

**TOWNSHIP OF ANDOVER
COUNTY OF SUSSEX, STATE OF NEW JERSEY**

ORDINANCE #2024-04

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 68 OF THE MUNICIPAL CODE OF THE TOWNSHIP OF ANDOVER, NEW JERSEY, IN ORDER TO CONFORM THE CODE TO THE REQUIREMENTS OF THE DIVISION OF TAXATION FOR ADMINISTRATION OF THE MUNICIPAL OCCUPANCY TAX IN ACCORDANCE WITH N.J.S.A. 40:48F-1

WHEREAS, pursuant to N.J.S.A. § 40:48F-1 et seq., municipalities are permitted to impose upon the owners of short-term rental properties a Municipal Occupancy Tax of up to three percent (3%) when each and every short-term rental occupancy ends or there is a change of occupancy by transient occupants; and

WHEREAS, short-term rental occupancies are defined as the rental of dwelling units for periods of 90 days or fewer ('Short Term Rentals'); and

WHEREAS, it has come to the attention of the Mayor and Committee of the Township of Andover that the New Jersey Department of the Treasury, Division of Taxation, requires certain language to be included in an ordinance establishing the imposition of the Municipal Occupancy Tax upon Short Term Rentals; and

WHEREAS, the Mayor and Committee wish to ensure that the Township imposes upon all eligible Short Term Rentals the Municipal Occupancy Tax of three percent (3%) authorized by N.J.S.A. § 40:48F-1.

NOW THEREFORE, BE IT ORDAINED, by the Mayor and Township Committee of the Township of Andover, County of Sussex, State of New Jersey, as follows:

SECTION 1. § 68- 7 Definitions

(8) is amended to read as follows:

(8) Definitions

Unless the context clearly indicates a different meaning, the following words, or phrases when used in this chapter shall have the following meaning:

APARTMENT, RENTAL UNIT, OR 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 are offered to use, made available for use, or are used for accommodations, lodging, cooking, sleeping, gathering and/or entertaining of occupants and/or guest(s), for consideration.

DETERIORATION

The condition of a structure or part thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay or neglect, lack

of maintenance or excessive use.

ENFORCEMENT OFFICER

The enforcement officer in the Township shall be the Zoning Officer or his/her authorized representative.

EXTERIOR OF PREMISES

Those portions of a building or structure, which are exposed to public view or are visible from adjoining or adjacent properties, including all outside surfaces and appurtenances thereto, and the open space on the premises outside any building or structure erected thereon.

EXTERMINATION

The control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food or by any approved pest-elimination methods.

FIRE HAZARD

Anything or any act, which increases or may cause any increase of the hazard or menace of fire to a greater degree than customarily recognized as normal by persons in the public service of preventing, suppressing or extinguishing fire or, which may obstruct, delay or hinder or may become the cause of an obstruction, delay, hazard or hindrance to the prevention, suppression, or extinguishment of fire.

GARBAGE

Animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

NUISANCE

Any public or private condition that would constitute a "nuisance" according to the statutes, laws, and regulations of the State of New Jersey, any of its agencies or this code; any physical condition existing in or on the exterior of any premises, which is potentially dangerous, detrimental, or hazardous to the health or safety of persons on, near or passing in proximity of the premises where said condition exists.

OCCUPANT

Any occupant, owner, agent, tenant, lessee, caretaker or other person or corporation in charge of the premises or having actual possession or use of a business, single- and multiple-family dwelling unit or other premises affected by this chapter.

OPERATOR

Any person, persons, or entity not the owner, who has charge, care, or control of a structure or a part thereof, with or without the knowledge, consent, or authority of the owner.

OWNER

Any person, persons, or entity:

A. Who shall have legal or equitable title in any form whatsoever to any premises or part thereof, with or without accompanying actual possession thereof; or

B. Who shall have charge, care or control of any lot, premises, building, structure

or part thereof, as owner or agent of the owner; or

C. As fiduciary, trustee, receiver, guardian, lessee or mortgagee in possession, regardless of how such possession was obtained;

D. Any person, group of persons or entity who is a lessee, sublessee or assignee of a lessee of any part or all of any building, structure or land shall be deemed to be a co-owner with the lessor for the purposes of this section and shall have responsibility over that portion of the premises so sublet, leased, or assigned.

PREMISES

A lot, plot or parcel of land, including the buildings, structures and improvements thereon.

RUBBISH

All combustible and noncombustible waste materials other than garbage; and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and the residue from burning wood, coal, coke or other combustible material and solid commercial and industrial waste.

A. No chemicals such as those used in swimming pools, oil, gasoline or any other chemical which could cause a fire, explosion or obnoxious gas shall be considered "rubbish."

SHORT-TERM RENTAL

Rental of any Apartment, Rental Unit, or Dwelling Unit, for a period of ninety ('90') or fewer days

TRANSIENT ACCOMMODATION

A room, group of rooms, or other living or sleeping space for the lodging of occupants, including but not limited to residences or buildings used as residences, that is obtained through a transient space marketplace or is a professionally managed unit. "Transient accommodation" does not include: a hotel or hotel room; a room, group of rooms, or other living or sleeping space used as a place of assembly; a dormitory or other similar residential facility of an elementary or secondary school or a college or university; a hospital, nursing home, or other similar residential facility of a provider of services for the care, support and treatment of individuals that is licensed by the State; a campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; a furnished or unfurnished private residential property, including but not limited to condominiums, bungalows, single-family homes and similar living units, where no maid service, room service, linen changing service or other common hotel services are made available by the lessor and where the keys to the furnished or unfurnished private residential property, whether a physical key, access to a keyless locking mechanism, or other means of physical ingress to the furnished or unfurnished private residential property, are provided to the lessee at the location of an offsite real estate broker licensed by the New Jersey Real Estate Commission pursuant to N.J.S.A. 45:15-1 et seq.; or leases of real property with a term of at least 90 consecutive days.

SECTION 2. § 68- 8 Duties of owners, operators and occupants

(8) is amended to read as follows:

(8) Duties of owners, operators and occupants

A. Owners, operators and occupants shall have all the duties, obligations and responsibilities prescribed in this chapter, and no such person or entity shall be relieved of any such duty, obligation or responsibility hereunder, nor may any such person or entity assert, as a defense against any charge made under this chapter, that another owner, operator or occupant or any other third person or entity is also responsible therefor and in violation thereof.

B. Pursuant to N.J.S.A. § 40:48F-1 et seq., when each and every Short-Term Rental occupancy ends or there is a change of occupancy by transient occupants, the Short-Term Rental property owner, in addition to the State Sales Tax and State Occupancy Fee, shall be subject to a 3% Municipal Occupancy Tax. This subsection shall only apply to such Short-Term Rentals that are obtained through a transient space marketplace or a professionally managed unit. The properties referenced in this subsection are Transient Accommodations, as defined by N.J.S.A. 54:32B-2(ggg), as these properties are professionally managed and/or are rented out via a transient space marketplace. Accordingly, pursuant to N.J.S.A. § 40:48F-1 et seq., at the end of each and every occupancy of such properties, which occupancy is for a period of 90 days or less, the property owner, in addition to the State Sales Tax and State Occupancy Fee, shall be subject to a 3% Municipal Occupancy Tax. This Tax shall not be imposed upon the rent for an occupancy if the purchaser, user, or consumer, is an entity exempt from the tax imposed on an occupancy under the Sales and Use Tax Act pursuant to N.J.S.A. 54:32B-9

SECTION 3. Codification. This Ordinance may be renumbered for codification purposes.

SECTION 4. Inconsistency. All Ordinances of the Township of Andover which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 5. Partial Invalidity. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

SECTION 6. Effect Date. This Ordinance shall take effect immediately following adoption and publication as required by law.

NOTICE OF PENDING ORDINANCE

PUBLIC NOTICE is hereby given that the foregoing Ordinance was introduced and passed at first reading at a Regular Meeting of the Township Committee of the Township of Andover held on May 2, 2024. A public hearing regarding same will be held at a hybrid meeting scheduled for May 16, 2024, beginning at 7:00PM, to be held both in person and virtually via Zoom, which details for accessing the meeting are as follows:

Zoom Meeting

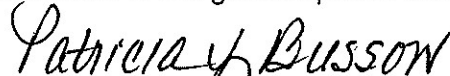
<https://us02web.zoom.us/j/85385763939?pwd=Y0xXTzRKSGorZmVpWVpYbmttSVJ6QT09>

Webinar ID: 853 8576 3939

Passcode: 814400

Phone: +1 929 205 6099

All persons interested both for and against said ordinance shall be given an opportunity to be heard concerning same. Copies of said Ordinance will be made available at the Clerk's office in the Township of Andover Municipal Building to the members of the general public who shall request the same.


Patricia L. Bussow, RMC
Administrator/Municipal Clerk

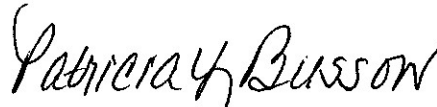
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NOTICE OF FINAL ADOPTION

PUBLIC NOTICE is hereby given that the foregoing Ordinance was adopted at a public hearing held at a Hybrid Meeting of the Township Committee of the Township of Andover on May 16, 2024. Said Hybrid Meeting was held virtually via Zoom and in person at the Municipal Building, 134 Newton Sparta Road, Newton, NJ 07860, at which time all persons were given the opportunity to be heard concerning same. This Ordinance shall take effect immediately upon publication, as required by law.



Patricia L. Bussow, RMC
Administrator/Municipal Clerk