

ORDINANCE NO. 22-03

AN ORDINANCE AUTHORIZING THE IMPOSITION OF AN OCCUPANCY TAX ON HOTELS AND MOTELS WITHIN THE TOWNSHIP OF NEPTUNE, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

WHEREAS, N.J.S.A. 40:48E-1 through 40:48E-6, as amended, provides for a State Hotel, Motel and Transient Accommodation Occupancy Fee or Tax, which provides that in addition to any other tax, an assessment or use fee authorized by law, there shall be imposed and shall be paid a hotel, motel and/or transient accommodation fee, not to exceed 6% charges for the use or occupancy of rooms and hotels, motels or transient accommodations; and

WHEREAS, the State Law allows any New Jersey Municipality, other than those specifically excluded, to adopt an Ordinance that imposes the Municipal Occupancy Tax on charges for the rental of certain facilities in the municipality, which can be up to 3%, on charges of rent for every occupancy; and

WHEREAS, the aforesaid tax would provide extra needed revenues for the Township of Neptune during a period of reduced Federal and State Aid to municipalities; and

WHEREAS, Neptune Township desires to impose the tax on traditional hotels and motels as originally provided in Title 54 and 40 of the revised State Statutes, but not on transient accommodations at this time.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Township Committee of the Township of Neptune, County of Monmouth and State of New Jersey that pursuant to State Statute providing for a State Hotel, Motel and/or Transient Accommodation Occupancy Fee or Tax, the Township authorizes the imposition of the same on all hotels, motels only as follows:

Section 1. Definitions

- A. Hotel – as used in this Ordinance, “hotel” shall mean a building or portion of it that is regularly used and kept open as such for the lodging of guests, and includes but is not limited to an apartment hotel, a motel, boarding house or club, whether or not meals are served or other like facilities, but does not include a transient accommodation.
- B. “Obtain Through a Transient Space Marketplace” – as used in this Ordinance shall mean payment for the accommodation is made through a means provided by the marketplace or travel agency, either directly or indirectly, regardless of which person or entity receives the payment, and where the contracting for the accommodation is made through the marketplace or travel agency.
- C. “Occupant” shall be defined as a person who, for a consideration, uses, possesses or has the right to use or possess any room in a hotel, motel, boarding house, transient accommodation or other facility subject to this Ordinance’s definition of “hotel” or “Transient Accommodation” under a concession, permit, right-of-access, license to use or other agreement or otherwise.
- D. “Residence” – shall mean a house, condominium or other residential dwelling unit in a building or structure or part of a building or structure that is

designed, constructed, leased, rented, let or hired out, or otherwise made available for use as a residence.

- E. “Short-term Rental” – shall mean a residential dwelling unit that is used and/or advertised for rent as short-term rental by transient occupants as guests, as those terms are defined in this section. Dwelling Units rented to the same occupant for a period of thirty (30) or less continuous days, licensed bed and breakfast establishments, licensed rooming and boarding houses. Hotels and motels shall not be considered short-term rental property.

- F. “Transient Accommodation” – shall mean 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 in 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 off-site real estate broker licensed by the State of New Jersey Real Estate Commission pursuant to R.S. 45:15-1 *et seq*; or the leases of real property with a term of at least 90 consecutive days. The term “Transient Accommodation” shall specifically include the “short-term rental” of a dwelling unit or part therein within the Township of Neptune, as defined in this Section.

- G. “Transient Space Marketplace” – shall mean a marketplace or travel agency through which a person may offer transient accommodations to customers and through which customers may arrange for occupancies of transient accommodations. “Transient Space Marketplace” does not include a marketplace or travel agency that exclusively offers transient accommodations in the State owned by the owner of the marketplace or travel agency.

- H. “Vendor” – shall mean any person selling or hiring property or services to another person upon the receipts of which a tax is imposed.

Section 2.

Municipal Taxation of Hotels and Motels

The Township of Neptune hereby imposes a tax on all hotels and motels as defined in Section 1 of this Ordinance as a uniform percentage rate of three (3%) percent on charges of rent for every occupancy. This tax shall be in addition to any other State or fee imposed pursuant to Statute or local Ordinance upon occupancy of hotels and motels in the Township of Neptune, which are subject to taxation pursuant to N.J.S.A. 54:3B-3(d).

- Section 3. Obligations of Vendor Paying Tax
All taxes imposed by the Ordinance shall be paid by the occupant of the room. The following conditions imposed upon the owner:
- A. The owner or vendor shall not assume or absorb any tax imposed by the Ordinance;
 - B. The owner or vendor shall not in any manner advertise or hold out to any person or to the public in general, in any manner directly or indirectly, that the tax will be assumed or absorbed by the owner or vendor, that the tax will not be separately charged and stated to the occupant or customer, or that the tax will be refunded to the occupant or customer.
 - C. Each assumption or absorption by an owner or vendor of the tax shall be deemed a separate offense, and each representation or advertisement by the owner or vendor each day that the representation or advertisement continues shall be deemed a separate offense.

Section 4. Responsibility for Collection

- A. The tax imposed by this Ordinance shall be collected on behalf of the municipality by the person collecting the rent or consideration from the hotel or motel accommodation occupant. That person shall either be the owner or vendor of the hotel or motel, the manager or sales person or other employee of the owner or vendor who arranges with the occupant for the rental of the room or space.
- B. Individual Liability. Each person required to collect the tax imposed by this Ordinance shall be liable for the tax imposed, collected or required to be collected hereunder. Any such person shall have the same right in respect to collecting the tax from an occupant as if the tax were a part of the rent and payable at the same time.
- C. Notwithstanding any other provision of law or administrative action to the contrary, each person is required to collect and pay on behalf of persons engaged in the business of providing hotel or motel rooms located in this Township, the tax for transactions obtained for hotels and motels. For not less than 4 years following the end of the calendar year, which the transaction occurred, the person collecting and paying on behalf of hotels and motels shall maintain the following data for those transactions consummated for hotels and motels:
 - (1) The name of the person who provided the hotel or motel room;
 - (2) The name of the customer who procured occupancy of the hotel or motel room;
 - (3) The address, including any unit designation, of the hotel or motel room;
 - (4) The dates and nightly rates for which the consumer procured occupancy of the hotel or motel room;
 - (5) The municipal hotel or motel registration number;

(6) The individualized name or number of each such advertisement or listing connected to such unit and the uniform resource locator (URL) for each such listing or advertisement, where applicable; and

(7) Such other information as the Division of Taxation may by rule require.

The Division of Taxation may audit transient space marketplaces as necessary to ensure data accuracy and enforcement of tax compliance.

D. Each person required to collect the tax imposed under this Ordinance as described above shall on or before the date required pursuant to N.J.S.A. 54:32B-17, forward to the Director of the Division of Taxation in the Department of the Treasury, the tax collected in the preceding month and shall make and file a return for the preceding month with the Director on any form and containing any information that the Director shall prescribe as necessary to determine liability for the tax in the preceding month during which the person was required to collect the tax. Should the Director determine to require payments of tax liability at any interval and based upon any collection classifications other than described in this Ordinance, the person required to collect the tax shall comply with any determinations made in that regard by the Director.

E. The Director of the Division of Taxation shall collect and administer the tax imposed under this Ordinance, and shall determine and certify to the State Treasurer on a quarterly or more frequent basis the amount of revenues collected in the municipality. The State Treasurer upon certification of the Director and upon the warrant of the State Comptroller shall pay and distribute on a quarterly or more frequent basis, as prescribed by the State Treasurer, the amount of revenues determined and certified as described above, to the Township of Neptune.

Section 5. Unpaid Taxes

A. Any unpaid taxes pursuant to this Ordinance shall be subject to an interest rate of 5% per annum.

B. The State Treasurer shall annually provide to the Township written notification of non-payment of taxes required to be paid under this Ordinance. Said written notification shall also authorize the Township to act as the collection agent for the outstanding balance of taxes due and owing to it in place of the State Treasurer.

C. In the event that the tax authorized and imposed under this section is not paid as and when due, the unpaid balance and any interest accruing thereof shall be a lien on the parcel of real property comprising the hotel or motel in the same manner as all other unpaid municipal taxes, fees or other charges. The lien shall be superior and paramount to the interest in such parcel of any owner, leasee, tenant, mortgagee, or other person, except the lien of the municipal taxes and shall be on a parity with and deemed equal to the municipal lien on the parcel for unpaid property taxes due and owing in the same year.

- D. The Township of Neptune shall file in the office of its Tax Collector a statement showing the amount and due date of the unpaid balance and identifying the block number of the parcel of real estate that comprises the delinquent hotel or motel. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.

Section 6. Annual Notice to State Treasurer Regarding Hotels and Motels

The Township shall annually provide to the State Treasurer, not later than January 1st of each year, a list of names and addresses of all hotels and motels located in the Township. The Township shall also provide to the State Treasurer the name and addresses of any hotel or motel that commences operation after January 1st of each year.

Section 7. Violations and Penalties

Any person, firm, partnership, association, corporation, LLC or the like who shall violate any provision of the chapter shall be subject to a fine of not more than One Thousand Two Hundred Fifty (\$2,000.00) Dollars, imprisonment for not more than ninety (90) days or a period of community service not exceeding ninety (90) days, or any combination thereof in the discretion of the judge hearing the matter.

Section 8. When and How Effective

This Ordinance shall take effect upon advertisement and final adoption in accordance with the law. A copy of the Ordinance adopted shall be transmitted upon adoption or amendment to the Treasurer of the State of New Jersey. The tax provisions of the Ordinance or any amendment to the tax provisions shall take effect on the first day of the first full month occurring ninety (90) days after the date of transmittal to the State Treasurer for the Ordinance or amendments adopted.

Section 9. Severance

Should any terms, provisions or a part of this Ordinance be found invalid, said provisions shall not affect any other of the terms.

BE IT FURTHER ORDAINED that this Ordinance shall take effect upon final adoption and publication of the notice of the adoption as required by law; and

BE IT FURTHER ORDAINED, that all Ordinances or parts of Ordinances that are inconsistent herewith are repealed, but only to the extent of such inconsistency.

Motion/ Second	Roll Call To Adopt On First Reading				Adopted on First Reading Dated: January 10, 2022
	YAY	NAY	ABSTAIN	ABSENT	
Second	Dr. Michael Brantley	X			
	Keith Cafferty	X			
	Robert Lane, Jr.	X			
Motion	Tassie D. York	X			_____ Gabriella Siboni, RMC Township Clerk
	Nicholas Williams	X			
Motion/ Second	Roll Call To Adopt On Second and Final Reading				Adopted on Second Reading Dated: January 24, 2022
	YAY	NAY	ABSTAIN	ABSENT	
	Dr. Michael Brantley	X			
Motion	Keith Cafferty	X			_____

	Robert Lane, Jr.	X
Second	Tassie D. York	X
	Nicholas Williams	X

Gabriella Siboni, RMC
Township Clerk

Gabriella Siboni
Township Clerk

Nicholas Williams
Mayor