

ORDINANCE NO. 2021 - 02

**AN ORDINANCE OF THE BOROUGH OF JIM THORPE,
COUNTY OF CARBON, PENNSYLVANIA REGULATING
SHORT TERM RENTALS WITHIN THE BOROUGH AND
ESTABLISHING PENALTIES FOR VIOLATIONS.**

The Borough Council of The Borough of Jim Thorpe hereby enacts and ordains as follows:

Section 1 - SHORT TITLE

This Ordinance shall be known and may be cited as **THE SHORT - TERM RENTAL ORDINANCE OF BOROUGH OF JIM THORPE.**

Section 2 - FINDINGS AND PURPOSE

The Borough Council of the Borough of Jim Thorpe, Carbon County, Pennsylvania, is charged with the duty to protect and provide for the health, safety and general welfare of the citizens of the Borough of Jim Thorpe. The Borough finds and declares as follows:

- A. Short-term rentals of dwellings have become a significant segment of the local tourism economy.
- B. Short-term rentals provide a community benefit by expanding the number and type of lodging facilities available and assist owners of short-term rentals by providing revenue which may be used for maintenance, upgrades and deferred costs.
- C. While most of these units operate without a problem, there have been numerous complaints to the Borough regarding excessive noise, parking, litter, and concerns regarding septic capabilities, security, public safety, and trespass.
- D. The transitory nature of occupants of short-term rentals makes enforcement against the occupants difficult.
- E. The provisions of this ordinance are necessary to prevent the continued burden on Borough and community services and impacts on residential neighborhoods posed by short-term rentals.
- F. Compliance with the provisions of this ordinance will maintain the rural and residential character of the Borough that attracts residents, homeowners and visitors.

Section 3 - APPLICABILITY; RESPONSIBILITY

A. Applicability - This Ordinance shall apply to all short-term rentals as defined in Section 5 and all provisions of this ordinance shall apply in addition to all other applicable requirements of Borough Ordinances.

B. Responsibility- The owner of the short-term rental is responsible for compliance with the provisions of this Ordinance and the failure of an agent, managing agency, or local contact person to comply with this ordinance, including the monitoring and control of the number of occupants and visitors, shall be deemed noncompliance by the owner.

Section 4- NUISANCE DECLARED

In the interest of protecting and promoting the public health, safety and welfare, and minimizing the burden on Borough and community services and impacts on residential neighborhoods posed by short-term rentals, the violation of any of the provisions of this ordinance is declared to be a public nuisance.

Section 5 - DEFINITIONS

The words and phrases used in this ordinance shall have the following meanings:

Bedroom: A room containing a minimum of eighty (80) square feet for one person and one hundred twenty (120) square feet for two people that is used as a sleeping room and for no other primary purpose.

Dwelling: A building designed or used as the living quarters for one or more families.

Dwelling Unit: One or more rooms, occupied or intended for occupancy, as separate living quarters by a single family maintaining a household, the members of which have unrestricted access to all other parts thereof, with cooking, sleeping, and sanitary facilities provided therein, for the exclusive use of that single family.

Local Contact Person: A local property manager, owner, or agent of the owner, who is available to respond to tenant and neighborhood questions or concerns, or any agent of the owner authorized by owner to take remedial action and respond to any violation of this ordinance.

Owner: The person or entity that holds legal or equitable title to the private property.

Rent: The consideration received by a vendor in money, credits, property, or other consideration valued in money for lodging.

Short-Term Rental: Any dwelling unit within a residential dwelling or mixed use structure rented for overnight lodging for a period of not less than one (1) day and not more than thirty (30) days. A Short-Term Rental shall include a tourist home, vacation rental by owner and other definitions as set forth as a Short-Term Rental Unit under the Zoning Ordinance of the Borough. A Short -Term Rental shall not include a bed and breakfast and/or a hotel as defined by the Borough Zoning Ordinance.

Section 6. PERMIT REQUIRED.

No Owner of any property in the Borough shall operate a Short Term Rental in the Borough without first obtaining a Short Term Rental Permit from the Zoning Officer or appointed Enforcement Officer. Operation of a Short-Term Rental without such Short-Term Rental Permit is a violation of this Ordinance.

Section 7. SHORT-TERM RENTAL PERMIT REQUIREMENTS

The owner shall be responsible for obtaining all permits and permit renewals.

A. Permit Required - A short-term rental permit shall be required when any dwelling unit in a single-family dwelling or a two-family/multi-family dwelling or mixed use structure is advertised for rent or is rented for a period of thirty (30) consecutive calendar days or less.

B. Permit Renewal - A permit shall be renewed annually and at any time when any of the conditions of the rental which are governed by this ordinance are changed. Permits shall be issued based upon a fiscal year starting April 1st and ending March 31st.

C. Separate Permits - A separate permit is required for each short-term rental unit; for two-family or multi-family dwellings, and multiple units in a mixed use structure, a separate permit shall be required for each dwelling unit being rented pursuant to the definition of "short-term rental."

D. Issuance to Owner- The permit shall be issued only to the owner of the short-term rental.

E. Forms and Procedures - The enforcement officer is authorized to prescribe forms and procedures for the processing of permits under this ordinance.

F. Inspection Authorization - The owner, by making application for a permit and/or accepting issuance of a permit grants permission for all inspections authorized by Section 13.

G. Permit Not Transferable

1. The permit issued to an owner pursuant to this ordinance is personal to the owner identified in the application and does not run with the property. If the ownership of the property changes, either directly by sale or deed transfer, or indirectly by death, change in ownership of the entity owning the property, sheriff sale or court order, the new owner must apply for a permit under the provisions of this ordinance prior to renting the property, but shall be entitled to obtain a permit provided such new owner complies with the terms of this ordinance.
2. If an owner has been convicted of a violation of this ordinance (hereinafter the "violating owner"), or if a violating owner's permit has been revoked by the borough, then a transfer of the property by the violating owner to one or more of such owners family members, or to an entity owned by the violating owner, then the new owner shall be subject to the violations and penalties and/or revocation imposed upon the "violating owner."

Section 8 - LOCAL CONTACT PERSON

Each owner of a short-term rental shall designate a local person, property manager or agent, as a local contact person who has access and authority to assume management of the unit and take remedial measures. An owner of a short-term rental who resides within thirty (30) miles of the short-term rental may designate himself as the local contact person. The local contact person shall respond to the enforcement officer within one (1) hour after being notified by the enforcement officer or other Borough official of the existence of a violation of this ordinance or any disturbance requiring immediate remedy or abatement. If the local contact person is not the owner, the local contact person shall immediately advise the owner of any notification of a violation.

Section 9- APPLICATION FOR SHORT-TERM RENTAL PERMIT

A. Application Required; Information - An application for a permit shall be filed with the designated Borough official before use of the property as a short-term rental. The application shall contain the following information:

1. The name, address, telephone number and email address of the owner of the short-term rental for which the permit is issued. If the owner does not have a managing agency, agent or local contact person, then owner shall provide a 24-hour telephone number.

2. The name, address, and 24-hour telephone number of the short-term rental owner's managing agency, agent or local contact person.
3. A photograph of the short-term rental taken from the access road side.
4. The marketing entity identification number for the short-term rental.
5. Acknowledgment that all designated bedrooms contain a minimum of eighty (80) square feet for one person and one hundred twenty (120) for two people.
6. The number of bedrooms (each containing the required minimum square feet) and the maximum number of overnight occupants.
7. If the building is a Two-Family/Multi-Family Dwelling structure or Multi Use Structure, the number of dwelling units and the number of dwelling units being used as a vacation rental.
8. A diagram or photograph of the premises showing and indicating the number and location of designated on-site parking spaces and the maximum number of vehicles allowed for overnight occupants.
9. The location, approximate age and capacity (if known) of the sewage disposal system.
10. Acknowledgement that the owner, agent, and/or local contact person have read all regulations pertaining to the operation of the short-term rental.
11. Acknowledgment that the owner, agent, or local contact person will post and maintain the short-term rental with the notice required in Section 11.A.14.
12. Acknowledgement that the owner, agent, or local contact person will post and maintain:
 - a. The 911 emergency address sign in accord with applicable requirements; and,
 - b. The short-term identification window sign provided by the Borough. The permit shall be posted on a window clearly visible from the access road side of the short-term rental.

13. A copy of a current Carbon County Hotel Room Excise Tax Certificate, if applicable and current Pennsylvania Sales Tax License, or other proof or certification of the appropriate taxes collected.

14. Other information the enforcement officer deems reasonably necessary to administer this ordinance.

15. Each owner shall maintain at least \$300,000.00 in general liability insurance on the short-term rentals for the full duration of their license term and provide proof of the same to the Borough.

16. The owner shall provide proof of ownership of the structure by deed, tax bills, or other acceptable proof.

B. Inspection Fee - If the information supplied by the property owner on the application for short-term rental permit is not consistent with Borough records, an inspection can be required prior to or after the issuance of the short-term rental permit. An inspection fee established by Resolution of the Borough Council shall be charged for any inspection.

SECTION 10- APPLICATION AND RENEWAL FEES

A. Application Fee - An application for a short-term rental permit shall be accompanied by an initial fee established by Resolution of the Borough Council.

B. Renewal Fee - An annual renewal fee shall be established by Resolution of the Borough Council which permit holders shall pay when renewing their permit issued pursuant to this ordinance. Failure to pay the renewal fee by May 15th will result in the assessment of a fee twice the amount of the normal renewal fee. If the fee is not paid by August 1st the permit shall be null and void and application for a new permit, not a renewal, shall be required.

SECTION 11 - OPERATIONAL STANDARDS AND CONDITIONS

A. Standards - All permits issued pursuant to this ordinance are subject to the following standards:

1. The owner shall by written agreement, limit overnight occupancy of the short-term rental to the specific number of occupants designated in the permit, with the number of overnight occupants not to exceed two (2) persons per bedroom plus four (4) additional persons per residence.

2. The maximum number of day guests allowed at any one (1) time shall be fifty (50) percent of the maximum occupancy of the short-term rental.

3. The number of bedrooms permitted for a short-term rental shall not exceed the number of bedrooms approved for the dwelling on the sewage permit issued for such property.

4. Where there is no sewage permit on record (for any on lot system), the short-term rental for such a dwelling shall be limited to the number of bedrooms that have been historically maintained in the dwelling based on documentation provided by the owner and which is acceptable to the Borough.

5. In no instance shall the existing number of bedrooms be increased without proper Borough and DEP (if applicable) approval being obtained.

6. If a sewage system malfunction occurs, rental of the unit shall be discontinued until the malfunction is corrected in accord with Borough and PA Department of Environmental Protection requirements.

7. The owner shall by written agreement, limit the number of vehicles of overnight occupants and day guests to the number designated in the permit with the number of all vehicles not to exceed the number of designated parking spaces.

a. All parking for overnight guests and day guests shall be designated in the permit.

b. Section 500-31 of the Jim Thorpe Borough Zoning Ordinance is incorporated herein by reference.

8. The owner shall use best efforts to assure that the occupants or guests of the short-term rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this ordinance or any state law pertaining to noise or disorderly conduct by notifying the occupants of the rules regarding short-term rentals and responding when notified that occupants are violating laws regarding their occupancy. It is not intended that the owner, local agent, or contact person act as an enforcement officer or place himself or herself in harm's way.

9. The owner shall, upon notification that occupants or guests of the short-term rental have created unreasonable noise or disturbances, engaged in disorderly conduct or violated provisions of this ordinance or state law pertaining to noise, or disorderly conduct, promptly use best efforts to prevent a recurrence of such conduct by those occupants or guests.

10. Any lights used for exterior illumination shall direct light away from adjoining properties. Lighting shall be pointed/shielded downward to minimize upward glare.

11. Occupancy of recreational vehicles, camper trailers and tents shall not be allowed. Children under the age of thirteen (13) are allowed to "camp out" in a tent on the premises.

12. The use of open fires, fire pits, charcoal-burning grills or other devises (as applicable) shall be the responsibility of the owner or Local Contact and shall comply with the Jim Thorpe Borough Burning Ordinance. All open fires shall be extinguished by 11:00 p.m.

13. The owner of the short-term rental shall post a copy of the permit and a copy of the conditions set forth in this Section 11 in a conspicuous place within the short-term rental.

14. Each short-term rental shall have a clearly visible and legible notice posted within the unit on or adjacent to the front door, containing the following information:

- a. The name of the managing agency, agent, property manager, local contact, owner of the unit, and a telephone number at which that party may be reached on a 24-hour basis.
- b. The maximum number of occupants permitted to stay in the unit and the maximum number of day guests permitted at any one (1) time.
- c. The maximum number of all vehicles allowed to be parked on the property and the requirement that all renter parking must be on the property (as per Section 7b above) and not in any private, community or public right-of-way.
- d. The number and location of on-site parking spaces and the parking rules for seasonal snow removal and emergency vehicle access (if any).

- e. Trash containers shall be placed within ten (10') feet of the public street, thoroughfare, access way or alley way, where the haulers' vehicle will park to pick up the solid waste. Containers shall not be placed for collection more than 24 hours prior to the time scheduled for collection.
- f. Notification that an occupant may be cited and fined for creating a disturbance or for violating other provisions of this ordinance; and
- g. Notification that failure to conform to the parking and occupancy requirements of the structure is a violation of this ordinance subject to a citation and fines.

The occupants of a short-term rental shall make the notice required by this paragraph available for inspection by the enforcement officer upon request.

15. All short-term rentals shall comply with the following standard. It is unlawful for any person to disturb the peace of any neighborhood, person or family by loud or unusual noises or by tumultuous and offensive conduct, public indecency, threatening, quarreling, challenging to fight or fighting and violations of the Jim Thorpe Borough Noise Ordinance.

SECTION 12- ENFORCEMENT OFFICER(S)

A. Appointment - The Borough Council may appoint one (1) or more code enforcement officers, who may be an individual, firm or agency of the Borough of Jim Thorpe, a Pennsylvania State Constable, contracted security firm or its police department, to conduct inspections, make reports and administer other parts of this ordinance as determined by the Borough Council.

B. Duties - The administrative, inspection and enforcement responsibilities established by this ordinance may be delegated to different enforcement officers appointed in accord with Section 12.A.

C. Consultation - The enforcement officer, with the authorization of the Borough Council, may engage the services of competent engineers or other consultants to determine the nature and extent of any violation.

SECTION 13 - INSPECTIONS AND ACCESS -

A. All short-term rentals shall be subject to inspection by the Enforcement Officer to verify application information, permit, permit renewal and/or operating requirements.

B. The issuance of a short-term rental permit is not a warranty that the premises is lawful, safe, habitable, or in compliance with this ordinance.

C. If there is reason to believe that any provision of this Ordinance is being violated, the Borough Council may, or may cause, through the Code Enforcement Officer or an authorized representative of the Borough entry into the premises for purposes of inspection of any and all premises, properties, buildings and/or structures located within the Borough for ascertaining the existence of violations. In those matters where the nature of an alleged violation is such that an inspection of the interior of a building or structure is necessitated, prior arrangements must be made with the owner or his agent to secure access thereof.

SECTION 14 - MARKETING

The marketing of a short-term rental, which exceeds the maximum occupancy requirements permitted by this ordinance or which promotes any other activity, which is prohibited by this ordinance shall be a violation of this ordinance subject to the penalties and costs of Section 17. The owner or local contact person shall provide to the enforcement officer a copy of all advertisements relating to the short-term rental.

SECTION 15 - ACTION ON COMPLAINTS

A. Violation in Progress - Upon receipt of a verbal complaint of a violation in progress and if the complainant's name and address is provided, the enforcement officer shall immediately notify the owner and/or the local contact person of the complaint. If the enforcement officer believes a crime to be in progress he/she shall immediately notify the appropriate police department. The enforcement officer shall have no obligation to respond to any violation in progress at the property in question, unless the Borough has appointed a police officer or police department to act as the enforcement officer for this ordinance. If the enforcement officer is a police officer, or if a police officer is called to the property to address possible criminal activity, then the Borough may proceed with an action on a violation if the police officer in question confirms that a violation of this ordinance has occurred or provides information to the enforcement officer establishing that a violation has occurred.

B. Violation Preceding Complaint - Upon receipt of a complaint of a violation which occurred prior to the date of the complaint, the enforcement officer shall not be obligated to proceed with any action to determine if a violation of this ordinance exists unless such complaint is made in writing and it includes the name and address of the person registering the complaint.

C. Confidentiality- The enforcement officer shall maintain the confidentiality of the name and address of the person registering the complaint unless otherwise required by law to release such information.

SECTION 16 - NOTICE TO VIOLATORS

A. Service of Notice - Whenever the enforcement officer, determines that a violation of this ordinance exists, the enforcement officer shall prepare a written Notice of Violation, to be served on the owner and/or occupant(s) of the premises on which the nuisance is located or originates. The written Notice of Violation shall be served on the owner and local contact person within five (5) days of the determination of the violation by one (1) or more of the following methods:

1. Personal delivery.
2. Fixing a copy to the door of the building on the premises of the violation.
3. Certified mail to the owner/local contact person addressed on the permit.

B. Content of Notice

1. The Notice shall enumerate the conditions, which constitute the violation and what action is required to abate the violation.
2. The Notice shall include a time frame for the abatement of the nuisance, with such time frame established by the enforcement officer based upon the nature of the violation and providing a reasonable period for the violator to take the required action but not more than ten (10) days. In the case of an advertising violation the time period shall not exceed five (5) days. In the case of a public disturbance or in the other cases as determined by the enforcement officer immediate action shall be required.

C. Repeat Violators. - If an owner commits the same or a similar violation within one (1) year of receiving a Notice of Violation as set forth in this Section 16, no additional notice shall be required to be served on that owner prior to initiating enforcement action in accord with this Section 16.

SECTION 17- VIOLATIONS, PENALTIES AND COSTS

A. Compliance Failure to comply with any provision of this ordinance, and/or failure to comply with an order to abate an activity, use and/or condition, shall be a violation of this ordinance and subject to criminal prosecution and the revocation of the permit.

B. Fine - Any person who has violated or permitted the violation of any provisions of this ordinance shall upon judgment thereof by any Magisterial District Judge be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00) per day of violation, together with the costs of suit including, but not limited to, reasonable attorney fees, constable fees and staff time. Each day of violation shall constitute a separate offense, for which a summary conviction may be sought. All judgments, administrative, enforcement, security firm or police response, and other costs, interest and reasonable attorney fees collected for the violation of this ordinance, shall be paid over to the Borough.

C. Other Remedies - The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment. The Borough shall also have the right to seek injunctive Relief for violations of this ordinance.

D. Permit Revocation- If an owner commits a violation which results in a conviction or guilty plea ("Conviction"); then the permit shall be revoked by the Borough and the short-term rental must be discontinued while the permit is revoked. The revocation for a first violation shall be three (3) months. The revocation for a second violation within three (3) years of the first conviction shall be cause for a one (1) year revocation of the permit. A conviction of a third violation within three (3) years of the first violation shall be cause for a permanent revocation of the permit. Any violation of the PA Sewage Facilities Act and applicable regulations may result in immediate permit revocation until the violation is corrected. (See also Section 7G2 for permit transfers.)

E. Reinstatement - The Borough Council may in its sole discretion approve the reinstatement of a permit, if satisfied that there has been an appropriate change of ownership and/or that cause of the violations has been corrected and that all other requirements of this ordinance have been met.

SECTION 18 - APPEALS

A. Filing of Appeal. Appeals of an action under this Chapter to deny any application for, or to renew, a Short Term Rental License, or to revoke a Short Term Rental

License, shall be filed with the Borough Council within 30 days of the date of the denial of application or revocation of license. Appeal shall be processed as follows:

- (1) All appeals shall be in writing and signed by the Appellant on forms prescribed by the Borough and shall be accompanied by a fee, the amount of which shall be established by the Borough Council, which may include notice and advertising costs, and necessary administrative overhead in relation to the hearing.
- (2) Each appeal shall fully set forth the determination appealed from, a detailed reason or basis for the appeal, and the relief sought. Every appeal shall refer to the specific provision of circumstances of the case.

B. Hearings. The Borough Council shall conduct hearings and make decisions pursuant to the Act of December 2, 1968 (P.L. 1133, No. 353), known as the "Local Agency Law", and in accordance with the following requirements:

- (1) Written notice shall be given to the Appellant and to any person who has made timely request for same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Borough Council, but not less than 15 days prior to the hearing.
- (2) The hearing shall be held within 60 days from the date of the appeal is filed, unless the Appellant has agreed in writing to an extension of time.
- (3) The hearing shall be conducted by the Borough Council. The decision or, where no decision is called for, the findings shall be in writing by the Borough Council within 45 days after the conclusion of the hearing, unless the Appellant has agreed in writing to an extension of time, and shall be communicated to the Appellant and any other parties who have entered their written appearance and requested a copy of the decisions, at the addresses provided by them either by personal delivery or by United States First Class mail postage prepaid.
- (4) The Chairman or Acting Chairman of the Borough Council presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties.

- (5) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- (6) Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- (7) The Borough Council may, but is not required to, make a stenographic record of the proceedings. In the event a stenographic record of the proceedings is not provided by the Borough Council, a stenographic record shall be made and kept at the request of any party agreeing to pay the costs thereof. Any party or other person desiring a copy of the stenographic record shall order the copy directly from the stenographer who prepared the same and shall pay the cost imposed by the stenographer for the copy directly to the stenographer.
- (8) The Borough Council shall not communicate, directly or indirectly, with any party or any party's representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings after the commencement of hearings with any party or any party's representative unless all parties are given opportunity to be present.

SECTION 19- SEVERABILITY

Should any section, subsection, clause, provision or other portion of this ordinance be declared invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance; the Borough Council having adopted this ordinance as if such invalid portions had not been included therein.

SECTION 20- REPEALER

All Ordinances or parts of Ordinances, which are inconsistent herewith are hereby repealed.

SECTION 21- EFFECTIVE DATE

This Ordinance shall become effective five (5) days after the adoption thereof.

ENACTED AND ORDAINED into law by the Borough Council of Jim Thorpe Borough, Carbon County, Pennsylvania, this 11th day of March 2021.

BOROUGH OF JIM THORPE

BY: 
GREGORY STRUBINGER, PRESIDENT

ATTEST:


SECRETARY/ASSISTANT SECRETARY

EXAMINED AND APPROVED this 11th day of March 2021.


MICHAEL SOFRANKO, MAYOR