

**BOROUGH OF DEMAREST**  
**BERGEN COUNTY, NEW JERSEY**  
**ORDINANCE NO. 1109-22**

**AMENDING PART II – GENERAL LEGISLATION, SO AS TO:**

**ADD CHAPTER 143-SHORT-TERM RENTAL OF RESIDENTIAL PROPERTIES**

**WHEREAS**, the Council of the Borough of Demarest has determined that, in order to maintain the peace and ensure residents’ quiet enjoyment of residential properties in the Borough, it is necessary and appropriate to regulate short-term rentals of residential properties.

**NOW, THEREFORE, BE IT HEREBY ORDAINED** by the Mayor and Council of the Borough of Demarest, County of Bergen and State of New Jersey as follows:

**1. Addition to Code.** The following shall be added to Part II of the Municipal Code of the Borough of Demarest, as Chapter 143-Short-Term Rentals of Residential Properties:

**“§143-1 Definitions.**

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

*Advertise or Advertising* shall mean 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.

*Consideration* shall mean 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 or Dwelling Unit* shall mean 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 one or more persons. This definition includes an apartment, condominium, building, single-family home or portions thereof that are offered to be used, made available for use, or are actually used for accommodations, lodging, cooking, sleeping, gathering and/or entertaining of occupants and/or guest(s) for consideration.

*Hosting Platform* shall mean a website or marketplace in whatever form, whether online, electroinc, print or otherwise, which facilitates short-term rentals or the rental of the exterior (e.g., pool, pool area, backyard) of a residential unit through advertising, searching, matchmaking, 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.

*Housekeeping Unit* shall mean 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.

*Occupant* shall mean 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* shall mean any person(s) who legally uses, possesses, owns, leases, subleases, or licenses (including an operator, principal, shareholder, director, agent, or employee, individually or collectively) one or more dwelling units, or who has 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.

*Person* shall mean 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.

*Residential Occupancy* shall mean the use of a dwelling unit by an occupant(s).

*Short-Term Rental* shall mean a residential occupancy for a period of less than 90 consecutive days.

#### **§143-2 Short-Term Rentals Prohibited.**

a. Notwithstanding anything contrary contained in the Borough Code, 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, as defined herein.

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. Nothing in this section prevents formation of an otherwise lawful residential occupancy of a dwelling unit for a rental period of 90 consecutive days or more.

d. 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.

### **§143-3 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 houseguest(s), without consideration, is permitted.

### **§143-4 Advertising Prohibited; Hosting Platform Regulations.**

a. It shall be unlawful for any person to advertise or solicit, 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.

### **§143-5 Violations, Penalties and Enforcement.**

a. 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.

b. The provisions of this section shall be enforced by the Borough Police Department, Building Code Official, Fire Official, Health Department, other subcode or code official, 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 hereof and/or to appear in court or file civil complaints.

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 \$1,000. Each day of such violation shall be considered a new and separate violation of this section.

d. The penalty imposed herein 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/or other injunction, reasonable attorney's fees or other fees and costs, in the Borough Municipal Court or the Superior Court of New Jersey in the vicinage of Bergen County, or in such other court or tribunal of competent jurisdiction, by either summary disposition or by zoning or construction code municipal proceeding.”

## **2. Administrative Provisions.**

a. *Severability.* If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, subsection,

paragraph, sentence or other part of this Ordinance directly involved in the controversy with respect to which said judgment shall have been rendered, and all other provisions of this Ordinance shall remain in full force and effect.

b. *Inconsistent Ordinances Repealed.* All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed, but only to the extent of such inconsistencies.

c. *Effective Date.* This Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law, and its provisions shall apply to all rentals of residential properties with a rental inception date on or after the date of adoption and publication hereof as prescribed by law.

BOROUGH OF DEMAREST

By: \_\_\_\_\_  
MELINDA IANNUZZI, Mayor

ATTEST:

\_\_\_\_\_  
Susan Crosman, RMC, Borough Clerk

Introduced: \_\_\_\_\_, 2022

Adopted: \_\_\_\_\_, 2022