**5.25.21 BOROUGH OF CLEMENTON**

 **ORDINANCE NO. 2021-08**

 **ORDINANCE OF THE CODE OF THE BOROUGH OF CLEMENTON**

 **CREATING A NEW CHAPTER 220A ENTITLED “SHORT-TERM RENTALS”**

 BE IT ORDAINED by the Mayor and Council of the Borough of Clementon, County of Camden, State of New Jersey, as follows:

 **SECTION 1.** The Code of the Borough of Clementon is amended and supplemented by the addition of a new Chapter 220A designated as “Short-Term Rentals,” to read as follows:

 **ARTICLE I**

 **Definitions**

**§ 220A-1. Word usage; terms defined.**

The following terms shall have the meanings indicated below:

**DANGEROUS CONDITION:** A condition that creates a substantial risk of injury to life and/or property.

**OWNER:** Any person alone or jointly or severally with others, as follows:

A. Who has legal or equitable title to any premises, with or without accompanying actual possession thereof.

B. Who has equitable title and is either in actual possession or collects rents therefrom.

C. Who, as executor, executrix, trustee, guardian or receiver of an estate or as mortgagee or as vendee in possession, either by virtue of a court order or by agreement or voluntary surrender of the premises by the person holding the legal title, or as collector of rents, shall have charge, care or control of any dwelling, boardinghouse or lodging house; or any such person thus representing the person holding the equitable or legal title, all of whom under this chapter shall be bound to comply with the provisions hereof and any rules and regulations adopted pursuant thereto to the same extent as if they were the persons holding the legal or equitable title.

**OWNER-OCCUPIED:** The owner of the property who resides in the short-term rental property, or in the principal residential unit with which the short-term rental property is associated on the same lot and identified same as his or her principal residence as that term is defined in this section. For purposes of this section, if the owner of the property is an entity other than an individual or individuals, then at least one principal or member of the owner entity must reside in the short-term rental property, or in the principal residential unit with which the short-term rental property is associated on the same lot and identify same as his/her principal residence as that term is defined in this section.

**PRINCIPAL RESIDENCE:** All the following requirements must be met for an address to constitute a principal residence for purposes of this section.

A. The address where at least one of the property owners spends the majority of his/her non-working time.

B. The address which is most clearly the center of his/her domestic life.

C. The address which is identified on his/her driver’s license or State identification card as being his/her legal address.

**PROPERTY:** A parcel of real property located within the boundaries of the Borough of Clementon, Camden County, New Jersey.

**RESPONSIBLE PARTY:** The short-term rental property owner, person, agent, or property manager designated by the owner to be called upon and responsible at all times during the period of a short-term rental property, and in the case of the property manager to accept service of legal process on behalf of the owner of the short-term rental property.

**SHORT-TERM RENTAL:** The accessory use of a dwelling unit as defined in this section for occupancy by someone other than the unit owner or permanent resident for a period of 90 days, which dwelling unit is extensively used and kept open as such for the lodging of guests, and which is advertised or held out to the public as a place regularly rented to transient occupants as defined in this section, and may be referred to as “Airbnb” or “Air Bed and Breakfast.”

**SHORT-TERM RENTAL PROPERTY:** A residential dwelling unit as defined in this section, that is used and/or advertised for rent as a short-term rental for transient occupants as guests, as those terms are defined in this section.

**SHORT-TERM RENTAL PROPERTY AGENT:** Any New Jersey licensed real estate agent or other person designated and charged by the owner of a short-term rental property, with the responsibility for making the short-term rental application to the Borough on behalf of the owner and fulfilling all the obligations in connection with completion of the short-term rental property permit application process on behalf of the owner. Such person shall be available for and responsive to always contact on behalf of the owner.

**SUBSTANTIATED COMPLAINT:** A civil or criminal complaint, summons, or notice of violation(s) supported by substantial evidence.

**TRANSIENT OCCUPANT:** Any person or guest or invitee of such person, who, in exchange for compensation, occupies or is in actual or apparent control or possession of residential property, which is either registered as a short-term rental property or satisfies the definition of a short-term rental property, as such is defined in this section. It shall be a rebuttable presumption that any person who holds themselves out as being an occupant or guest of an occupant of the short-term rental is a transient occupant.

 **ARTICLE II**

 **Regulations**

**§ 220A-2. Regulations pertaining to short-term rentals.**

A. It shall be unlawful for any owner of any property within the geographic bounds of the Borough of Clementon, Camden County, New Jersey, to rent, operate, or advertise a short-term rental in a manner that is contrary to the procedures and regulations established in this section or applicable State law.

B. Short-term rentals shall only be permitted to be conducted in the following classifications of property in the Borough of Clementon:

 (1) Dwelling units located in a condominium association, homeowner association, or cooperative association, where the association bylaws, master deed, or other relevant governing document permits short-term rentals and where the owner of the unit legally identifies an address within the association as his/her principal residence.

 (2) Individually or collectively owner-occupied single-family residence.

 (3) Two dwelling units within a two-family residential dwelling, where one unit is owner-occupied as that term is defined in this section.

 (4) Two dwelling units in a multiple dwelling provided that:

 a. The multiple dwelling is not located in a condominium association, homeowner association, or cooperative association.

 b. The multiple dwelling contains four or fewer separate dwelling units.

 c. Another dwelling unit in the multiple dwelling is owner-occupied.

 (5) No more than three rooms within a single-family residential dwelling unit operating as a bed and breakfast as defined in this section, and the remainder of the single-family dwelling unit is identified by the owner as his or her principal residence, as that term is defined in this section, except that no room shall be occupied by any more than two adults and their minor children at any time.

C. Short-term rentals shall not be permitted in a multiple dwelling in which rent is set by HUD, a State agency, or by an agreement with the owner/developer, or governed mandate.

D. The following shall not be permitted to operate as short-term rentals pursuant to this section: hotel, motel, studio hotel, rooming house, dormitory, public or private club, convalescent home, rest home, home for aged people, adult family care homes, assisted living facilities, community residences for developmentally disabled persons, community shelters for victims of domestic violence, senior housing, nursing homes, foster home, halfway house, transitional housing facility, or other similar facility operated for the care, treatment, or reintegration into society of human beings, any housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees with or without their families, any housing operated or used exclusively for religious, charitable or educational purposes, or any housing owned by a governmental agency and used to house its employees or for governmental purposes.

E. Except as provided in subsection H of this section, rentals of any dwelling unit where the owner/operator of the short-term rental property is notpresent shall be conducted no more than 60 total nights per calendar year. Each night in excess of this limit shall be considered a separate violation.

F. Rentals of any dwelling unit where the owner/operator of the short-term rental property is not present shall be prohibited in dwelling units located in any multiple dwellings that contain more than four separate dwelling units. It shall be a violation to rent or to advertise such properties.

G. The person offering a dwelling unit for short-term rental use must be the owner of the dwelling unit. A tenant of a property may not apply for a short-term rental permit, nor shall the property or any portion thereof be subleased by the tenant on a short-term basis or operated as a short-term rental by the tenant except as provided in subsection H of this section. This short-term rental regulation shall supersede any conflicting provision in a private lease agreement permitting subleasing of the property, or any portion of the property. Violation of this section will result in enforcement action against the tenant, the short-term rental owner, the short-term rental agent, and the responsible party, and will subject all such parties to the issuance of a summons and levying of fines and/or penalties.

H. If, at the time of the adoption of this chapter, an owner is operating two properties as short-term rentals it may continue to operate one non-owner-occupied property as a short-term rental, provided that the following conditions are met:

 (1) The short-term rental property is one of the classifications of property enumerated in 220A-2B of this section, notwithstanding the owner-occupied requirements.

 (2) An individual designated by the owner resides in the short-term rental property, or in the principal residential unit with which the short-term rental property is associated on the same lot and identifies same as his/her principal residence as that term is defined in this section. The designated individual must be available to be called upon and be always responsible during the period of a short-term rental, and to answer for the maintenance of the property, or the conduct and acts of occupants of the short-term rental property, and in the case of the property manager to accept service of legal process on behalf of the owner of the short-term rental property.

 (3) The non-owner-occupied property is following the remainder of this chapter.

I. If, at the time of the adoption of this chapter, a currently operating short-term rental that is not eligible for a short-term rental permit under this chapter has an existing contract with a transient occupant to use the short-term rental for some period before September 1, 2021, the requirements of this chapter shall not apply to the preexisting contract. During the un-permitted operation of a short-term rental pursuant to this subsection, the responsible party must submit to the Clementon Code Enforcement documentation indicating that:

 (1) The short-term rental was in operation before the adoption of this chapter.

 (2) The short-term rental contract was made before the adoption of this chapter. If the requested documentation is not provided to Code Enforcement within 10 days of the request, it shall constitute a violation of this chapter.

J. If, at the time of the adoption of this chapter, a short-term rental property is being operated by a tenant, the tenant may continue to do so without a permit as prescribed by the chapter for the duration of the lease or until September 1, 2021, whichever occurs sooner. During the un-permitted operation of a short-term rental pursuant to this chapter, the responsible party must, upon request by the Borough of Clementon Code Enforcement Department, provide documentation indicating that:

 (1) The short-term rental was in operation before the adoption of this chapter.

 (2) That the tenant-operator lease was not renewed after the adoption of this chapter. If the requested documentation is not provided to Code Enforcement within 10 days of the request it shall constitute a violation of this chapter.

 **ARTICLE III**

 **Permit Registration Fee, Application and Inspections**

**§ 220A-3. Short-term rental permit; permit registration fee/application.**

A. In addition to any land use requirement(s) set forth in the Borough of Clementon land use regulations, the owner/operator of a short-term rental property shall obtain a short-term rental permit from the Borough of Clementon Code Enforcement Officer before renting or advertising for rent any short-term rental. The application for a short-term rental permit must meet the following initial requirements to be considered:

 (1) For existing short-term rentals, the applicant must not have had more than one (1) documented dangerous condition, as defined in this section, within the last year.

 (2) For existing short-term rentals, the applicant must have no violations of the Borough Noise Ordinance, located in Chapter 198, within the last two (2) years. A violation of the Noise Ordinance means a documented violation by the Municipal Court.

 (3) In the event any code violations have been issued by the Borough relating to the short-term rental, a short-term rental permit shall not be issued until such time in which violations have been properly abated. Additionally, the short-term owner must also close any open construction permits for the property prior to the issuance of a short-term rental permit.

 (4) The applicant must be current with all Borough taxes, water, and sewer charges.

(5) All fines or penalties issued by the Municipal Court for the Borough of Clementon for any past code violations relating to the short-term rental, including penalties for failure to appear in Court, must be satisfied in full prior to the issuance of a short-term rental permit.

B. No person or entity shall operate a short-term rental or advertise a residential property for use as a short-term rental without the owner/operator of the property first having obtained a short-term rental permit issued by the Code Enforcement Officer. The failure to obtain a valid short-term rental permit prior to using or advertising the short-term rental in any print, digital, or internet advertisement or web-based platform, and/or in the multiple listing service (MLS) or any realtor’s property listing shall be a violation of this chapter. No short-term rental permit issued under this chapter may be transferred or assigned or used by any person or entity, other than the owner to whom it is issued, or at any property location or dwelling unit other than the property for which it is issued.

C. An owner of property, intended to serve as a short-term rental, or any agent acting on behalf of the owner, shall submit to the Code Enforcement Officer a short-term rental permit application provided by the Borough, along with an initial registration fee of $250. Said fee shall be non-refundable, including if the application is denied.

D. The short-term rental permit, if granted, shall be valid for the remaining extent of the year the application is submitted.

E. A short-term rental permit shall be renewed on an annual basis, upon the following January 1st of the original permit issuance, by submitting to the Borough of Clementon Code Enforcement Officer a short-term rental permit application, and a renewal registration fee of $200.

F. The short-term rental permit shall expire automatically when ownership changes, and a new initial application and registration fee will be required if the new owner intends to use the property as a short-term rental. A new application shall also be required for any short-term rental that had its short-term rental permit revoked or suspended.

**§ 220A-4. Application process for short-term rental permit and inspections.**

A. Applicants for a short-term rental permit shall submit, on an annual basis, an application for a short-term rental permit to the Code Enforcement Officer. The application shall be furnished, under oath, on a form specified by the Borough, accompanied by the non-refundable application fee as set forth in 220A-3C above. Such application shall include the following:

 (1) The name, address, telephone number and email address of the owner(s) and, if applicable, designated person of record of the dwelling unit, pursuant to 220A-2H above, for which a permit is sought. If such owner is not a natural person, the application must include and identify the names of all partners, officers and/or directors of any such entity, and the personal contact information, including short-term rental street address, email address and telephone number for each of them. The use of a P.O. box in lieu of a physical owner address is not permitted, and therefore the application will be automatically denied.

 (2) The address, block and lot of the proposed short-term rental.

 (3) A copy of the driver’s license or State identification card of the owner and, if applicable, designated person pursuant to 220A-2H above of the short-term rental property, confirming, as set forth in this section, that the property is the principal residence, as that term is defined in this chapter, of the owner making application for the short-term rental permit.

 (4) The owner’s sworn acknowledgment that he/she is following the requirement that the short-term rental constitutes the owner’s or, if applicable, the principal residence of the designated person pursuant to 220A-2H above.

 (5) The name, address, telephone number and email address of the short-term rental property agent, which shall constitute his/her 7-day/24-hour contact information.

 (6) The name, address, telephone number and email address of the short-term rental property’s responsible party, which shall constitute his/her 7-day/24-hour contact information.

 (7) Copies of two (2) utility bills from the short-term rental not less than 30 days old.

 (8) The owner’s sworn acknowledgment that he/she has read this chapter, has reviewed it, understands its requirements, and certifies as to the accuracy of all information provided in the permit application.

 (9) The number and location of all parking spaces available to the premises, which shall include the number of legal off-street parking spaces and on-street parking spaces directly adjacent to the premises. The owner shall certify that every effort will be made to avoid and/or mitigate issues with on-street parking in the neighborhood in which the short-term rental is located, resulting from excessive vehicles generated by the short-term rental of the property, to avoid a shortage of parking for residents in the surrounding neighborhood.

 (10) The owner’s agreement that all rents of the short-term rental shall be limited to one (1) vehicle per two (2) occupants in the short-term rental.

 (11) The owner’s agreement to use his/her best efforts to assure that use of the short-term rental by all transient occupants will not disrupt the neighboring property owners to the quiet enjoyment of their properties.

 (12) If an owner is applying for a short-term rental permit for a property that is not owner-occupied, in accordance with 220A-2H above, the owner must provide documentary proof that the non-owner-occupied property was in use as a short-term rental property at the time of adoption of this chapter.

 (13) Any other information that this chapter requires a property owner to provide to the Borough in connection with an application for a certificate of occupancy. The Borough of Clementon Code Enforcement Officer, or his/her designee, shall have the authority to obtain additional information from the short-term owner/applicant or amend the permit application to require additional information, as necessary, to achieve the objectives of this chapter.

B. Every initial application for a short-term rental permit shall require documentation indicating that the property has been inspected for compliance with the Borough’s Fire Safety, Property Maintenance and Housing Codes within the past six (6) months. Thereafter, upon renewal, the applicant must present documentation that the property has been inspected for compliance of said Codes within the past three (3) years. Each application is subject to review to verify the short-term rental’s eligibility for use as a short-term rental and compliance with the regulations in this chapter. In addition, the Borough reserves the right to inspect a short-term rental for compliance with Fire Safety, Property Maintenance and Housing Codes, regardless of the status of the short-term rental permit application, if the Borough receives information that there may be a violation on the premises.

C. A zoning compliance certificate, which states that the premises are not being occupied or used in violation of the Borough’s Land Use Regulations and Zoning Ordinances, shall be required.

D. A notarized affidavit shall be required stating there have been no prior revocations or suspensions of this or a similar license, in which event a license shall not be issued, which denial may be appealed as provided hereinafter.

E. Attached to and concurrent with submission of the permit application described in this section, the owner shall provide the following:

 (1) Proof of the owner’s current ownership of the short-term rental unit.

 (2) Proof of general liability insurance in a minimum of $500,000.

 (3) Written certifications from the short-term rental property agent and responsible party that they agree to perform all the respective duties specified in this section.

F. The short-term rental owner/permit holder shall publish the short-term rental permit number issued by the Borough in every print, digital, or internet advertisement, and/or in the MLS or other real estate listing of a real estate agent licensed by the New Jersey Real Estate Commission, in which the short-term rental is advertised for rent on a short-term basis.

G. The short-term rental owner or agent shall maintain an up-to-date log of all transient occupants who will be occupying the short-term rental, which shall contain the occupant or occupants’ names, ages, dates of commencement and expiration of each short-term rental period. This log shall be available for inspection by the Code Enforcement Officer, Zoning Officer and the Public Safety Officials in case of emergency or upon request. The purpose of this requirement is to ensure that the Borough shall always have basic identifying information of all occupants of the short-term rental.

H. In no event shall a short-term rental be rented to anyone younger than 21 years of age. The primary occupant of all short-term rentals executing the agreement between the owner and the occupant must be over the age of 21 and must be the party who will occupy the property during the short-time rental. The primary occupant may have guests under the age of 21 who will share and occupy the property with them. Both the primary occupant executing the short-term rental agreement and the short-term rental owner shall be responsible for compliance with this provision, and shall be liable for a violation, where the short-term rental is not occupied by at least one adult over the age of 21 during the term of the short-term rental. No one under 18 years of age shall be permitted on the premises of a short-term rental, unless they are accompanied by their legal guardian.

**§ 220A-5. Issuance of permit and appeal procedure.**

A. Once an application is submitted, complete with all required information and documentation and fees, the Code Enforcement Officer, following any necessary investigation or compliance with this section, shall either issue the short-term rental permit or issue a written denial of the permit application, with the reasons for such denial being stated therein within 30 days, provided access to the short-term rental is provided by the owner or owner’s short-term rental agent.

B. If denied, the applicant shall have 10 business days to appeal the denial, in writing, to the Borough Administrator and Code Enforcement Officer.

C. Within 30 days thereafter, the Borough Administrator or his/her designee shall review and decide the appeal.

 **ARTICLE IV**

 **Operational Requirements**

**§ 220A-6. Short-term rental operational requirements.**

A. All short-term rentals must comply with all applicable rules, regulations and ordinances of the Borough of Clementon and all applicable rules, regulations and laws of the State of New Jersey, including regulations governing such lodging uses, as applicable. The short-term rental owner shall ensure that the short-term rental is used in a manner that complies with all applicable laws, rules and regulations pertaining to the use and occupancy of a short-term rental.

B. A dwelling unit shall be limited to three (3) short-term rental contracts at a time.

C. The owner of a short-term rental shall not install any advertising or identifying mechanisms, such as a signage, including lawn signage, identifying the property for rent as a short-term rental.

D. Transient occupants of the short-term rental shall comply with all ordinances of the Borough of Clementon, including, but not limited to, those ordinances regulating noise and nuisance conduct. Failure of transient occupants to comply shall subject the transient occupants, the owner of the short-term rental, the responsible party, and the short-term rental agent listed in the short-term rental permit application, to the issuance of fines and/or penalties, and the possibility of the revocation or suspension of the short-term rental permit.

E. The owner of a short-term rental shall post the following information in a prominent location with the short-term rental:

 (1) Owner’s name, if owner is an entity, the name of a principal in the entity, email address and phone number for the principal.

 (2) The names, email addresses, and phone numbers for the responsible party and the short-term rental agent as those terms are defined in this chapter.

 (3) The phone numbers for the Borough of Clementon Police, Code Enforcement and Clerk’s Office.

 (4) The maximum number of parking spaces available for short-term rental use onsite.

 (5) Trash and recycling pickup day and all applicable rules and regulations regarding trash disposal and recycling.

 (6) Notification that a guest, transient occupant, the short-term rental property agent, the responsible party or short-term rental owner may be cited or fined by the Code Enforcement Officer or Public Safety Official for violations of, and in accordance with any applicable ordinances(s) of the Borough of Clementon.

F. If any of the information required by 220A-6E above is inaccurate while displayed in the short-term rents, it shall be a violation of this chapter.

G. In the event that any complaints are received by Code Enforcement, Zoning or Public Safety regarding the short-term rental and/or the transient occupants and the owner of the short-term rental is unreachable or unresponsive, both the responsible party and the short-term rental agent listed in the short-term rental permit application shall have the responsibility to take any action required to properly resolve such complaints and shall be authorized by the short-term rental owner to do so.

H. While a short-term rental is rented, the owner, the short-term rental agent, or the responsible party shall be available on a 7-day/24-hour basis for the purpose of responding within two (2) hours to complaints regarding the condition of the short-term rental premises, maintenance of the short-term rental premises, operation of the short-term rental, or conduct of the guests at the short-term rental, or nuisance complaints from the Department of Public Safety, or neighbors, arising by virtue of the short-term rental of the property.

I. If the short-term rental is the subject of three (3) or more substantiated complaints, the Code Enforcement Officer or his/her designee or the Borough Administrator or his/her designee shall revoke the short-term rental permit issued for the short-term rental, in which case, the short-term rental may not be the subject of a new short-term rental permit application for one (1) year following the date of revocation of the permit. The Code Enforcement Officer or his/her designee or the Borough Administrator or his/he designee shall retain the discretion to revoke a short-term rental permit in the event of a single substantiated complaint if, in his/her sole discretion, the interests of the Borough and its residents justify immediate revocation. If a short-term rental is the subject of a civil and/or criminal complaint and/or code violation that involves a dangerous condition, as defined in this section, the Code Enforcement Officer or his/her designee or the Borough Administrator or his/her designee may, at their sole discretion, suspend the short-term rental’s short-term rental permit pending substantiation.

J. In the event that the Borough receives two (2) substantial complaints concerning excessive vehicles belonging to the transient occupants of a short-term rental, the permit issued to the property is subject to revocation by the Code Enforcement Officer or his/her designee or the Borough Administrator or his/her designee, as follows:

 (1) A short-term rental permit is subject to revocation or suspension by the Borough Administrator or designee or the Code Enforcement Officer or designee in the event the short-term rental is convicted of a criminal complaint or code violation, or found liable in a civil case of violating this chapter.

 (2) The applicant shall have 10 business days to appeal the revocation or suspension, in writing, to the Borough Administrator and Code Enforcement Officer.

 (3) Within 30 days thereafter, the Borough Administrator or his/her designee shall review and decide the appeal.

K. Failure to make application for, and to obtain the issuance of a short-term rental permit prior to advertising the short-term rental in print publications or newspapers, on any internet-based booking platforms, or online, and/or in the MLS or other real estate listing of a real estate agent licensed by the New Jersey Real Estate Commission, shall be equivalent to operation of the short-term rental without a permit, and shall constitute a violation of this chapter, and will result in enforcement action and the issuance of a summons and shall subject the short-term rental owner, the short-term rental agent, and the responsible party to issuance of fines and/or penalties.

**§ 220A-7. Violations and penalties.**

A. A violation of any provision of this chapter may subject the short-term rental owner, transient occupant(s), the short-term property rental agent, and the responsible party or their agents to fines assessed by the Court up to $2,000 per violation, but not less than $100 per violation per day that the violation exists.

B. The short-term rental owner, transient occupant(s), the short-term property rental agent, and the responsible party or their agents shall have 30 days to cure the violation(s). Within the 30-day period, the short-term rental owner, transient occupant(s), short-term property rental agent, and the responsible party or their agents’ request, they shall be afforded a hearing before a Borough of Clementon Municipal Court Judge for an independent determination concerning the violation(s).

C. After the expiration of the 30-day period, the fine shall be imposed if a Court has not determined otherwise, or upon reinspection of the property it is determined that the abatement has not been substantially completed.

 **SECTION 2.** All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are, to the extent of such inconsistencies, hereby repealed.

 **SECTION 3.** This ordinance shall take effect upon final passage, adoption, and publication in the manner prescribed by law.

Attest: BOROUGH OF CLEMENTON

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Jenai L. Johnson, Clerk Thomas Weaver, Mayor