

**BOROUGH OF WEST CAPE MAY
COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

ORDINANCE NO. 610-22

**AN ORDINANCE AUTHORIZING AND IMPOSING
AN OCCUPANCY TAX ON CERTAIN PROPERTIES
IN THE BOROUGH OF WEST CAPE MAY**

WHEREAS, pursuant to N.J.S.A. 40:48F-1, the Borough may impose a tax not exceeding 3% on charges for rent of hotel rooms or transient accommodations; and

WHEREAS, the West Cape May Borough Commission has reviewed the matter and determined that it is appropriate, and in the Borough's best interest, that the Borough impose an occupancy tax consistent with the provisions of NJSA 40:48F-1, et seq.,

NOW, THEREFORE BE IT ORDAINED by the Borough Commission of the Borough of West Cape May, in the County of Cape May and State of New Jersey as follows:

Section 1. Purpose; statutory authority.

It is the purpose of this section to implement the provisions of P.L. 2003, c. 114, as amended by P.L. 2018, c. 49, which authorizes the governing body of a municipality to adopt an ordinance imposing a tax at a uniform percentage rate not to exceed 3% on charges of rent for every occupancy of a room or rooms in a hotel or transient accommodation subject to taxation pursuant to Subsection (d) of N.J.S.A. 54:32B-3, which shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the occupancy of a hotel room or transient accommodation. The definitions in N.J.S.A. 54:32B-2 are incorporated herein by reference.

Section 2. Tax established.

There is hereby established a hotel and motel room occupancy tax in the Borough of West Cape May which shall be fixed at a uniform percentage rate of 3% on charges of rent for every occupancy of a hotel or motel room or transient accommodation in the Borough of West Cape May that is subject to taxation pursuant to Subsection (d) of Section 3 of P.L. 1966, c. 30, N.J.S.A. 54:32B-3 (sales tax).

Section 3. Tax is in addition to other taxes and fees.

The hotel and motel room and transient accommodation occupancy tax shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the occupancy of a hotel room or transient accommodation.

Section 4. Exemptions.

The hotel and motel room and transient accommodation occupancy tax authorized herein shall not be imposed on 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 Subsection (a) of Section 9 of P.L. 1966, c. 30 (N.J.S.A. 54:32B-9). Furthermore, a "transient accommodation" subject to this tax include those entities defined as "transient accommodations" in N.J.S.A. 40:48E-2 and shall not include those entities excluded from that definition.

Section 5. Regulations pertaining to vendors, violations, and penalties.

In accordance with the requirements of P.L. 2003, c. 114:

- A. All taxes imposed by this article shall be paid by the purchaser.
- B. A vendor shall not assume or absorb any tax imposed by this article.
- C. A 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 vendor, that the tax will not be separately charged and stated to the customer, or that the tax will be refunded to the customer.
- D. Each assumption or absorption by a vendor of the tax shall be deemed a separate offense, and each representation or advertisement by a vendor for each day that the representation or advertisement continues shall be deemed a separate offense.
- E. The penalty for violation of the foregoing provisions shall be as set forth in Chapter 1, Article III, Penalty, for each offense.

Section 6. Collection of tax.

The tax imposed by this article shall be collected on behalf of the Borough by the person collecting the rent from the hotel or motel or transient accommodation customer. Each person required to collect the tax herein imposed shall be personally 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 a customer as if the tax were a part of the rent and payable at the same time; provided that the Chief Financial Officer of the Borough shall be joined as a party in any action or proceeding brought to collect the tax.

Section 7. Repealer.

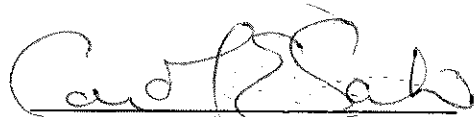
All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency.

Section 8. Severability.

Should any section, paragraph, sentence, clause, or phase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

Section 9. Transmission to State and Effective Date.

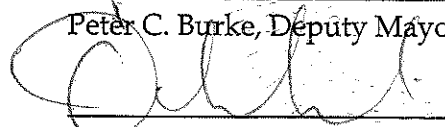
A copy of this Ordinance shall be transmitted upon adoption or amendment to the New Jersey Division of Taxation, Audit Selection & Technical Support, P.O. Box 264, Trenton, NJ 08695-0264. The tax provisions of this Ordinance will be effective on the first day of the first full month following 90 days after the Division has received the adopted ordinance.



Carol E. Sabo, Mayor



Peter C. Burke, Deputy Mayor



Daniel M. Kurkowski, Commissioner



Theresa Enteado
Acting Municipal Clerk

Introduced: February 23, 2022
First Publication: March 2, 2022
Second Reading and Adoption: March 9, 2022
Final Publication: March 16, 2022
Effective Date: March 29, 2022

I hereby certify that the foregoing is a true copy of an Ordinance duly passed and adopted by a majority of full membership of the Board of Commissioners of the Borough of West Cape May, County of Cape May, New Jersey, at a meeting held on March 9, 2022.

Acting Municipal Clerk