

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

ORDINANCE #2022-10

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 68 OF THE
CODE OF THE TOWNSHIP OF ANDOVER, NEW JERSEY, ENTITLED "PROPERTY
MAINTENANCE," ESTABLISHING A MUNICIPAL OCCUPANCY TAX TO BE IMPOSED
UPON THE OWNERS OF SHORT-TERM RENTAL PROPERTIES**

WHEREAS, the short-term rental of residential dwelling units via internet-based booking platforms has become increasingly prevalent in recent years; and

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, the Andover Township Committee is aware that certain properties within the Township are presently being utilized as for short-term rental occupancies; and

WHEREAS, the Andover Township Committee finds that the imposition of a Municipal Occupancy Tax of three percent (3%) upon the owners of short-term rental properties is fair, considering the Township imposes such a tax upon hotel & motel rooms, pursuant to §66-2 of the Township Municipal Code.

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

SECTION 1. § 68-7 Definitions

(1) is amended to read as follows:

(1) 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 of 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 sixty ('60') or fewer 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.

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 April 7, 2022. A public hearing regarding same will be held at a hybrid meeting scheduled for May 5, 2022, beginning at 7:00PM, to be held both in person and virtually via Zoom, which details for accessing the meeting are as follows:

Webinar ID: 832 6104 1515

Passcode: 100240

Join Zoom Meeting with browser:

<https://us02web.zoom.us/j/83261041515?pwd=dktJOGJRMWc5MjUxcE9UWWxadINRdz09>

or

Join Zoom Meeting by Phone:

+ 1 301 715 8592

All persons interested both for and against said ordinance shall be given an opportunity to be heard concerning same.

Patricia L. Bussow, RMC
Administrator/Municipal Clerk