Ordinance or failure to correct the conditions for which his or her license was previously suspended or revoked. Unless otherwise prohibited by the suspension or

revocation of a Short Term Lodging license, the City will permit the Owner to maintain Transient Visitors in the Premises until the end of the license term but will not accept applications for renewal of the License until a time set by the Code Official or by City of Bethlehem such time not to exceed one year from the renewal date.

6. Other remedies – Nothing in this Ordinance shall limit the right, power or jurisdiction of the City to proceed against the Owner or any Transient Visitor or guest under any other law, regulation or ordinance

C. Criteria for Applying Sanctions.

- a. The Code Official, when applying sanctions, shall consider the following:
 - i. The effect of the violation on the health, safety and welfare of the Occupants of the Short Term Lodging Facility and other residents of the Premises.
 - ii. The effect of the violation on the neighborhood.
 - iii. Whether the Owner has prior violations of this Ordinance and other ordinances of the City or has received notices of violations as provided for in this Ordinance.
 - iv. Whether the Owner has been subject to sanctions under this Ordinance.
 - v. The action taken by the Owner to remedy the violation and to prevent future violations, including any written plan submitted by the Owner.
 - vi. Notwithstanding any past or pending administrative action taken to suspend, revoke, or not renew a license for Short Term Lodging Facility license, upon conviction of a third offense under Section 1741.99 of this Ordinance within any 5-year period, the Owner of the Facility, and his/her successors, heirs and assigns, shall be disqualified from using the property as a Short Term Lodging Facility for a period of 2 years.

D. Reasonable Conditions. In addition to enforcing sanctions as set forth above, the Code Official may impose upon the existing or subsequent licenses reasonable conditions related to fulfilling the purposes of this Ordinance.

E. Search Warrant. Upon a showing of probable cause that a violation of this Ordinance or any other ordinance of the City of Bethlehem has occurred, the Code Official may apply to the Magisterial District Judge having jurisdiction in the City of Bethlehem for a search warrant to enter and inspect the premises.

1741.06 PROCEDURE FOR NON-RENEWAL, SUSPENSION OR
REVOCATION OF LICENSE AND APPEAL.

A. Form of Notification. Following a determination by the Code Official that grounds for non-renewal, suspension or revocation of a Short Term Lodging license exist, the Code Official shall notify the Owner of the action to be taken by the Code Official and the reason

therefor. Such notification shall be in writing. addressed to the Owner in question, and shall contain the following information:

1. The address and identification of the particular Short Term Lodging Facility affected.
 2. A description of the violation which has been found to exist.
 3. A statement that the License for said Short Term Lodging Facility shall be either suspended or revoked, or will not be renewed for the next License period. In the case of a suspension or revocation, the notice shall state the date upon which such suspension or revocation will commence, and in the case of a suspension shall also state the duration of said suspension and may extend into a period of license renewal. A revocation shall last through the end of the current license period and may be combined with a period of disqualification for renewal.
 4. A statement that, due to the non-renewal, suspension or revocation (as the case may be), the Owner is prohibited from allowing use of the Facility by Transients.
- B. Delivery of Notification. All notifications required by this Ordinance shall be served upon the Owner at the address stated on the most current License application for the Short Term Lodging Facility, or as required by Section 1741.04.K, in accordance with the requirements of §107.3 of the International Property Maintenance Code, as adopted by the City of Bethlehem pursuant to Article 1733 of the Codified Ordinances of the City of Bethlehem.
- C. Appeals. Any Owner affected by a decision of the Code Official or a notice or order issued by the Code Official shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 10 days after the day the decision, notice or order was served. An application for appeal may be made when it is claimed that: the true intent of the Codes or rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, and/or whether the period of license suspension, revocation and/or nonrenewal was appropriate.

1741.99 PENALTIES

Any person who shall violate a provision of this Ordinance or shall fail to comply with any of the requirements hereof, or the Building Code of the City, or shall be in violation of an approved plan or directive of the Code Enforcement Officer shall, upon conviction thereof before a Magisterial District Judge of the City of Bethlehem, Pennsylvania, be liable to pay the penalties stated below- pursuant to 11 Pa.C.S. § 11018.17. A property owner is liable for a violation of this ordinance committed by the owner's property manager as if the owner committed the violation. Each 24-hour period a violation exists shall be considered a separate incident of noncompliance for which a conviction may be obtained.

- a. First violation - a fine of \$200.00 or 30 days imprisonment, or both;

- b. Second violation - a fine of \$~~500~~750.00 or 60 days imprisonment, or both;
- c. Third and each subsequent violation - A fine up to \$1,~~000~~500.00, or ninety days imprisonment, or both.

SECTION 2: That all Ordinances and parts of Ordinances herewith be, and the same are hereby repealed.

Sponsored by: _____

PASSED finally in Council on this _____ day of _____, ~~2019~~2020.

President of Council

ATTEST:

City Clerk

This Ordinance approved this this _____ day of _____, ~~2019~~2020.

Mayor