

LONG TERM PLANNING FOR SHORT TERM RENTALS

Coulter Ebbert and Thomas Lovecchio

I. INTRODUCTION

With the rapid growth in popularity of short-term rental properties, or vacation rentals by owners (VRBO), many property owners, neighbors, townships, and municipalities have become affected by the change in use of residential properties. This increase in popularity is mainly due to well-known websites such as Airbnb and other services which allow property owners to list their properties to be rented out for short periods of time. In most cases, local governments have been left unprepared and ill-equipped to address the issues which arise from residential properties adopting characteristics more akin to hotel or lodging properties. Due to the distinct type of use of short-term rental properties, many local single-family residential zoning provisions already in place are not efficient nor effective enough to properly regulate or prohibit single-short-term rentals. Because of this, it is essential that Susquehanna Township rectify their pre-existing laws and adopt an ordinance specifically designed to regulate short-term rentals. If Susquehanna Township does not adopt an ordinance, it will encounter major issues that will result in a change the neighborhoods, a lack of renter protection, and regulation avoidance.¹

The proposed short-term rental ordinance is designed to allow local governments to properly regulate the use of short-term rentals in single-family residential properties and other applicable property types through a permitting system. Pursuant to the proposed ordinance, property owners must obtain and maintain a proper short-term rental permit for each property sought to be used as a short-term rental. Each property owner seeking a permit must satisfy the requirements specified in the proposed ordinance and each applicant must pay the township an

¹ See *infra* notes and discussion, Section II.

annual permit and inspection fee in accordance with the proposed ordinance. Property owners who hold a valid short-term rental permit must adhere to the provisions of the proposed ordinance. Those property owners who fail to maintain their short-term rental in accordance with the proposed ordinance or violate the provisions of the proposed ordinance will be subject to fines and penalties, including but not limited to permanent suspension of their short-term rental permit.

The goals of this proposed ordinance is to protect and promote the public health, safety, and welfare of the citizens of the community, establish the rights and means for property owners to make reasonable use of their properties as short-term rentals in accordance with the ordinance. Also, this ordinance is designed to minimize negative impacts of unregulated short-term rentals to the community, such as excessive noise, accumulation of trash and waste, and inappropriate conduct of transient visitors in the community.

The proposed ordinance will address social problems of the community brought on by the unregulated use of short-term rentals. Problems such inappropriate conduct, increased traffic, and increased use of public resources, all of which interrupt the tranquility of residential communities, will be addressed accordingly through the enforcement of the proposed ordinance.

The proposed ordinance will ensure that the local government gains an economic benefit from the regulated use of short-term rentals, as well as those property owners who receive short-term rental property licenses. Increased revenues from the permitting system will put more funds in the coffers of the enforcing government and property owners will achieve gains from renting their short-term rentals in accordance with the proposed ordinance. Susquehanna Township will also avoid economic hardships associated with increased public services and strains on local

resources. The ordinance will also act to impose necessary and vital regulations on a specific use of property where before such use was previously unregulated.

Environmental concerns, such as over use of specified property uses and increased waste products, will also be addressed. Environmental benefits will also be had through the enforcement of the proposed ordinance. Proper land-type use will ensure that residential communities will remain just that. The proposed ordinance will also ensure that the environmental benefits and a residential community experiences will be a priority of Susquehanna Township through the regulation of short-term rentals.

Section II of this paper discusses the current problems that short-term rentals cause in given communities and municipalities. Such problems as threatened changes in residential neighborhoods brought on by short-term rental properties, lack of renter and community protection when short-term rentals go unregulated, and the impacts of non-regulation for short term rentals are all discussed in detail.

Section III discusses why Susquehanna Township is in need of an ordinance to regulate short-term rental properties. This section explores the issues municipalities and townships like Susquehanna Township experience due to unregulated short-term rentals and how such issues may be addressed.

Section IV covers what other townships and municipalities within Pennsylvania have done to address short-term rental issues. This section reviews what has happened in jurisdictions when existing laws have been attempted to apply to short-term rentals, when existing laws have been modified or amended to include short-term rentals within their regulations, and when new

laws have been created to specifically address the unique issues townships face with the use of short-term rentals.

Section V discusses the recommendations given to Susquehanna Township, in light of the approaches of other Pennsylvania jurisdictions and policy considerations that need be considered when adopting a new ordinance to regulate short-term rentals. Furthermore, Section V addresses how a new short-term regulation will confront the issues regarding short term rentals and what impacts and benefits the short-term ordinance may have on those residing in Susquehanna Township. Lastly, Section V looks into the financial repercussions and considerations Susquehanna Township must face with the implementation of such an ordinance.

II. CURRENT PROBLEMS ASSOCIATED WITH SHORT-TERM RENTALS

Property has been the subject of much debate, dating back to John Locke when he stated that the government “can never be supposed to extend farther, than the common good: but is obliged to secure every one’s property.”² Thus, the starting point with any property issue should be finding a balance where the governmental agency purports the common good but does not infringe upon an individual’s property rights. Locke’s writings may also be applied to the issues surrounding short-term rentals, where individual property owners wish to exercise control over their properties by renting them out as they please with limited government regulation. The government faces the challenge of purporting the common good by protecting renters and the property owners while also ensuring residential communities maintain their integrity.

² John Locke *Second Treatise of Government* 68 (1821).

A. Changing the neighborhood

When a person or family moves into a neighborhood they tend to have an expectation as to what that neighborhood will look like. Those expectations can be disrupted when members of a community start to rent out their homes or apartments. Residents ranging from the island of Oahu to Barcelona's Old Town³ to small towns in Vermont⁴ and Oregon⁵ all experience issues pertaining to short-term rentals. Residents are not expecting so many tourists within their community and thus are voicing their concerns.⁶ These concerns vary from lack of parking, to "feeling unsafe" in their own neighborhood, to "loud partying."⁷ Short-term rentals impact the basic organizations that make up a community, such as a volunteer fire department or the local school board.⁸ People who are staying at short-term rentals "are not the type to join the Kiwanis or serve on the volunteer fire department."⁹

Other neighborhood issue may arise due to short-term rentals, such as when a group of people come to town for an event, stay in a short-term rental, and party all weekend.¹⁰ Changing the neighborhood not only impacts the makeup of the neighborhood, but it also leads to an increase in rent price. Various studies have "suggested a link between the concentration of Airbnb properties in a neighborhood and rising rents."¹¹ This is an issue because, while one person would be benefiting from the additional income from renting their home, rent prices in

³ Daniel Guttentag, *What Airbnb really does to a neighborhood* (August 2018), <https://www.bbc.com/news/business-45083954>.

⁴ Howard Weiss-Tisman, *As Vermont's Airbnb Scene Geows, Small Towns Struggle With Regulation* (May 2017), <http://digital.vpr.net/post/vermonts-airbnb-scene-geows-small-towns-struggle-regulation#stream/0>.

⁵ Dena Levitz, *For Smaller Cities, the Airbnb Backlash Can Be Even Bigger* (April 2014), <https://www.citylab.com/life/2014/04/smaller-cities-airbnb-backlash-can-be-even-bigger/8931/>

⁶ *Id.*

⁷ *Id.*

⁸ Daniel, *Airbnb is Disrupting Small Town America One Bedroom at a Time* (October 18, 2016). <https://marketmadhouse.com/airbnb-disrupting-small-town-america-one-bedroom-time/>.

⁹ *Id.*

¹⁰ See Dena Levitz.

¹¹ See Daniel Guttentag.

the neighborhood have the potential to increase. In these cases, long-term rental prices may increase in order to combat the more lucrative short-term rental incomes that provide its owners with more revenue when compared to long-term rentals.¹²

With Susquehanna Township being predominantly made up of residential areas, it is clear that the impact short-term rentals may have on such areas is a paramount concern. Such issues as those described above may put the residential communities of Susquehanna Township in turmoil, creating dilemmas and putting a strain on neighborhood relations. This may eventually lead to greater issues such as a reluctance to reside within such areas or devaluation of properties close to unregulated short-term rentals within Susquehanna Township.

B. Lack of renter protection

Allowing rental properties to go unregulated may leave renters unprotected. When a person goes to a hotel, they have an expectation to arrive on a certain date and upon arrival the hotel will be clean, as described, and the renter will not see a false charge when the hotel slides the bill under the renter's door. A research study done in 2017 showed that host canceling the stay, scams, unsafe and unacceptable conditions, and not as described were the top four complaints of Airbnb.¹³ This study showed that in 2016 Airbnb had nearly 8 million stays, of which 3-7% of stays reported issues.¹⁴

Host canceling the stay was based off of a cancellation by the host "without the permission of the guest."¹⁵ This is a problem because without regulation, a host can cancel the stay very close to the rental date, which then leaves the renter exposed to subsequent issues, such

¹² *Id.*

¹³ Asher Fergusson, S.R. Ahqvist, Erin Smith *Research Study: Is Airbnb safe for guests? What causes an Airbnb stay to turn into a horror story* (November 2017), <https://asherfergusson.com/airbnb>.

¹⁴ *Id.*

¹⁵ *Id.*

as needing new lodging or potentially losing money. Scams can range from a renter creating multiple accounts to listing a rental more than once, thus being able to collect more than one fee or continuously have a rental listed longer in hopes of receiving a higher payment.¹⁶ Without regulation, short term rentals are not subject to inspections and standards that local governments set for rental properties. Unacceptable conditions such as bug infestations, mold, hidden cameras, improper climate control,¹⁷ and many others put renters at risk. Having a rental property “not as described” was defined as having specific amenities that were listed, which upon check-in were nonexistent.¹⁸ These issues pose a great risk to travelers and can all be addressed by appropriate regulatory measures.

Susquehanna Township may be subject to issues brought upon by lack of renter protections as a result of unregulated short-term rentals. Scams and undesirable short-term rental conditions would make the areas these short-term rentals reside less than desirable for those seeking to live there. Furthermore, any such conditions would reduce property values within the area. Lack of protections given by landlords and owners would reflect poorly upon the properties they manage. Thus, Susquehanna Township would potentially see dilapidated buildings where uncaring owners of short-term rentals disregard needed upkeep. Moreover, those who do seek such lodging within Susquehanna Township would not have protections against scams and poor conditions. This could result in a loss of transient visitors to Susquehanna Township.

C. Regulation avoidance

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

Without an ordinance, short-term rentals in Susquehanna Township will continue to remain unregulated. Before short-term rentals started to gain popularity, “occupancy taxes generally applied only to hotels, motels, bed and breakfasts, and the like.”¹⁹ This is not only applicable to large cities. For example, in Ashland, Oregon, rental properties, such as “hotels, motels, and bed and breakfasts” have to pay a transient occupancy tax and must “obtain a business license.”²⁰ With the increase in popularity of short-term rentals, governments are now looking to effectively regulate it.²¹ Further, if short-term rentals are not subject to local occupancy taxes, short-term rentals “will be less expensive than the hotel rentals thus causing a decline in the hotel business.”²² Susquehanna Township currently has no regulation or taxation provisions which apply specifically to short-term rentals.

Currently, Susquehanna Township does not benefit from any taxation on the use of short-term rentals within its community. Further, there are no regulations which apply to short-term rentals within Susquehanna Township. This brings rise to problems such as over occupancy of residential homes used as short-term rentals. With such a dilemma brings further issues such as unregulated overuse of public utilities, lack of short-term rental standards and guidelines, transient parking issues, and public nuisances. With the popularity of short-term rentals rising, Susquehanna Township may experience these issues at a greater frequency, ultimately negatively effecting the residential communities within the Township.

¹⁹ Alexander W. Cloonan *The New American Home: A Look at The Legal Issues Surrounding Airbnb and Short-Term Rentals*, 42 Dayton L. Rev. 27, 32 (2017).

²⁰ See Dena Levitz.

²¹ Cloonan, *supra* note 19.

²² *Id.*

III. WHY SUSQUEHANNA TOWNSHIP NEEDS AN ORDINANCE TO REGULATE SHORT-TERM RENTAL PROPERTIES.

Due to Susquehanna Township's lack of an ordinance regulating short-term rentals, it finds itself in a precarious position where, in order to avoid problems which may stem from lack of regulation, it needs to adopt an appropriate ordinance. First, short term rentals face numerous problems.²³ Second, Susquehanna Township does not have a permit program nor an ordinance which addresses short-term rentals.²⁴ Now is the time for Susquehanna Township to act. At the time of writing this narrative, Airbnb had over seventy properties listed on its website that are within Susquehanna Township.²⁵ Airbnb also has at least nine competing companies,²⁶ therefore Susquehanna Township could have even more than seventy short-term rental properties within its confines. This section will address why Susquehanna Township should create a new ordinance rather than trying to regulate short-term rentals under its current ordinances and how the new ordinance will solve current problems with short-term rentals.

A. Trying to regulate short-term rentals under current zoning ordinances will be unsuccessful

Susquehanna Township needs a new ordinance because if it were to try and regulate short-term rentals by applying any of its current ordinances the Township would likely be unsuccessful. Some Townships have tried to regulate short term rentals by arguing it fits within the townships' current zoning ordinances and in at least four cases the Commonwealth Court has reversed local zoning hearing board decisions, holding that local governments need to

²³ See *supra* notes and discussion, Section II.

²⁴ Township of Susquehanna, PA, Municipal Code Chapter 13: Licenses, Permits and General Business Regulations.

²⁵ *Airbnb*, https://www.airbnb.com/s/Susquehanna-Township--PA/homes?refinement_paths%5B%5D=%2Fhomes&adults=1&children=0&infants=0&guests=1&allow_override%5B%5D=&s_tag=bFaL-MCP (last visited 9/29/2018).

²⁶ *Tripping*, <https://www.tripping.com/industry/rental-companies/9-airbnb-competitors-that-you-should-know-about>, (last visited 9/30/18).

specifically address the new type of use and not merely attempt to interpret non-applicable pre-existing laws to apply to short-term rentals.²⁷ If a local zoning ordinance has any doubt or ambiguity in it then it “must be resolved in favor of the landowner and the least restrictive use of the land.”²⁸ The Commonwealth Court has even held that short-term rentals are “consistent with the single-family dwelling use.”²⁹ By creating a new zoning ordinance, Susquehanna Township avoids having to litigate this issue under its current ordinances, which the Township would presumably lose on, and the new ordinance would provide stability and predictability for everyone involved. Based off of Susquehanna Township’s current zoning ordinance in Chapter 27 part 5 for residential districts, short-term rentals may properly fit within the intended purpose of this ordinance as a related land use for a single-family dwelling.³⁰ However, due to the recent Pennsylvania Commonwealth Court decisions, any attempt of regulating short-term rentals under such an ordinance would be ineffective.³¹

Because there are no current zoning ordinances within Susquehanna Township which specifically address the use of short-term rentals, the holdings of the Commonwealth Court Cases would prevent Susquehanna Township from attempting to curtail short-term rental use under any pre-existing definitions of uses which are currently on the books. The current text of Susquehanna Township’s zoning ordinances remains inapplicable for that very reason.

²⁷ *Shvekh v. Zoning Hearing Board of Stroud Township*, 154 A.3d 408 (Pa. Commw Ct. 2017); *Slice of Life, LLC v. Hamilton Township Zoning Hearing Board*, 164 A.3d 633 (Pa. Commw. Ct. 2017); *Marchenko v. Zoning Hearing Board of Pocono Township*, 147 A.3d 947 (Pa. Commw. Ct. 2016); *Reihner v. City of Scranton Zoning Hearing Board*, 176 A.3d 396 (Pa. Commw. Ct. 2017).

²⁸ *Marchenko*, 147 A.3d at 951 (citing *Header v. Schuylkill County Zoning Hearing Board*, 841 A.2d 641, 645 (Pa.Cmwth.2004)).

²⁹ *Id.* at 950.

³⁰ Susquehanna Township, Pennsylvania, Municipal Code § 27-501 (2003)

³¹ See *supra* note 27.

B. A new ordinance will solve current problems

By implementing a new short-term rental ordinance, Susquehanna Township will remedy many issues already facing the township. A short-term rental ordinance will also act in a manner which would protect the interests of Susquehanna Township, such as their residential communities and property owners.

1. Keeping the neighborhood standard

Susquehanna Township needs a new ordinance because it will create predictability within a neighborhood. Most of the previous problems discussed are based off of a departure from the neighborhood expectation. If someone moves into a neighborhood with an already established short-term rental zoning ordinance, they would have an idea of what to expect within the neighborhood, thus not departing from their expectation. Furthermore, an ordinance regulating short-term rentals will act to limit and restrict unwanted behaviors by transient visitors and property owners which do not coincide with residential communities. By including durational limits, the ordinance will have a nice balance that “takes into consideration both hosts and the neighbors.”³² The other argument about changing the neighborhood was based off of a lack of participation in community basics like the school board or volunteer fire department.³³ It is true that short-term renters would not participate in these, but “[w]hen an individual owns a home and lives in that home permanently, they do care about the wellbeing of the community.”³⁴

³² Cloonan *supra* note 17, at 48.

³³ See *supra* notes and discussion, Section II A.

³⁴ Cloonan *supra* note 17, at 45.

2. Providing renter protection

Susquehanna Township needs a new ordinance because without one, renters will remain unprotected. Without an ordinance, hosts canceling stays, unsafe conditions, and other issues³⁵ will only exacerbate problems within the Township. Without an ordinance the Township will not have any way to hold the owners of short-term rental properties accountable and would have no way of identifying if the short-term rental is in compliance with rental property standards.

3. No more regulation avoidance

Susquehanna Township does not have an ordinance for short-term rentals so it is currently unregulated. Due to the non-existent ordinance, short-term rentals in Susquehanna Township are avoiding a permit program and taxation. A permit program would require property owners to obtain a permit that must be renewed on a yearly basis. A new ordinance is needed because it will allow Susquehanna Township to keep track of what properties are permitted to be a short-term rental so that the Township can better address any issues or complaints that arise. By imposing a tax on short-term rentals, Susquehanna Township will be able to tax previously untaxed income, as it should, and this also creates a balance between short-term rentals and the hotel/motel/bed and breakfast industries. A short-term rental ordinance would also enable Susquehanna Township to hold property owners accountable for the transient visitors staying in their short-term rentals. This will enable the township to be able to contact property owners if issues arise at their short-term rentals. Further, such an ordinance will force property owners to comply with the ordinance terms dictating standards on short-term rentals, bringing short-term rentals into a universal compliance and holding transient visitors and property owners accountable for any violations of those terms.

³⁵ See *supra* notes and discussion, Section II B.

IV. HOW REGULATIONS HAVE BEEN USED TO ADDRESS THE ISSUES SURROUNDING SHORT-TERM RENTAL PROPERTIES IN OTHER JURISDICTIONS

With the new popularity of short-term rentals, the demand for townships and local governments to regulate these uses and the individualistic type of such uses has left many governments unprepared and unable to determine how to adequately address the issues arising from short-term rentals. Because such issues are relatively new, there are but few townships and municipalities who have attempted to solve this dilemma. The approach to the issues surrounding unregulated short-term rental properties can vary depending on what the municipalities or townships are seeking to regulate in regards to short-term rentals and what each jurisdiction seeks to achieve from the use of short-term rentals. Some communities wish to foster the economic and social advantages short-term rental properties offer³⁶, while other communities seek to stifle or prohibit short-term rentals altogether³⁷. Many jurisdictions in Pennsylvania have sought to regulate and govern short-term rentals by arguing that they are excluded by current zoning ordinances, specifically those applying to single family dwellings.³⁸ Other local governments have determined it more effective to develop a new regulation altogether to specifically address short-term rental properties within their communities.³⁹ Through the experiences of other communities, it is clear that the most effective way to deal with short-term rentals, wishing either to support or limit the use of short-term rentals, is to specifically regulate them by either modifying existing laws or adopting new ones to cater to the communities' needs and desires.

A. Attempting to regulate short-term rentals using existing laws

³⁶ Middle Smithfield, Pa., Ordinance 221 (Aug. 23, 2018).

³⁷ Bethlehem, Pa., Ordinance 2017-37 (Dec. 5, 2017).

³⁸ See *supra* notes and discussion, Section III.

³⁹ See Daryl Nerl, *Bethlehem passes law regulating Airbnb rentals* (December 6, 2017), <http://www.mcall.com/news/local/bethlehem/mc-nws-bethlehem-home-sharing-vote-20171206-story.html>.

Many local municipalities and governments have attempted to curtail short-term rental property use by applying already existing zoning laws and ordinances to the particular use of short-term rentals. A series of decisions made by Pennsylvania Courts have shown that this approach is most unfavorable and not an effective strategy to address short-term rental use.⁴⁰ In each of the four Pennsylvania Commonwealth Court decisions, the Court held that local governments must specifically address short-term rental use in their zoning laws, and that laws already in existence that do not specifically address this use will not be construed to do so.⁴¹ Furthermore, the Courts have highlighted specific duties and standards that townships and their local zoning boards must adhere to, which prevent these government entities from improperly applying existing ordinances to prohibit short-term rental use when no such ordinance expressly addresses these uses.⁴² Pocono Township⁴³, Stroud Township⁴⁴, and Hamilton Township⁴⁵ of Monroe County and the City of Scranton⁴⁶ in Lackawanna County have all attempted to limit the use of short-term rental properties by applying pre-existing zoning ordinances to short-term rentals. Each Township was found to be inadequate in their application of existing laws to short-term rentals where the existing laws did not expressly address short-term rental property use in the specific zoning areas. Further, the Courts have emphasized the importance of definitions within a governing ordinance, methodically reviewing each definition in determining if an

⁴⁰ See *supra* note 27.

⁴¹ *Id.*

⁴² See *Shvekh* 154 A.3d at 412, “A zoning hearing board has an obligation to construe the words of an ordinance as broadly as possible to give the landowner the benefit of the least restrictive use when interpreting its own Zoning Code.”; *Id.* “Any doubt must be resolved in favor of the landowner. It is an abuse of discretion for a zoning board to construe the terms of an ordinance for the intended purpose of restricting a property’s use.”; 53 P.S. § 10603.1, “In interpreting the language of zoning ordinances to determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the governing body, in favor of the property owner and against any implied extension of the restriction.”

⁴³ See *Marchenko*, 147 A.3d 947.

⁴⁴ See *Shvekh*, 154 A.3d 408.

⁴⁵ See *Slice of Life*, 164 A.3d 633.

⁴⁶ See *Reihner*, 176 A.3d 396.

existing ordinance may apply to a new or particular use at issue.⁴⁷ For a township to properly regulate a particular use, case law strongly suggests, if not requires, that the use be included within the ordinance definition and expressly established within the text of the law.⁴⁸ Moreover, Courts have made it clear that if a township wishes to address new uses, such as short-term rental use, they may do so in a zoning ordinance which specifically addresses that use.⁴⁹

Since the Pennsylvania Commonwealth Courts have readily established that local townships and governments cannot construe existing laws, which do not speak specifically on short-term rentals, to apply to short-term rental usages, it is evident that this approach to short-term rentals is not effective and does not provide a satisfactory solution to any problems surrounding short-term rentals. Susquehanna Township has no specific ordinances which directly speak to short-term rentals,⁵⁰ so any attempt to regulate short-term rentals under these ordinances would prove to be ineffective.

B. Modifying or amending existing laws to address short-term rental properties

Some townships and municipalities have attempted to confront short-term rental issues by amending their existing zoning laws.⁵¹ Such amendments allow these local governments to include definitions which would subject short-term rental properties to the regulations already in existence within the township's zoning laws. Though this is an effective way to include short-term rentals into existing regulations, townships and municipalities often later adopt

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Shvekh*, 154 A.3d at 414, “Airbnb has expanded the possible uses of a single-family dwelling, and the Township can address these new uses in the Zoning Ordinance. However, amendments cannot be effected by shoe-horning a use that involves renting an entire single-family home to vacationers into the definition of ‘tourist home.’”

⁵⁰ Susquehanna Township, Pennsylvania, Municipal Code §27 (2003).

⁵¹ Middle Smithfield, Pa., Ordinance 215 (Sep. 14, 2017).

comprehensive ordinances to specifically regulate short-term rentals.⁵² Later adoption of specific ordinances allows for a more inclusive regulation of short-term rentals, where as mere amendments to existing laws may fail to do so.

Middle Smithfield Township in Monroe County Pennsylvania is one Township that amended its zoning ordinance to include definitions of short-term rentals of residential dwellings and enacted limited regulations on short term rentals.⁵³ Middle Smithfield Township's amendment limited the use of residential dwellings as short-term rental properties by providing that such properties may only be rented for such uses for 179 days within a calendar year.⁵⁴ The amendment also provided that short-term rental activity of a residential dwelling would be considered a change in the use of the property, which would first require a zoning permit from the township for such change of use, effectively preventing short-term rentals of residential dwellings altogether.⁵⁵

While this Amendment to Middle Smithfield Township's zoning ordinance was effective in regulating, or restricting, short-term rentals of dwelling units, it did not provide an equitable solution to the short-term rental issue between the property owners seeking to use their properties as short-term rentals and those within the community and local government. Because of this, Middle Smithfield Township later enacted a zoning ordinance specifically designed to regulate short-term rentals through a permitting system.⁵⁶

Taking note from the actions of Middle Smithfield Township, it is important to recognize that, while amending existing zoning laws may allow governments to regulate short-term rental

⁵² Webinar: Summer/Fall 2018 Land Use Webinar series: Regulating Short-term rentals, held by PennState Extension (Jul. 18, 2018) (registration found at <https://extension.psu.edu/land-use-webinar>).

⁵³ *See supra* note 51.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Middle Smithfield, Pa., Ordinance 216 (Sep. 14, 2017).

use, it may not be the most effective or equitable method of governance. Such methods may result in disparity within the community, leaving those property owners attempting to lawfully conduct short-term rentals unable to do so.

C. Adopting new laws to address short-term rental properties

As evidenced in the aforementioned case law in section IV subsection A, the only way to adequately address and regulate the short-term rental use of property within a community is through adopting new laws to specifically cover short-term rental uses.^{57 58} Many townships have taken the advice of the courts and the warnings given by Commonwealth Court decisions and chosen to adopt new ordinances which specifically apply to short-term rental properties. Because a new ordinance speaks directly to the particular use, there is no question that the new ordinance applies to short-term rental properties, and lawmakers may specifically tailor the new ordinance to meet the township's individual needs.

The City of Bethlehem, Pennsylvania is one such community which, in an effort to regulate short-term rental properties, elected to adopt a new ordinance which specifically applies to short-term rental properties.⁵⁹ Bethlehem sought to protect its community and deter any effects which may arise from overuse of non-regulated short-term rental properties by enacting an ordinance which established a licensing program for short-term rental properties.⁶⁰ This ordinance defined "short-term lodging," "transient visitor," and other essential terms to be sure that the ordinance applied specifically to short-term rental properties to best effectuate the township's desires.⁶¹ The ordinance also outlined the city's permitting system, including the

⁵⁷ See *supra* notes and discussions section IV subsection A.

⁵⁸ See *supra* note 27.

⁵⁹ See *supra* note 37.

⁶⁰ *Id* at § 1741.04 (2017).

⁶¹ *Id* at § 1741.02 (2017).

requirements and procedures for applying for the permit, the standards the permit recipients must maintain, and any penalties or sanctions a permit holder may be subject to for failure to abide by the ordinance and its provisions.⁶² As stated in Bethlehem's ordinance, the propose of the ordinance was to restrict the use of short-term rental properties to a manner which complies with the community's atmosphere and residential zoning areas.⁶³ To effectuate this purpose, Bethlehem's ordinance subjected short-term rental permit holders to conditions which limited the amount of time a licensed property holder could rent to a transient visitor, as well as established minimum amounts of time which a transient visitor must stay so as to maintain the citizens of Bethlehem's expectation of living in residential areas.⁶⁴ The ordinance also imposed restrictions on the amount time a licensed property holder may rent his property to transient visitors, establishing that no short-term rental property may be rented for such use for more than thirty days, consecutive or non-consecutive, in one calendar year.⁶⁵

For the purposes of Bethlehem, Pennsylvania, this ordinance had addressed the concerns of the citizenry efficiently. The city legislator sought to restrict the use of short-term rentals so as to maintain the residential atmosphere of its community and to prevent commercialization in these areas which would shatter the familial atmosphere so important to Bethlehem.⁶⁶ Positive reactions to the Bethlehem ordinance have been evidenced in Bethlehem City Council Meetings, where lawmakers received praise from residential occupants of Bethlehem, grateful that the city

⁶² *Id* at § 1741.06 (2017).

⁶³ *Id* at § 1741.01 (2017).

⁶⁴ *Id* at § 1741.05 (2017).

⁶⁵ *Id* at § 1741.03 (2017); Bethlehem's City Ordinance applied acts in a manner which nearly completely deters any use of short-term rentals. Because the Ordinance's use and time provisions are so strenuous, the manner in which short-term rentals are typically used is unable to be perpetuated by property owners. Short-term rental property owners may not rent their properties in such a fashion for more than thirty days of the year and any such use must be for longer that seven days.

⁶⁶ *See supra* note 37.

legislator sought to protect the residential atmosphere of the community as well as their home investments into such areas.⁶⁷

For Bethlehem, a zoning ordinance which strictly regulated the use of short-term rentals met the community's needs. But for other communities, an ordinance which balances the economic benefits of short-term rentals and the rights of property owners with the needs for the community and residential atmosphere is better tailored for the township. Such is the case of the Township of Middle Smithfield, Monroe County, Pennsylvania.

As discussed above in section IV subsection B, Middle Smithfield Township first sought to address short-term rentals by amending their pre-existing zoning ordinance.⁶⁸ But soon after, Middle Smithfield Township adopted a new ordinance altogether in order to properly regulate short-term rentals by enacting and enforcing a permitting system.⁶⁹ Middle Smithfield's ordinance establishes thorough and detailed permit application requirements, as well as specific standards which short-term rental property owners must adhere to.⁷⁰ Unlike Bethlehem's ordinance, Middle Smithfield's ordinance does not restrict the number of days which a short-term property owner may rent his property.⁷¹ Rather, Middle Smithfield's ordinance seeks to allow the use of short-term rental properties so long as the behaviors of the property owners and

⁶⁷ Bethlehem, Pa. City Council Meeting at 12-13 (Nov. 8, 2017), <https://www.bethlehem-pa.gov/citycouncil/meetings/archive/2017/Minutes/110817%20Council%20Minutes.pdf> “On behalf of his clients he thanked the City for its responsiveness in formulating a proposed Ordinance that largely addresses the neighbors’ very serious concerns of intrusion of short term rental properties into their and other neighborhoods throughout the City of Bethlehem. The neighbors are pleased with the Ordinance’s purpose of eliminating or at least minimizing the negative aspects of short term rentals such as excessive noise, overburdened on street parking, higher incidents of inappropriate conduct, increased rubbish and other negative consequences that interfere with these residents daily enjoyment of their neighborhood. Most importantly short term transient lodging must be regulated to assure that the zoned residential district will remain a neighborhood with actual neighbors in it, and not turn into a commercial district with illegal hotels comprised mainly of visitors checking in and out at all hours of the day and night.”

⁶⁸ See *supra* notes and discussions Section IV subsection B.

⁶⁹ See *supra* note 36.

⁷⁰ *Id* at § 150-5 (2018).

⁷¹ *Id* at § 150-7 (2018).

the transient visitors are in compliance with the ordinance.⁷² Restrictions on occupancy maximums, parking, and unwanted behaviors from transient visitors allow Middle Smithfield Township to find a balance between the rights of the property owners and the needs for the residents of the community.⁷³ The ordinance also requires the property owner to provide specific information and a twenty-four hour contact for the permit holder, as well as safety requirements for short-term rentals and notice signage outside of the short-term rental.⁷⁴ Further, the ordinance establishes limitations on marketing for short-term rental properties, taxation and fees applicable to the use of short-term rental properties, and provisions encompassing fines and penalties which may be levied to property owners who do not abide by the ordinance.⁷⁵ In addition, the ordinance allows for property owners to change the use of their single family dwellings to short-term rental properties.⁷⁶

To the extent that information is available, Middle Smithfield Township's ordinance has seemingly been effective at promoting the goals of the Township while protecting the rights and interests of those property owners seeking to utilize their properties as short-term rentals. Shawn McGlynn, the zoning officer of Middle Smithfield Township, expresses that, while complaints are still received on both sides of the issue, permits have been issued to property owners and subsequent comments in relation to the ordinance have led to an Amended ordinance.^{77 78}

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.* at § 150-6 (2018).

⁷⁵ *Id.* at § 150-13 (2018).

⁷⁶ *Id.*

⁷⁷ See *supra* note 52.

⁷⁸ See *supra* note 37.

V. RECOMMENDATIONS FOR SUSQUEHANNA TOWNSHIP'S SHORT-TERM RENTAL ORDINANCE

Based on the experiences of other municipalities in Pennsylvania, as well as established case law, it is recommended that Susquehanna Township adopt an ordinance which consists of a permitting system. This permitting system will allow Susquehanna Township to tailor its regulation of short-term rentals to meet the desires of the community. Including applicable definitions, as well as permitting requirements and standards, will allow Susquehanna Township to address the concerns of the community with regards to short-term rentals.

A. Recommendations for addressing the issue of short-term rental properties based on the experiences of other municipalities

In order to best determine the manner which the proposed ordinance will take to address issues surrounding short-term rentals, it is important to consider the experiences of other municipalities who have attempted to do just that. As discussed in section IV, there are a variety of approaches which the Township may take in their adoption of the proposed ordinance, but enacting a new ordinance specifically designed to address short-term rentals seems to be the most viable solution. As we have seen, because of the controlling Pennsylvania Commonwealth Court Decisions, attempting to utilize laws already in existence and interpreting them to apply to short-term rentals has proven to be an ineffective endeavor in regulating short-term rentals.⁷⁹ Amending or modifying existing zoning laws may be a temporary solution to short-term rental issues, but the danger of inequity and unspecified regulations leaves both property owners and local governments exposed to future issues and a need for more comprehensive legislation.⁸⁰ In light of the Commonwealth Court Decisions and the desire for local governments and its citizens

⁷⁹ See *supra* notes and discussion IV subsection A.

⁸⁰ See *supra* notes and discussion IV subsection B.

to find an equitable solution to the regulation of short-term rentals, it is clear that the most effective means through which local governments may regulate short-term rentals is by constructing a new ordinance, specifically tailored to regulate a community according to its needs.

Because of Susquehanna Township's wide variety of residential, commercial, and industrial properties and uses, there exists a need for a specific ordinance to properly address the use of short-term rentals. Similar townships and municipalities have experienced success in adopting and implementing new ordinances which establish licensing or permitting programs for short-term rental uses.⁸¹ Given the experiences of these townships and municipalities, it is suggested that Susquehanna Township adopt a similar ordinance, whereby they can properly regulate the use of short-term rentals via permitting or licensing procedures such as those in Bethlehem, Pennsylvania and Middle Smithfield, Pennsylvania.⁸²

1. The importance of including definitions of key terms in an ordinance in order to effectively regulate short-term rental properties

In light of the current case law, Pennsylvania Courts meticulously examine the definitions of zoning ordinances in order to determine the applicability of zoning laws to new or in question property uses.⁸³ As Attorney Claudia Shank elaborates in her presentation *Zoning Regulation of Short-Term Rentals in Pennsylvania*, it is essential to expressly include and define terms encompassing short-term rental issues in new ordinances seeking to regulate short-term rentals.⁸⁴ The Pennsylvania Commonwealth Court Decisions further evidence the Court's focus

⁸¹ See *supra* notes and discussion IV subsection C.

⁸² *Id.*

⁸³ See *supra* note 27.

⁸⁴ See *supra* note 52.

on definitions included in the ordinances and how they are to be interpreted in resolving issues.⁸⁵ Taking these factors into consideration, it is imperative for the Susquehanna Township ordinance to include definitions which expressly encompass the use of short-term rentals, such as those definitions included in Middle Smithfield's ordinance.⁸⁶ In order for comprehensive and thorough regulations pertaining to short-term rentals, Susquehanna Township needs to expressly define its terms within its ordinance in a manner showing that it is clear that the law applies to those property owners seeking to utilize their properties as short-term rentals.

Such terms which need be defined in order to allow an ordinance to properly apply to short term rentals are short-term rental, occupant, permit, and annual term. Each of these terms allow for a township to directly address the specific use of short-term rentals as well as the manner in which they are to be used. Short-term rentals may be defined in a manner which establishes the characteristics of a short-term rental. For example, a township may define a short-term rental as a property available for rent for a period of forty-five (45) days or less.

2. The purpose and effectiveness of including a stringent and thorough application process for a short-term rental permit within a short-term rental ordinance

With the ordinances of Bethlehem and Middle Smithfield in mind, requiring those property owners seeking short-term rental permits to apply for and submit an application to the township would not only allow for proper vetting of properties and their owners, but would also subject the property owners to the requirements of the ordinance and allow the township to have vital information about the property and its owner so they may be held accountable for incidents arising from their short-term rental properties. As seen in the Middle Smithfield ordinance,

⁸⁵ See *supra* note 27.

⁸⁶ See *supra* note 36 at § 150-4 (2018).

provisions in the short-term rental license application such as the contact information of the owner, description of the building to be used as a short-term rental, sewer and utilities information, copies of tax information, and records indicating ownership all allow for the township to ensure that the type of property subject to review is able to adequately be used as a short-term rental and the owner will be held accountable for any situations arising from the short-term rental's use.^{87 88} Susquehanna Township should take similar steps in its permitting application process so to best hold accountable property owners and insure that short-term rentals meet the standards that the Township establishes.

3. Taxation and fee provisions within a short-term rental property ordinance

Susquehanna Township may also benefit in subjecting licensed short-term rental properties to an excise tax, thus providing the Township with added revenue to offset any negative effects increased transient visitors may impose on the Townships infrastructure or services.⁸⁹ Requiring fees for applications submissions, license renewals, and inspections will also serve to increase revenue and offset any costs the Township may incur. Such fees and costs are standard in short-term rental permitting systems, as we see in the Bethlehem ordinance⁹⁰ and the Middle Smithfield ordinance.⁹¹ Requiring property owners seeking short-term rental permits to provide funds for township services is common throughout the Commonwealth of Pennsylvania, and allows for the local government to receive additional income. Susquehanna Township currently imposes a tax on earned income, but does not impose any taxes which would

⁸⁷ See *supra* note 36 at § 150-6 (2018).

⁸⁸ The property owner may be contacted at any given time in relation to the VRBO given if a situation arises where his attention is needed such as noise complaints, emergencies, violations of the short-term rental ordinance, etc.

⁸⁹ Doug Fraser, *Cape lawmakers push short-term rental tax to help pay for wastewater cleanup* (Mar. 27, 2018) <http://www.capecodtimes.com/news/20180327/cape-lawmakers-push-short-term-rental-tax-to-help-pay-for-wastewater-cleanup>.

⁹⁰ See *supra* note 37 at § 1741.04 (2017).

⁹¹ See *supra* note 36 at § 150-8 (2018).

be applicable to short-term rentals or other entities of their kind, such as hotels or bed and breakfasts.⁹²

4. Specific rental standards within a short-term rental ordinance that allows a township to tailor the ordinance to meet the needs of the township and its residents

Short-term rental standards outlined in the proposed ordinance will act in a manner which best effectuates the Township's purpose in regulating short-term rental properties. As seen in the Bethlehem ordinance and Middle Smithfield ordinance, provisions regulating the amount of days a short-term rental may be rented, the occupancy of short-term rentals, the appearance of short-term rentals, the behaviors of those renting short-term rentals, and the conditions surrounding the use of short-term rentals may be applied according to the desires of the Township.^{93 94} Susquehanna Township should address these short-term rental standards in their ordinance so as to efficiently carry out the desires of the Township.

a. Regulating Occupancy

Maintaining occupancy limitations in short-term rental properties, as done so by Middle Smithfield Township, is an effective means to ensure that short-term rentals will not disrupt residential atmospheres as well as requiring short-term rental properties to abide by reasonable housing and lodging standards.⁹⁵ Middle Smithfield Township imposed such limitations by restricting short-term rental properties to no more than two occupants per room in addition to four other occupants but no more than fourteen occupants total in one short-term rental

⁹² Susquehanna Township, Pennsylvania, Municipal Code §24-201.

⁹³ See *supra* note 37 at § 1741.05 (2017).

⁹⁴ See *supra* note 36 at § 150-7 (2018).

⁹⁵ See *supra* note 36.

property.⁹⁶ Middle Smithfield Township also imposed restrictions as to the maximum number of “day guests” allowed at a short-term rental.⁹⁷ These provisions ensure that short-term rental properties do not become “party houses” and are used merely as lodging or vacation homes as intended. Susquehanna Township would benefit from such occupancy restrictions, ensuring that guests staying at short-term rentals do not overwhelm the short-term rental’s capacity.

b. Regulating length of stay

Another means of restricting uses of short-term rental properties within a given township is to establish minimum and maximum requirements on length of stays at short-term rental properties subject to the ordinance. As evidenced in Bethlehem’s Ordinance, where the City of Bethlehem required a minimum stay of seven days and a yearly short-term rental property maximum of thirty days renting, Townships and local governments may choose to limit or effectively hamstring the use of short-term rentals within their community if they chose so.⁹⁸ The goal of the Bethlehem Legislature was to stifle the use of short-term rentals within their residential community, for they did not wish to entertain the turnover of transient visitors in their residential neighborhoods.⁹⁹ If the purpose of Susquehanna Township’s Ordinance were to strictly limit the use of short-term rentals, as was the case for Bethlehem,¹⁰⁰ then including such provisions into their Ordinance would be one of the most effective ways of doing so. Susquehanna Township could also impose length of stay or maximum rental day restrictions of short-term rentals in a less evasive manner as well, tailoring the stay limitations to best fit the needs of the community.

⁹⁶ *Id* at § 150-7(A) (2018).

⁹⁷ *Id* at § 150-7(B) (2018).

⁹⁸ *See supra* note 37 at § 1741.03(B) (2017).

⁹⁹ *Id* at § 1741.01 (2017).

¹⁰⁰ *Id.*

c. Regulating the physical characteristics of short-term rentals

Pennsylvania Townships have also imposed restrictions on the physical appearances of short-term rentals.^{101 102} Such restrictions seek to maintain the look and feel of the residential communities where these short-term rental properties exist. In attempting to preserve the residential, familial atmospheres of the community, townships also make sure to prevent short-term rentals from becoming similar to commercial buildings in appearance. Such additions or modifications as adding additional entryways to short-term rental properties are the kinds of physical manipulations that these ordinance provisions prevent, thus perpetuating the neighborhood demeanor of the short-term rental.¹⁰³ Susquehanna Township could regulate the appearances of short-term rentals to further make certain that their communities are not hampered by unwanted eyesores in the middle of their residential areas.

d. Regulating the behavior of transient visitors

Particular provisions one finds in short-term rental ordinances are prohibitions on specific types of behaviors of transient visitors residing in short-term rentals. These stipulations allow townships to attempt to prevent those residing in short-term rentals from carrying on in a manner which is detrimental to the peace and tranquility of the community. Parking practices, noise limitations, disturbing the peace, and using fireworks are all but a few of the types of clauses that appear in short-term ordinances which limit the uses of short-term rentals.¹⁰⁴ Middle Smithfield Township has taken full advantage of these sorts of restrictions on behavior in an effort to secure the tranquility of their community while compromising by allowing short-term rentals.¹⁰⁵ Middle

¹⁰¹ *Id* at § 1741.05(I) (2017).

¹⁰² *See supra* note 36 at § 150-7(E) (2018).

¹⁰³ *Id.*

¹⁰⁴ *see supra* note 36 at § 150-7 (2018).

¹⁰⁵ *Id.*

Smithfield identified the qualities which they wished be absent from their communities and regulated against them accordingly. Susquehanna Township would be wise to do the same in their ordinance. Regulating against those behaviors better associated with party houses would do well to maintain the tranquility of their residential districts, thus making residents of these communities happier and more welcoming to transient visitors.

e. Regulating notices and safety apparatuses

Middle Smithfield Township provided two types of provisions which Susquehanna Township would greatly benefit from including in their own ordinance on short-term rentals. First, Middle Smithfield provided a requirement within their Ordinance which mandated that all short-term rental properties be equipped with a visible notice within the short-term rental that contained information paramount to the use of the short-term rental property.¹⁰⁶ The information required on the notice included the name and phone number of the owner or a contact person who may be reached at any given time, the maximum number of occupants and vehicles allowed on the property, provisions regarding municipal services and utilities, and a notification that transient visitors are subject to the provisions of the ordinance and may receive citations accordingly for any violation thereof.¹⁰⁷ This type of notice is unique in that it allows for transient visitors and emergency responders to have the contact information of the property owner at hand if the need to communicate with them arose. Further, it provides transient visitors of the short-term rental with notice of the provisions and limitations of the Ordinance as well as the fact that they may receive sanctions for any violation of those provisions.

¹⁰⁶ *Id* at § 150-7(J) (2018).

¹⁰⁷ *Id.*

Secondly, Middle Smithfield Township provided conditions requiring that all short-term rental properties be equipped with safety provisions such as smoke detectors, fire extinguishers, GFI outlets, carbon monoxide detectors, and other occupancy requirements which ensured the safety of transient visitors.¹⁰⁸ Such provisions allow a township or municipality to ensure the safety of its transient visitors while holding property owners accountable for maintaining proper safety standards. These two types of provisions would benefit Susquehanna township greatly and aid in properly and safely regulating short-term rental properties.

f. Regulating short-term rental property permit renewals

Important to the permitting system structure, annual permit or license renewal for short-term property owners is vital in not only bringing additional revenue into the township, but in holding short-term property owners responsible in maintaining their short-term rentals. Annual renewal coupled with provisions allowing the township discretion in granting and renewing licenses and permits allows the township to deny any permit renewal if they chose to, or subject renewed licenses to new or added conditions or provisions within the short-term rental ordinance.¹⁰⁹ Both Middle Smithfield¹¹⁰ and Bethlehem¹¹¹ take advantage of such practices by including similar annual renewal stipulations within their own ordinances. Susquehanna Township need take note from other townships and municipalities adopting these sorts of practices within their ordinances. Such legislation would allow Susquehanna Township more control in the regulation of short-term rentals within its community and enable Susquehanna Township to prevent unruly or uncooperative short-term rental property owners from renewing their short-term rental permits. Annual renewal also requires property owners to update their

¹⁰⁸ *Id* at § 150-7(K) (2018).

¹⁰⁹ *See supra* note 52.

¹¹⁰ *See supra* note 36 at § 150-8 (2018).

¹¹¹ *See supra* note 37 at § 1741.06 (2017).

information if any were to change, thus ensuring that the township has accurate and up-to-date information from the property owners.

g. Regulating violations of a short-term rental ordinance and penalties resulting therefrom

Giving an ordinance “teeth” is vital in making sure that the ordinance will be enforced if its provisions are violated. Bethlehem¹¹² and Middle Smithfield¹¹³ include sections laying out violations and penalties in their short-term rental ordinances. In such provisions, the ordinances enable the Townships to levy a fine against any person found to be in violation of the ordinances’ provisions. In Middle Smithfield, fines may range from \$100 to \$1000 per violation, as well as revocation or suspension of a violating property owner’s short-term rental license.¹¹⁴ In Bethlehem’s Ordinance, a penalties section subjects violators of the Ordinance to hundreds of dollars worth of fines for subsequent violations.¹¹⁵ It is imperative that Susquehanna Township include the “teeth” of their ordinance, that being a regulation establishing violations and penalties. Common is the practice of leveling fines against those who violate an ordinance, therefore it is recommended that Susquehanna Township follow the lead of Bethlehem and Middle Smithfield and impose fines for violations of their ordinance.

The aforementioned recommendations stemming from the experiences and practices from other jurisdictions in Pennsylvania act to guide Susquehanna Township in their drafting and adoption of a new ordinance regulating short-term rentals. Because of these other Townships’ experiences, Susquehanna Township is better prepared and informed as to the types of provisions to include in a newly constructed ordinance, as well as how to enforce said ordinance.

¹¹² *Id* at § 1741.07 (2017).

¹¹³ *See supra* note 36 at § 150-13 (2018).

¹¹⁴ *Id.*

¹¹⁵ *See supra* note 111.

B. Policy considerations Susquehanna Township must consider when adopting an ordinance regulating short-term rental properties based on the experiences of other Pennsylvanian municipalities

Susquehanna Township must consider the rights and interests of the property owners seeking to utilize their properties as short-term rentals as well as the rights and interest of those who reside in the neighborhoods and communities where these short-term rental properties operate. Because of the need to balance the interests of two conflicting sides to an issue, Susquehanna Township sits in a precarious position, attempting to find an equitable balance between the rights and needs of short-term rental property owners and those rights and needs of residents living next to and within the community where the short-term rental properties reside. It is vital that Susquehanna Township find a solution to the issue of regulating short-term rentals in a manner which not only allows property owners to utilize their property lawfully as short-term rentals, but to also ensure that the rights and concerns of the community about short-term rentals are addressed and taken care of accordingly. Because of this need, it is important to view the approaches of other municipalities and consider them in determining the provisions to include within Susquehanna Township's ordinance.

With over seventy listings on sites like Airbnb, many property owners who reside in and around Susquehanna Township utilize short-term rentals to supplement income.¹¹⁶ Given the demand for such property use, it is important to keep in mind the interests of the property owners who take advantage of such use as well as the desires for peaceful residential areas. This being said, implementing an ordinance such as the Bethlehem Ordinance discussed above would be too

¹¹⁶ See *supra* note 25.

restrictive for a community such as Susquehanna Township.¹¹⁷ Considering the purpose of the Bethlehem Ordinance, the City of Bethlehem restricted the use of short-term rentals to such a degree that any such use would effectively deter short-term rentals in their entirety.¹¹⁸ The community of Bethlehem desired that there be strict impositions on the use of short-term rental properties, putting their residential atmosphere and communal environment above all else. There was fear in Bethlehem that short-term rentals within their community would create communal disturbances and negatively affect the health, safety, and welfare of its citizens.¹¹⁹ Bethlehem Legislators addressed those serious concerns through their ordinance, which expressed the community's desire to all but expressly ban the use of short-term rentals.^{120 121} This push by the community in Bethlehem and its support by Bethlehem legislators is further evidenced by the Bethlehem Ordinance's unanimous vote in favor to adopt it into law.¹²²

Unlike Bethlehem, Middle Smithfield did not seek an implicit ban on short-term rental properties, as shown by the Middle Smithfield's lack of length of stay restrictions within its ordinance.¹²³ Instead, Middle Smithfield sought to promote the use of short-term rentals in a proper and well regulated manner, which allowed for property owners of short-term rentals to utilize their properties as they wish and receive economic benefit therefrom as well as allow the Township to regulate the use of short-term rentals and prohibit the undesired behaviors which would disrupt the community surrounding these short-term rentals. Although, as discussed by

¹¹⁷ See *supra* notes and discussions IV subsection C.

¹¹⁸ See *supra* note 37; See *supra* note 39, “[Councilman] Shawn Martell pushed back against the amendment, saying it may be punishing city homeowners who have used the Airbnb platform to rent their homes responsibly.”; *Id.* Councilman Adam Waldron, “By having the seven-day minimum, it does cut out a lot of opportunities for people who abide by the rules,” he said. ‘I’ve used Airbnb, but never for a seven-day stay. It may drive some tourists away.’”

¹¹⁹ See *supra* note 37.

¹²⁰ *Id.*

¹²¹ See *supra* note 39.

¹²² *Id.*

¹²³ See *supra* note 36 at § 150-7 (2018).

Shawn McGlynn,¹²⁴ Middle Smithfield still receives the concerns of citizens and property owners of short-term rentals alike, Middle Smithfield has done well to find some sort of balance between the desires of both parties at issue.

Comparing Bethlehem to Middle Smithfield, it is important to note the potential inequity in the outcome of Bethlehem as compared to Middle Smithfield. With such a restrictive ordinance, Bethlehem has more or less prevented short-term rental owners from utilizing their properties as desired within lawful means. Middle Smithfield has worked to foster the economic interests and property rights of short-term rental property owners, going so far as to amend and adopt numerous legislations to best regulate short-term rentals so where all parties can benefit.¹²⁵

Because townships like Middle Smithfield have expressed a desire to address the interests and concerns of both parties while trying to perpetuate the rights of landowners and the community alike, it is recommended that Susquehanna Township address the issues surrounding short-term rentals in a manner akin to that of Middle Smithfield. This approach will best perpetuate the desires of short-term rental owners by allowing them to use their properties as short-term rentals, as well as the desires of the neighbors and communities surrounding the short-term rentals by subjecting short-term rentals to regulations and holding property owners accountable for any wrong doing or violations of the ordinance. Allowing for an equitable solution to the short-term rental issue is best for the community and its residents, therefore an approach like Middle Smithfield's is recommended.

Considering the aforementioned townships and their different approaches, Susquehanna Township may find it necessary to enact particular provisions in their short-term rental ordinance

¹²⁴ See *supra* note 52.

¹²⁵ See *supra* note 36.

such as occupancy restrictions, permitting requirements, approval-denial criteria, and behavior restrictions. Susquehanna Township may further enact provisions which cater to their specific needs in regards to short-term rentals. Each of these provisions will vary depending on how Susquehanna Township will wish to deal with the short-term rentals within their township. Because Susquehanna Township is primarily consistent of residential areas with little attractions to draw in many visitors, Susquehanna Township is urged to be more restrictive in their ordinance provisions. To reflect such an approach, Susquehanna Township needs to enact provisions in its ordinance which limits the number of occupants of short-term rentals to a reasonable but conservative amount. This would be done to maintain the residential atmosphere that predominates Susquehanna Township by preventing large parties from renting short-term rentals for celebration purposes such as bachelor parties.

Further, Susquehanna Township may adopt a meticulous and demanding permitting system to ensure that properties seeking to receive a short-term rental permit are of the caliber demanded by the township. Such a provision may hold properties seeking permits to have valid home insurance, adequate parking, or any other requirements that Susquehanna Township imposes. Such stringent permitting requirements would allow Susquehanna Township to ensure that short-term rentals within the township would maintain the residential nature of Susquehanna Township. Behavior restrictions may also be included within the ordinance to accomplish a similar goal. Limiting particular behaviors of short-term rental owners and occupants serves to maintain the residential atmosphere of Susquehanna Township while allowing property owners to operate short-term rentals.

C. Problem solving and benefits from the proposed Ordinance

Susquehanna Township and its residents would be better off adopting our ordinance because the ordinance will generate new revenue. A short-term rental tax or earned income tax should be imposed upon such rentals at a reasonable rate.¹²⁶ This ordinance may have tax rates that are the same as those hotels are subjected to on a county wide scale. This is fair taxation because hotels and short-term rentals have the same consumer base. If short-term rentals were to be taxed less than hotels, or not at all, short term rentals would less expensive than hotels and “casu[e] a decline in the hotel business.”¹²⁷ Cities are seeing such success with taxing short-term rentals that it is “caus[ing] other cities to reconsider as to why they do not tax.”¹²⁸ The permit program will also provide yearly revenue for the Township. Susquehanna Township would see an increased revenue as a result from any taxes imposed on short-term rentals. While projections of such revenues remain unavailable, those taxes collected combined with the fee schedules adopted by the Susquehanna Township zoning board would see more funds come into Susquehanna Township. Further, even taxing short-term rental revenues at an earned income rate would provide Susquehanna township with the necessary funding to operate such a permitting system.

Residents of Susquehanna Township would receive benefits from adopting the proposed ordinance because the short-term rental market will be regulated by the Township. By regulating short-term rentals, hosts and guests would not have to concern themselves about potential legal consequences,¹²⁹ which could arise under an area with no short term regulation, and with legal consequences, financial consequences usually follow. Hosts and guests would not have to be concerned about the legality of their actions, because our new ordinance will provide a clear

¹²⁶ Cloonan, *supra* note 19, at 52.

¹²⁷ *See supra* note 20, at 32-33.

¹²⁸ Cloonan, *supra* note 19, at 51.

¹²⁹ Cloonan, *supra* note 19, at 29.

bright line as to what both parties can and cannot do. Residents will still be able to list their property as a short-term rental, whereas the Township could have outright banned short-term rentals like some local governments have.¹³⁰ This is important because a house is a depreciating asset, so an extra source of revenue would help out any home owner. A recent report shows that one in ten Airbnb hosts is a teacher in the United States,¹³¹ evidencing that any and all citizens take advantage of the benefits that short-term rental properties offer. Because of such regulation, property owners within Susquehanna Township would not have to fear rent rates and property values fluctuating at an increased and unpredictable rate.

The proposed Ordinance will regulate short-term rentals so that concerns of safety and nuisances¹³² often associated with short-term rentals will be less of an issue. By regulating short-term rentals through a permit program, such an approach allows the government to hold hosts and renters accountable because the Township would be able to monitor and make sure the permit program is being followed and that the short-term rental ordinance provisions are being abided by. “If the city was concerned about the impact of disruptive people on quiet neighborhoods, an appropriate response would be to monitor the behavior of those individuals, and not to prevent a group of unrelated people from living together.”¹³³ Townships will always have concerns over safety and nuisances, banning short-term rentals does not immediately dissolve those problems, the problems just come from homeowners, rather than renters. This ordinance should minimize those issues by providing proper government oversight. Also, the ordinance will provide accountability on behalf of the homeowner, so that if any issues are to

¹³⁰ Ngai Pindell, *Property Ownership and Economic Stability: A Necessary Relationship? Article: Home Sweet Home? The Efficacy of Rental Restrictions to Promote Neighborhood Stability*, 29 St. Louis U. Pub. L. Rev. 41, 55 (2009).

¹³¹ Alia Wong, *Low Pay Has Teachers Flocking to Sharing Economy* (Aug. 17, 2018), <https://www.theatlantic.com/education/archive/2018/08/teachers-in-the-sharing-economy/567772/Alia>.

¹³² See *supra* note 8.

¹³³ Pindell, *supra* note 130, at 82.

arise, the homeowner can be contacted. Susquehanna Township will receive protections from abuses of short-term rentals which include over occupancy and nuisances. Moreover, because of these protections, Susquehanna Township will not have to concern itself with serious detrimental effects to its residential communities.

The ordinance will provide for property owner accountability to minimize environmental impacts as well. Property owners will be required to keep their house as is, a family dwelling so that they cannot change the layout to accommodate more people. Property owners will also not be able to rent at a capacity that is greater than their home's current capacity. By holding property owners accountable, short-term rental properties will have the same environmental impact as a non-rental property, but just with different people in the home. Another potential issue is the impact short-term rentals will have on public utilities. To address this, our ordinance will contain something similar to Middle Smithfield's, which in the license application requires sewer and utilities information.¹³⁴ Susquehanna Township will be able to ensure that its public utilities remain protected from overuse from short-term rental properties.

Furthermore, the proposed ordinance will allow for the environmental aspects of a residential community to be maintained. Through proper regulation, short-term rentals will be less like commercial establishments and more similar to residential homes with residential occupants. This allows for essential neighborhood establishments within Susquehanna Township, such as parks, school children playing outside, and community relationships to be maintained while allowing property owners to utilize their properties as short term rentals. Additionally, the proposed ordinance will ensure that the environmental side effects of commercial lodging, like increased waste and pollution, are minimized so to maintain the

¹³⁴ See *supra* note 36 at § 150-6(A)(4) (2018).

residential atmosphere of the residential areas short-term rental properties are to occupy within Susquehanna Township.

D. How Susquehanna Township is going to be financially responsible for the Ordinance

The proposed ordinance for Susquehanna Township's does not threaten to strain pre-existing Township infrastructure or administrative resources. Susquehanna Township already has the requisite systems in place to deal with the enforcement and licensing requirements of the proposed ordinance. The Township will also experience additional revenue through application fees, taxation on short-term rental properties, and any fees generated from violations of the ordinance.

Susquehanna Township's proposed ordinance establishes a permitting or licensing system in order to properly regulate the use of short-term rentals. In order to pay for this permitting or licensing program, short-term rental applicants and those seeking license renewals annually will be required to pay a fee for submitting such applications. These fees will be set by the Township's designated legislator and may be adjusted at the discretion of this designated body. Similar to Middle Smithfield's Ordinance provision regarding fees, the fees in the proposed Susquehanna Township Ordinance will be payable directly to Susquehanna Township.¹³⁵ Susquehanna Township may also do as other jurisdictions have and impose an excise tax or other form of taxation on the use of short-term rental properties.¹³⁶ Further revenue may be gathered through the permitting program by imposition of fines and citations on property owners and transient visitors who violate the ordinance. As Bethlehem¹³⁷ and Middle

¹³⁵ See *supra* note 36 at § 150-8 (2018).

¹³⁶ See *supra* note 89.

¹³⁷ See *supra* note 37 at § 1741.99 (2017).

Smithfield¹³⁸ included in their ordinances, Susquehanna Township may include provisions within its ordinance which sets out costs and penalties of fines in accordance with the amount of penalties or citations a particular property or its owner have received.

VI. CONCLUSION

Because of the needs of the residents of its community, to further promote the health, wellbeing, peace, and tranquility of its citizens, Susquehanna Township must address the problem of regulating short-term rentals. As discussed above, the most effective way to confront the issues surrounding short-term rentals is to construct a new ordinance, carefully crafted and defined to ensure that the wishes and rights of property owners within Susquehanna Township are maintained and met. Such an ordinance as the proposed ordinance seeks to do just that, addressing the social, economic, and environmental concerns of the residents of Susquehanna Township while allowing the lawful and regulated use of short-term rentals pursuant to a short-term rental property permitting system. Maintaining residential communities is at the forefront of concern for townships all across Pennsylvania, so too is the rights of property owners to use their properties as short-term rentals. The proposed ordinance acts to strike a balance between these two competing concerns, addressing both and ensuring, through a well-regulated permitting system, that communal aspects and interests of residential communities will not be hindered by short-term rentals and *vice versa*.

¹³⁸ See *supra* note 36 at § 150-15 (2018).

**SUSQUEHANNA TOWNSHIP
DAUPHIN COUNTY, PENNSYLVANIA
RESOLUTION NO. 18-R-XX**

**AN ORDINANCE OF SUSQUEHANNA TOWNSHIP, DAUPHIN COUNTY,
PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF SUSQUEHANNA
TOWNSHIP CHAPTER X OF THE MUNICIPAL CODE, TO ADD SECTION C PART X
ADOPTING A SHORT-TERM RENTAL ORDINANCE**

WHEREAS, Susquehanna Township is developing a blueprint for a sustainable Township “to address challenges in the community and improve existing assets”¹³⁹; and

WHEREAS, The promotion of public health, safety, welfare, and the rights of property owners are a priority of Susquehanna Township; and

WHEREAS, Unregulated use of short-term rentals may lead to negative impacts within the community such as excessive noise, inappropriate conduct, increased traffic, and increase use of public resources¹⁴⁰; and

WHEREAS, A permitting system for short-term rentals will allow Susquehanna Township to properly regulate the use of short-term rentals in a manner that best promotes the interests of the township and its residents¹⁴¹; and

WHEREAS, Proper regulation of short-term rentals will allow property owners to generate additional income from their respective property¹⁴²; and

WHEREAS, Susquehanna Township wishes to continue its development of a sustainable township to address challenges in the community and improve existing assets; **THEREFORE BE IT**

RESOLVED, By the Board of Commissioners of Susquehanna Township in the Commonwealth of Pennsylvania, as follows:

Susquehanna Township adopts the Short Term-Rental Ordinance attached hereto as Exhibit A, and made part of this resolution.

¹³⁹ Sustainable Susquehanna 2030 Comprehensive Plan Brochure.

https://www.susquehannatwp.com/sites/susquehannapa/files/uploads/trifold_brochure_online_version.pdf

¹⁴⁰ See *supra* notes and discussion, Section II.

¹⁴¹ See Sustainable Susquehanna 2030 Comprehensive Plan Brochure.

¹⁴² See *supra* notes and discussion, Section V subsection C.

RESOLVED this _____ day of _____, 2018 in public session duly assembled

ATTEST:

**BOARD OF COMMISSIONERS
OF SUSQUEHANNA TOWNSHIP**

[]
Secretary

Frank Lynch
President, Board of Commissioners

Exhibit A

Susquehanna Township

Short-term rental Ordinance No. X-XX

Section 1. Authority.

This chapter is enacted and ordained under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania, the Act of July 31, 1968 (P.L. 805, No. 247), known as Pennsylvania Municipalities Planning Code.

Section 2. Title.

This chapter shall be known as and may be cited as the Susquehanna Township Short-term rental Ordinance.

Section 3. Construction.

This chapter shall not be interpreted to excuse a landowner from compliance with the Susquehanna Township Zoning Ordinance. Whenever possible, this chapter and the Zoning Ordinance shall be construed as being consistent.

Section 4. Purpose.

The purpose of this chapter is to create a permit system for short term-rentals in Susquehanna Township in a manner consistent with sustainability, protecting communities, protecting transient visitors, and respecting individual property owner's rights.

Section 5. Definitions.

For the purposes of this chapter, the words and terms used in this chapter shall have the meanings given to them in this section unless the text clearly indicates otherwise:

“Annual term.” One calendar year starting at the date of issuance of a short-term rental permit.

“Bedroom.” A room or space designed to be used for the purpose of sleeping that has two means of egress, one of which may be a window acceptable under the building code, a closet, and is in close proximity to a bathroom. The term “bedroom: does not include any of the following: kitchen, dining room, toilet room, closet, halls, storage or utility room, living room, den, or sitting room or similar is not to be considered a bedroom.

“Day guest.” A person, other than the occupant, who visits a short-term rental.

“Dwelling.” A dwelling as defined by the Susquehanna Township Zoning Ordinance.¹⁴³

“Dwelling Unit.” A dwelling unit as defined by the Susquehanna Township Zoning Ordinance.¹⁴⁴

“Earned income.” As defined in Section 501 of the Act of Dec. 31, 1965 (P.L. 1257, No. 511) of the Local Tax Enabling Act.¹⁴⁵

“Occupant.” A person staying at a short-term rental overnight. A person located on the short-term rental premises shall be deemed an occupant unless established otherwise by the owner, person in charge, or tenant.

“Owner.” A person having legal or equitable ownership of a short-term rental. If there is more than one such person, then owner shall mean each such person, individually and jointly.

“Person in charge.” A person or agent with authority to represent the owner for purposes of communication regarding the owner’s short-term rental.

“Short-term rental.” Any Dwelling or Dwelling Unit used as a single-family residence rented for the purpose of overnight lodging for a period of 45 days or less during an annual term.

“Short-term rental permit.” Permission granted by the Township to use a dwelling or dwelling unit for a short-term rental use.

“Tenant.” An individual who signs an agreement with the owner or owner’s agent for the temporary use of a short-term rental.

Section 6. Permit required.

- (a) General rule. -- An individual may not operate, advertise, or market a short-term rental in the Township without first obtaining a short-term rental permit.¹⁴⁶
- (b) Multiple units. -- A separate short-term rental permit is required for each dwelling or dwelling unit; For two-family or multi-family dwellings, a separate short-term rental permit is required for each dwelling unit used as a short-term rental.¹⁴⁷
- (c) Non-transferability. -- Short-term rental permits may not be transferred.
- (d) Processing. -- The Township will prescribe forms and procedures for the processing of permit applications and renewals under this ordinance.

¹⁴³ Susquehanna Township, Pennsylvania, Municipal Code §27-204 (2003).

¹⁴⁴ *Id.*

¹⁴⁵ *Id.* §24-601 (2007).

¹⁴⁶ *See supra* note 36.

¹⁴⁷ *Id.*

Section 7. Permit application requirements.

- (a) Application. -- An owner of a short-term rental may submit an application for a short-term rental permit to the Zoning Officer.¹⁴⁸
- (b) Location. -- The location of the short-term rental must be in an area that is zoned for any residential use within the Township.¹⁴⁹
- (c) Issuance. -- A short-term rental permit shall be issued only to the owner of the short-term rental.
- (d) Requirements. -- A short-term rental permit application shall contain all of the following:
 - (1) The name, street address, email address, and a 24-hour telephone number of the owner.¹⁵⁰The name, street address, email address, and 24-hour telephone number of the person in charge if different from the owner. A person in charge shall have written authorization to accept service for the owner.¹⁵¹
 - (2) Current Dauphin County Hotel Tax Records.
 - (3) A copy of the current Pennsylvania Sales and Use Tax Permit.
 - (4) A copy of the current recorded deed for the short-term rental establishing ownership.¹⁵²
 - (5) An accurately drawn floorplan of the residence, which must be drawn to scale.¹⁵³
 - (6) Proof of homeowner's insurance.
 - (7) A copy of the current fire inspection report.
 - (8) A description of the parking provided with the house and any possible off-street parking.
 - (9) A listing of all smoke detectors and carbon monoxide detectors in the property.
 - (10) A list of all fire extinguishers.

¹⁴⁸ See *supra* note 36.

¹⁴⁹ Susquehanna Township, Pennsylvania, Municipal Code Chapter 27 (2003); Susquehanna Township, Pennsylvania, Municipal Code Chapter 27 Exhibit 5 "Zoning Map" (2003).

¹⁵⁰ See *supra* note 36.

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ See *supra* note 37.

(11) A trespass waiver signed by the owner allowing access to the property for the enforcement officer for the purpose of inspection to verify compliance with this ordinance.

(e) Fees. -- The application shall be signed by the owner and the person in charge; and submitted with a permit application fee as adopted by resolution, payable to Susquehanna Township.

Section 8. Permit approval.

(a) Approval authority. -- Approval of a short-term rental permit shall be decided by the Zoning Officer.

(b) Inspection. -- Upon submission of a short-term rental permit application the Township Zoning Officer shall conduct an inspection of the dwelling. This inspection shall be in accordance with Susquehanna Township Housing Code Administration.¹⁵⁴

(c) Approval. -- Upon a satisfactory inspection under subsection (b) and if all of the requirements of this chapter are met,¹⁵⁵ the Zoning Officer shall approve the short-term rental permit.

(d) Denial. -- A short-term rental permit may be denied for any of the following:

(1) Submitting an incomplete application;

(2) Providing false or fraudulent information in the application; or

(3) Any violation of the Housing Code.

(e) Non-warranty. -- The issuance of a short-term rental permit is not a warranty that the premises is lawful, safe, habitable, or in compliance with this chapter.

Section 9. Short-term rental operating requirements.

(a) Maximum rental days. -- A short-term rental may be rented for no more than 45 days per year.

(b) Minimum rental period. -- A short-term rental may not be rented for a period of less than 24 hours.¹⁵⁶

(c) Maximum occupancy. -- Occupancy of a short-term rental shall be limited to no more than two individuals per bedroom plus four additional individuals or a maximum of 14 occupants, whichever is less.

¹⁵⁴ Susquehanna Township, Pennsylvania, Municipal Code Chapter 5 Part 2 (1961).

¹⁵⁵ See *supra* note 37.

¹⁵⁶ *Id.*

- (d) Public sewer. -- Short-term rentals shall utilize Susquehanna Township public sewer utilities.
- (e) Parking. -- The owner of a short-term rental shall provide at least two parking spaces for occupants at the short-term rental.
- (f) Appearance. -- A short-term rental may not have any outside appearance indicating a change of use from the surrounding residential uses.¹⁵⁷
- (g) Occupant behavior. -- Neither short-term rental occupants nor day guests shall engage in disorderly conduct or disturb the peace and quiet of any neighboring persons or properties by loud or excessive noise, by offensive conduct, public indecency, fighting, or creating a dangerous or physically offensive condition.¹⁵⁸
- (h) Owner assurance. -- The owner shall assure that the occupants or guests of the short-term rental do not create unreasonable noise, a nuisance, or disruptive behavior, or otherwise violate any provision of the Susquehanna Township Code or any other state law.
- (i) Notification. -- The owner shall notify an occupant of the laws and ordinances regarding short-term rentals and shall respond when notified that an occupant is in violation.¹⁵⁹
- (j) Garbage. -- The owner shall assure that garbage and refuse collection practices of Susquehanna Township will be followed as provided in the Susquehanna Township Code.¹⁶⁰
- (k) Records. -- The owner shall keep a record of each occupant and the duration of the occupant's stay.
- (l) Person in charge. -- A person in Charge must reside or have an office within 15 miles of the short-term rental and be able to act as the legal agent for the owner. The Township must be notified, in writing, within 14 days if there is a change in the identity of the person in charge.¹⁶¹

Section 10. Permit Term, Renewal, and Fees.

¹⁵⁷ See *supra* note 36.

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ Susquehanna Township, Pennsylvania, Municipal Code Chapter 20 (1968).

¹⁶¹ See *supra* note 36.

- (a) Term. -- Short-term rental permits are effective for one year after the date of issuance and must be renewed annually.
- (b) Permit renewal submission. -- Short-term rental permit renewal applications shall be submitted to the Zoning Officer.
- (c) Permit renewal. -- A short-term rental permit renewal shall only be issued upon a satisfactory assessment from the Zoning Officer and if all of the requirements of this chapter are met.¹⁶²
- (d) Permit renewal approval. -- A short-term rental permit renewal be will approved based off of the criteria set forth in Section 8.
- (e) Permit renewal inspection. -- Short-term rental permit renewal applications shall require an inspection by the Zoning Officer as provided under section 8.¹⁶³
- (f) Permit renewal requirements. -- A short-term rental permit renewal application shall contain:
 - (1) Information regarding any changes from the immediately preceding permit application or permit renewal application; and
 - (2) A permit renewal fee as adopted by resolution and inspection fee payable to Susquehanna Township.

Section 11. Enforcement Officer.

The Zoning Officer shall administer and enforce the provisions of this chapter.¹⁶⁴ The Zoning Officer may appoint assistant Zoning Officers.

Section 12. Taxation.

- (a) Earned income. -- Income generated from a short-term rental shall be considered earned income and shall be taxed at Susquehanna Township's earned income rate.¹⁶⁵
- (b) Payment. -- Taxes shall be paid and collected in accordance with chapter 24: Taxation.

Section 13. Violations and Penalties.

¹⁶² See *supra* note 37.

¹⁶³ Susquehanna Township, Pennsylvania, Municipal Code Chapter 5 Part 2 (1961).

¹⁶⁴ See *supra* note 36.

¹⁶⁵ Susquehanna Township, Pennsylvania, Municipal Code §24-201.

- (a) Fines. -- Any person who violates a provision of this ordinance or an approved plan or directive of the Zoning Officer shall, upon conviction pay a fine of not less than \$100 nor more than \$500 per violation, plus all court costs and reasonable attorney's fees incurred by the Township.¹⁶⁶
- (b) Existing violations. -- Each day or portion of a day that a violation exists or continues shall constitute a separate violation.¹⁶⁷
- (c) Enforcement. -- The appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunctive relief, to enforce compliance with this chapter.¹⁶⁸
- (d) Fines payable. -- All fines, penalties, costs, and reasonable attorney's fees collected for the violation of this chapter shall be paid to the Township for its general use.
- (e) Permit revocation. -- In addition to penalties under subsection (a), the zoning officer may revoke or deny an application to renew, a short-term rental permit for any violations of this chapter.

Section 14. Appeals.

- (a) Hearing. -- Appeals shall be heard by the zoning hearing board as established under §27-2609 of the Susquehanna Township Municipal Code.
- (b) Applicant denial appeal. -- An owner of a property seeking a short-term rental permit may appeal the denial of a permit.
- (c) Applicant approval appeal. -- An owner of any property surrounding or within proximity of a property with a short-term rental permit may appeal the approval of a permit.

Section 15. Effective Date.

The Susquehanna Township Short Term Rental Policy shall take effect 30 days after adoption.

Section 16. Repeals.

All ordinances or parts of ordinances inconsistent with this chapter are hereby repealed.

Section 17. Severability.

¹⁶⁶ See *supra* note 36.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

Susquehanna Township declares that the chapters, sections, subsections, paragraphs, subparagraphs, clauses, or subclauses are severable. If any chapters, sections, subsections, paragraphs, subparagraphs, clauses, or subclauses of this Ordinance is declared unconstitutional, illegal, or otherwise invalid by the judgement or decree of a court of competent jurisdiction, that invalidity shall not affect any of the remaining chapters, sections, subsections, paragraphs, subparagraphs, clauses, or subclauses.¹⁶⁹

¹⁶⁹ Susquehanna Township, Pa., Ordinance No 89-16 (Nov. 21, 1989).