

ORDINANCE 1158

AN ORDINANCE AMENDING CHAPTER XIII OF "REVISED GENERAL ORDINANCES OF THE BOROUGH OF DEAL, 1982", Buildings and Housing

THE BOARD OF COMMISSIONERS OF THE BOROUGH OF DEAL
HEREBY ORDAIN:

Section 1. That Chapter II, Administrative, of the "Revised General Ordinance of the Borough of Deal, 1982 be and it hereby is amended in the following particulars:

Section 2. Subsection 13-4 **Short Term Rental Property** is added as follows:

13-4.1 Definitions

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 Ordinance, 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 Ordinance.

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, co-operative, 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 reported 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, sub-lease 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 concert or any combination therewith.

RESIDENTIAL OCCUPANCY - The use of a Dwelling Unit by an Occupant(s).

13-4.2 Short Term Rental Property Prohibited Uses

- A. Notwithstanding anything to the contrary contained in the Borough Code, it shall be unlawful for an Owner, lessor, sub-lessor, any other person(s) or entity(ies) with possessory or use right(s) in a Dwelling Unit, their principals, partner or shareholders, or their agents, employees, representatives and other persons(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 permitting, allowing, or failing to discontinue the use or occupancy of any Dwelling Unit, as defined herein, for a period of sixty (60) days or less.
- B. Nothing in this Ordinance will prevent formation of an otherwise lawful occupancy of a Dwelling Unit for a rental period of more than sixty (60) days.

13-4.3 Permitted Uses

The residential occupancy of an otherwise lawful and lawfully occupied Dwelling Unit for a period of sixty (60) days or less by any person who is a member of the Housekeeping Unit of the Owner, without Consideration, such as house guests, is permitted.

13-4.4 Advertising Prohibited

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

13-4.5 Enforcement; Violations and Penalties.

- A. The provisions of this Ordinance shall be enforced by the Building Code Official, Fire Official, Health Department, other Sub-Code or Code Official, as their jurisdiction may arise, including legal counsel for the Borough or other persons designated by the Board of Commissioners, to issue municipal civil infractions directing alleged violators of this Ordinance and/or to appear in court or file civil complaints.
- B. A violation of this Ordinance 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 Ordinance, 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. Each day of such violation shall be a new and separate violation of this Ordinance.
- 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 injunction, reasonable attorney's 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 proceeding.

SECTION 3. If any part of this Ordinance shall be deemed invalid such part shall be deemed severable and the invalidity thereof shall not affect the remaining part of this Ordinance.

SECTION 4. Any Ordinance or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed and superseded.

SECTION 5. This Ordinance shall take effect upon final passage and publication in accordance with Law.

*Introduced by Commissioner Ades on September 13, 2017
Seconded by Commissioner Simhon
Roll Call: Ayes 3; Cohen, Ades & Simhon*

*Motion to Adopt by Commissioner Ades on October 3, 2017
Seconded by Commissioner Simhon
Roll Call: Ayes 3; Cohen, Ades & Simhon*