

ORDINANCE RECORD**VILLAGE OF NEWBURGH HEIGHTS, OHIO****ORDINANCE NO. 2022-12**

INTRODUCED BY: Councilman Dunman

AN ORDINANCE PLACING A MORATORIUM ON THE OPERATION OF ANY SHORT-TERM RESIDENTIAL REAL ESTATE RENTALS, AND DECLARING AN EMERGENCY

WHEREAS, the Village has the inherent power to enact planning, zoning and business regulations that further the health, safety, welfare, comfort and peace of its citizens, including restricting or prohibiting certain business and land uses;

WHEREAS, the Village zoning code does not contain any comprehensive regulations concerning the operations of short term (less than 30 days) residential real estate rentals ("STRs") within the Village's residential zoning districts, but rather sets forth rental registration and inspection rentals that are applicable to all residential rental arrangements;

WHEREAS, the Village's existing rental registration and inspection requirements do not take into account the distinct differences between short term rentals and tenancies of longer duration;

WHEREAS, by information and belief, over the past few years there has been an increase in the operation of STRs in Northeast Ohio by way of online STR booking sites including in the Village of Newburgh Heights where residential homes have been rented and used as STRs via online booking sites;

WHEREAS, the Village has a legitimate public interest in preserving its residential neighborhoods, and the recent proliferation of STRs in Northeast Ohio threatens the health, safety, welfare, comfort and peace of the Village's neighborhoods by introducing transient guests into the Village's residential zoning districts, leading to increased noise, traffic, and occupancy of homes without sufficient owner supervision and Village oversight;

WHEREAS, the Village needs additional time to review any applicable sections of its Codified Ordinances and any applicable state law, conduct community outreach, and to study, plan for, formulate, and draft reasonable and comprehensive regulations with respect to STRs within the Village;

WHEREAS, until such time as reasonable and comprehensive regulations concerning STRs are established, this Council desires to enact a moratorium on the operation of STRs in the Village's residential zoning districts for a period of one hundred and eighty days (180) in order to prevent proliferation of these uses in the Village's residential zoning districts while also taking

time to ensure that the Village regulates these uses in a reasonable and practical manner so as to protect both the rights of property owners and the Village's residential neighborhoods;

WHEREAS, the moratorium herein is not intended to be, and it shall not operate as, a moratorium on any currently-existing STR with respect to which the real estate and any improvements thereon are marketed for short term rental utilizing an internet-based short-term rental platform and/or website that reports income to the Internal Revenue Service by issuing a Form 1099 to the owner of said real estate (hereafter referred to as a "STR Platform"); and

WHEREAS, Council draws a distinction between a STR utilizing a STR Platform and any traditional inn or bed and breakfast;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL FOR THE VILLAGE OF NEWBURGH HEIGHTS, COUNTY OF CUYAHOGA AND STATE OF OHIO, THAT:

Section 1. There is hereby established a one hundred and eighty day (180) temporary moratorium prohibiting the use of any residential dwelling as a STR and/or for short term rentals (less than 30 days) of real property to any guest who is a non-owner of said property.

Section 2. That the moratorium enacted hereunder shall be in effect for a period of one hundred eighty days from the effective date of this Ordinance or until regulations are enacted to permit the use of a residential dwelling as a STR or until Council approves legislation explicitly revoking this moratorium, whichever occurs first.

Section 3. This moratorium shall not apply to any STR with respect to which the real estate and any improvements thereon are marketed for short term rental utilizing an internet-based short-term rental platform and/or website that reports income to the Internal Revenue Service by issuing a Form 1099 to the owner of said real estate (hereafter referred to as a "STR Platform"), provided that (i) the subject property was utilized as a STR prior to the effective date of this ordinance, (ii) the owner of the subject property can demonstrate that the subject property was utilized as a STR prior to the effective date of this ordinance by producing a Form 1099 from a STR Platform or by producing other reliable proof of said use, in the reasonable, sole and exclusive judgment of the Building Commissioner and (iii) the owner of the subject property otherwise complies with both the Village requirements for obtaining a rental registration certificate and the terms and provisions of this ordinance. Any STR meeting the requirements of this section shall be an "Exempted STR."

Section 4. Any Exempted STR hereunder shall comply with the inspection requirements set forth in Codified Ordinance Section 1353.04. Council hereby waives the inspection requirements set forth in Codified Ordinance Section 1353.05 for any Exempted STR for the duration of the moratorium.

Section 5. The exemption provided herein relates to real property and not to any particular corporation, limited liability company, entity, partnership, company, or person, and shall run with the land for the duration of the moratorium only. Nothing herein shall be construed to allow or permit any expansion of business or operations of any such corporation, limited liability company, entity, partnership, company, or person that owns an Exempted STR.

Section 7. On or before June 15, 2022 and August 15, 2022, the owner of any Exempted STR hereunder shall provide the Village with information as to the frequency of use of such Exempted STR on a form provided by the Village Building Department for such reporting.

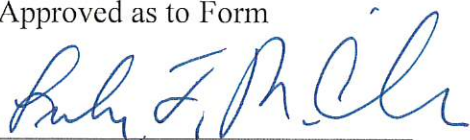
Section 8. In the event that Council enacts regulations permitting the use of residential dwellings as a STR, the moratorium hereunder shall expire as of the effective date of such regulations, and any residential dwelling used as a STR, including, but not limited to, any Exempted STR, shall be obligated to comply with the regulations established by Council.

Section 9. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in such formal action occurred in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 10. That the moratorium e This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of public peace, health and safety of the inhabitants of the Village of Newburgh Heights, such emergency being the need to prevent the unregulated proliferation of short term rental arrangements within residential dwellings in the Village; wherefore, provided it receives the affirmative vote of four (4) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

PASSED: February 1, 2022

Approved as to Form



Solicitor



Trevor Elkins, Mayor
Village of Newburgh Heights, Ohio



Cathleen Nagorski, Fiscal Officer
Village of Newburgh Heights, Ohio

1ST Reading: 2/1/22
2ND Reading: 2/1/22
3RD Reading: 2/1/22