

ORDINANCE 12-2022

**BOROUGH OF EATONTOWN
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**AN ORDINANCE CREATING CHAPTER 257 OF THE BOROUGH CODE ENTITLED "RENTAL PROPERTIES" REGULATING
SHORT TERM RENTALS WITHIN THE BOROUGH OF EATONTOWN**

WHEREAS, the Borough has experienced a large increase in short term rentals of residential properties given the proximity of Eatontown to the beaches along the New Jersey shoreline; and

WHEREAS, the Borough Council believes it is in the Borough's best interest to regulate specific short-term rentals activities to minimize any potential deleterious effects on other properties in the surrounding neighborhoods in which they are located; and

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Eatontown, County of Monmouth, State of New Jersey that Borough Code is hereby amended to create Chapter 257 entitled "Rental Properties".

Chapter 257 entitled "Rental Properties" shall read as follows:

§257-1 Definitions.

- (a) Advertise or Advertising-Any form of solicitation, promotion, and/or communication for marketing, used to solicit, encourage, persuade, or manipulate viewers, readers, or listeners into contracting for goods and/ or services in violation of this subsection, as same may be viewed through various media including but not limited to, signs, newspapers, magazines, flyers, commercials, radio, direct mail, internet websites, or text or other electronic messages for the purpose of establishing occupancies or uses of property, for consideration, which are prohibited by this Section.
- (b) Consideration-Soliciting, charging, demanding, receiving, or accepting any legally recognized form of consideration including a promise or benefit, a quid -pro -quo, rent, fees, other form of payment, or thing of value.
- (c) Dwelling Or Dwelling Unit- A building or portion thereof, whether furnished or unfurnished, which is occupied in whole or in part, or intended, arranged, or designed to be occupied, for sleeping, dwelling, cooking, gathering, and/ or entertaining, as a residential occupancy, by or one or more persons. This definition includes an apartment, condominium, building, townhome, single-family home or portions thereof, that is offered to be used, made available for use, or is actually used for accommodations, lodging, cooking, sleeping, gathering and/or entertaining of occupants and/or guest(s), for consideration.
- (d) Hosting Platform-A website or marketplace in whatever form, whether online or not, which facilitates Short -Term Rentals or the rental of the exterior (e. g. pool, pool area, backyard) of a residential unit through advertising, searching, match -making, or any other means, using any medium of facilitation and from which the operator of the Hosting Platform derives revenues, including but not limited to booking fees or advertising revenue, from providing or maintaining the website or marketplace.
- (e) Housekeeping Unit- Constitutes a family-type situation, involving one or more persons living together that exhibit the kind of stability, permanency, and functional lifestyle equivalent to that of a traditional family unit, as further described in the applicable reported and unreported decisions of the New Jersey Superior Court.
- (f) Occupant-Any individual using, inhabiting, living, gathering, entertaining, being entertained as a guest, or sleeping in a dwelling unit, or portion thereof, or having other permission or possessory right(s) within a Dwelling Unit.
- (g) Owner-Any Person(s) who legally use, possess, own, lease, sub -lease, or license (including an operator, principal, shareholder, director, agent, or employee, individually or collectively) one or more Dwelling Units, or who have charge, care, control, or who participates in the expenses and/or profit of a Dwelling Unit pursuant to a written or unwritten agreement, rental, lease, license, use, occupancy agreement or any other agreement.
- (h) Person-An individual, firm, corporation, association, partnership, limited liability company, association, entity, and any person(s) and/or entity(ies) acting in concert or any combination therewith.
- (i) Residential Occupancy-The use of a dwelling unit by an Occupant(s).
- (j) Short-Term Rental-A Residential Occupancy for a period of ninety (90) days or less.

§257-2 Short-term Rentals Prohibited.

- (a) It shall be unlawful for a Person or Owner to receive or obtain actual or anticipated Consideration for using, authorizing, permitting, or failing to discontinue the use of any Dwelling Unit used as a Short-Term Rental, and shall

not enter into a Short-Term Rental arrangement, as defined herein, more than two-times in any twelve-month period.

- (b) It shall be unlawful for a Person or Owner to receive or obtain actual or anticipated Consideration for using, authorizing, permitting, or failing to discontinue the rental of all or a portion of the exterior of any residential property. This shall include the rental of the pool, pool area, and backyard.
- (c) There shall only be one written or oral agreement as between a Person or Owner receiving or obtaining actual or anticipated Consideration for the use of Dwelling Unit as a Short-Term Rental regardless of the number of occupants associated with each rental.
- (d) Nothing in this section prevents formation of an otherwise lawful Residential Occupancy of a Dwelling Unit for a rental period of ninety (90) days or more.
- (e) Nothing in this section shall be deemed to prohibit the lawful operation of any hotel as that term is defined in the New Jersey Hotel and Multiple Dwelling Law, N.J. S. A. 55: 13- 1, et seq.

§257-3. Permitted uses.

- (a) The Residential Occupancy of an otherwise lawful and lawfully-occupied Dwelling Unit for any number of days by any Person who is a member of the Housekeeping Unit of the Owner or a house guest(s), without consideration, is permitted.

§257-4 Advertising prohibited, hosting platform regulations.

- (a) It shall be unlawful for any Person to Advertise by any means that would be in violation of the provisions of this section.
- (b) It shall be unlawful for any Hosting Platform to undertake, maintain, authorize, aid, facilitate or Advertise any Short -Term Rentals in violation of this section.
- (c) It shall be unlawful for any Hosting Platform to undertake, maintain, authorize, aid, facilitate or Advertise all or a portion of the exterior of any residential property for rent in violation of this section.

§257-5 Violations, penalties and enforcement.

- (a) The provisions of this section shall be enforced by the Zoning Officer, Housing Officer or Borough Police as their jurisdiction may arise, including legal counsel for the Borough or other person designated by the Borough Council, to issue municipal civil infractions directing alleged violators of this section and/ or to appear in court or file civil complaints.
- (b) A violation of this section is hereby declared to be a public nuisance per se and is hereby further found and declared to be offensive to the public health, safety, and welfare.
- (c) Any Person found to have violated any provision of this section, without regard to intent or knowledge, shall be liable for the maximum civil penalty, upon adjudicated violation or admission, of a fine not exceeding \$2,000 per day per violation. Each day of such violation shall be considered a new and separate violation of this section.
- (d) The penalty imposed pursuant to subsection (c) above shall be in addition to any and all other remedies that may accrue under any other law, including, but not limited to, eviction proceedings and/ other injunction, reasonable attorneys' fees or other fees and costs, in the Borough' s Municipal Court or the Superior Court of New Jersey in the vicinage of Monmouth County, or in such other Court or tribunal of competent jurisdiction, by either summary disposition or by zoning or construction code municipal process. All costs attendant to enforcement of this section shall be assessed as a lien against the subject property, enforceable and collectible in the same manner as liens for delinquent real property taxes and municipal service charges.

BE IT FURTHER ORDAINED, that

- A. All other Ordinances or provisions of the Code of the Borough of Eatontown or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.
- B. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.
- C. This Ordinance shall take effect upon its passage and publication as required by law.

DATE INTRODUCED: June 9, 2022

PUBLIC HEARING: June 22, 2022