



# **BOROUGH OF OAKLAND BERGEN COUNTY, NEW JERSEY**



## **ORDINANCE NO. 23-CODE-905**

### **AN ORDINANCE TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE BOROUGH OF OAKLAND, "LAND USE AND ZONING", CHAPTER 59, BY ADDING A NEW ARTICLE XX "SHORT-TERM RENTALS"**

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Borough Council of the Borough of Oakland, as follows:

Section 1. Chapter 59 "Land Use and Zoning" shall be amended to add a new Article XX "Short-Term Rentals", as follows:

#### **ARTICLE XX. Short-Term Rentals.**

##### **§59-165 Short-term rentals prohibited.**

- A. It shall be unlawful for an owner, lessor, sublessor, any other person(s) or entity(ies) with possessory or use right(s) in a dwelling unit, their principals, partners or shareholders, or their agents, employees, representatives and other person(s) or entity(ies) acting in concert, or a combination thereof, to receive or obtain actual or anticipated consideration for soliciting, advertising, offering and/or permitted, allowing, or failing to discontinue the use or occupancy of any dwelling unit, as defined herein, for a period of thirty (30) days or less.
- B. Nothing in this article will prevent an otherwise lawful occupancy of an entire dwelling for a rental period of more than thirty (30) days. However, rental of a room or a portion of the premises for any term is not permitted with the exception of the following as to a senior citizen:

40:55D-68.4. Municipalities not to prohibit senior citizens from leasing or renting rooms with single family primary residence to one person. Notwithstanding the law, ordinance, rule or regulation to the contrary, a municipality shall not prohibit any senior citizen, who is the owner of a single-family dwelling which is his primary residence, from renting or leasing a room or rooms within that dwelling, together with general use associated with that dwelling, to one person, except that nothing in this act shall be construed to prohibit a municipality from allowing the rental or leasing to more than one person.

40:55D-68.5. For the purposes of this act, a "senior citizen" is any person who has attained the age of 62 years on or after the effective date of this act, or the spouse of that person, or the surviving spouse of that person, if the surviving spouse is 55 years of age or older.

##### **§59-166 Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**ADVERTISE OR ADVERTISING:** Any form of solicitation, promotion and 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 article, as same may be viewed through various media including, but not limited to, newspapers, magazines, flyers, handbills, pamphlets, commercials, radio, direct mail, internet websites, or text or other electronic messages for the purpose of establishing occupancies or uses of rental property, for consideration, which are prohibited by this article.

**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.

**DWELLING UNIT:** Any structure, 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 one or more persons. This definition includes an apartment, condominium, building, cooperative, converted space, or portions thereof, that is offered to use, made available for use, or is used for accommodations, lodging, cooking, sleeping, gathering and/or entertaining of occupants and/or guest(s), for consideration, for a period of thirty (30) days or less.

**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 report and unreported decisions of the New Jersey Superior Court.

**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.

**OWNER:** Any person(s) or entity(ies), association, limited-liability company, corporation, or partnership, or any combination, who legally use, possess, own, lease, sublease or license (including an operator, principal, shareholder, director, agent, or employee, individually or collectively) that has charge, care, control, or 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.

**PERSON:** An individual, firm, corporation, association, partnership, limited-liability company, association, entity, and any person(s) and/or entity(ies) acting in concern or any combination therewith.

**RESIDENTIAL OCCUPANCY:** The use of a dwelling unit by an occupant(s).

§59-167      Permitted uses.

The residential occupancy of an otherwise lawful and lawfully occupied dwelling unit for a period of thirty (30) days or less by a person who is a member of the housekeeping unit of the owner, without consideration, such as house guests, is permitted.

§59-168      Advertising prohibited.

It shall be unlawful to advertise, solicit or promote by any means actions in violation of this article.

§59-169      Enforcement; violations and penalties.



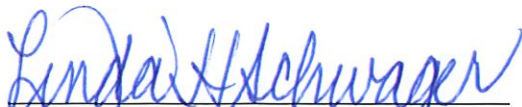
- A. The provisions of this article shall be enforced by the Zoning Official, Fire Official and/or other subcode or Code Enforcement Official.
- B. A violation of this article is hereby declared to be a public nuisance, a nuisance per se, and is hereby further found and declared to be offensive to the public health, safety and welfare.
- C. Any person found to have violated any provision of this article, without regard to intent or knowledge, shall be liable for the maximum civil penalty, upon adjudicated violation or admission, of a fine not exceeding \$1,250.00. Each day of such violation shall be a new and separate violation of this article.
- D. The penalty imposed herein shall be in addition to any and all other remedies that may accrue under any other law.


## Section 2. Severability and Repealer

- A. If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by federal or state law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.
- B. All ordinance or parts of ordinances which are inconsistent with any provisions of this ordinance are hereby repealed as to the extent of such inconsistencies.
- C. The Borough Clerk is hereby directed to give notice at least ten days prior to the hearing on the adoption of this ordinance to the Bergen County Planning Board, and to all others entitled thereto pursuant to the provisions of N.J.S.A. 40:55D-15. Upon adoption of this ordinance, after public hearing thereon, the Borough Clerk is further directed to publish notice of the passage thereof and to file a copy of this ordinance as finally adopted with the Bergen County Planning Board, as required by N.J.S.A. 40:55D-16 and with the Borough Tax Assessor.

Section 3. This Ordinance shall take effect immediately upon: (i) adoption; (ii) publication in accordance with the laws of the State of New Jersey; and (iii) filing of the final form of adopted Ordinance by the Clerk with the Bergen County Planning Board pursuant to N.J.S.A. 40:55D-16.

Adopted this 14 day of June, 2023.

  
Linda H. Schwager, Mayor

  
Michael E. Carelli, Borough Clerk

This is to certify that this is a true copy  
as adopted by the Mayor and Council  
of the Borough of Oakland at a meeting  
held on June 14, 2023  
Borough Clerk 