ORDINANCE 2025-10C

AN ORDINANCE ENTITLED, "CODE OF THE BOROUGH OF SHIP BOTTOM, COUNTY OF OCEAN, STATE OF NEW JERSEY, (1997)" AMENDING CHAPTER 5.64, WHICH PERTAINS TO HOTEL AND MOTEL TAX

STATEMENT OF PURPOSE

This Ordinance amends Chapter 5.64 to add a transient accommodation tax.

SECTION I

Chapter 5.64 is repealed and replaced as follows.

Chapter 5.64 Hotel, Motel, and Transient Accommodation Tax

§5.64.010 Purpose.

It is the purpose of this chapter to implement the provisions of N.J.S.A. 40:48F-1, et seq., as amended by P.L. 2003, c. 114, 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 on or after July 1, 2004, of a room or rooms in a hotel and motel subject to taxation pursuant to Subsection (d) of Section 3 of P.L. 1966, c. 40 (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.

§5.64.020 Hotel and motel occupancy tax.

There is hereby established a hotel and motel room occupancy tax, which shall be fixed at a uniform percentage rate of 3% on charges of rent for every occupancy of a hotel room in the Borough of a room or rooms in a hotel subject to taxation pursuant to Subsection (d) of Section 3 of P.L. 1966, c. 40, N.J.S.A. 54:32B-3 (sales tax).

§5.64.030 Transient accommodation tax.

A. The provisions set forth N.J.S.A. 40:48F-1, et seq., P.L. 2003, c. 114, as amended by P.L. 2018, c. 49, are hereby adopted, which provisions authorize a municipality to establish a tax on transient accommodation occupancies, targeting, but not limited to, such accommodations conveyed by transient space marketplaces.

B. There is hereby established a transient accommodation occupancy tax, which shall be fixed at a uniform percentage rate of 3% on charges of rent for every occupancy of a transient accommodation obtained through a transient space marketplace, subject to taxation pursuant to N.J.S.A. 40:48F-1, et seq., P.L. 2003, c. 114, as amended by P.L. 2018, c. 49. This tax shall not limit, abridge, or supplant any other tax lawfully assessed pursuant to the Federal Tax Code, or the laws of the State of New Jersey, and shall be in addition to any such tax.

C. As used in this Section, the following terms shall have the meanings indicated.

OBTAINED THROUGH A TRANSIENT SPACE MARKETPLACE

That 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.

TRANSIENT ACCOMMODATION

Is hereby defined in comport with P.L. 2018, c. 49, as 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, for any period less than 90 consecutive days, that is obtained through a transient space marketplace or is a professionally managed unit. This ordinance is

adopted under the strength of P.L. 2018, c. 49, and the definition of transient accommodation shall be construed in accordance with that law. Transient accommodation shall not be construed to mean: a room, group of rooms, or other living or sleeping space used as a place of assembly, or 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.

TRANSIENT SPACE MARKETPLACE

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.

D. In accordance with the requirements of N.J.S.A. 40:48F-2, the following shall apply.

1. All taxes imposed by this Section shall be paid by the purchaser.

2. A vendor shall not assume or absorb any tax imposed by this Section.

3. 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.

4. 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. Collection of transient accommodation tax.

1. This tax shall be collected on behalf of the Borough by the person collecting receipts, charges, or rent from the customer.

2. Each person required to collect a tax imposed by the Section 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, however, that the chief financial officer of the Borough shall be joined as a party in any action or proceeding brought to collect the tax.

3. Notwithstanding any other provision of law or administrative action to the contrary, transient space marketplaces shall be required to collect and pay on behalf of persons engaged in the business of providing transient accommodations located in this State the tax for transactions solely consummated through the transient space marketplace.

§5.64.040 Tax in addition to other taxes and fees.

The taxes required by this Chapter shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity.

§5.64.050 Tax in addition to other taxes and fees.

In accordance with the requirements of P.L. 2003, c. 114, the following shall apply.

A. All taxes imposed by this chapter shall be paid by the purchaser.

B. A vendor shall not assume or absorb any tax imposed by this Chapter.

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 $1,250 for each offense.

§5.64.050 Collection of tax.

The tax imposed by this Chapter shall be collected on behalf of the Borough by the person collecting the rent. 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 II

All ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION III

If any word, phrase, clause, section, or provision of this ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal, or unconstitutional, such word, phrase, clause, section, or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect.

Effective date.

This ordinance shall take effect after final adoption and publication as required by law.

NOTICE

Public Notice is hereby given that the foregoing Ordinance was introduced and passed on the first reading at a special meeting of the Mayor and Council of the Borough of Ship Bottom, County of Ocean, State of New Jersey, held on Friday, December 19, 2025, at 2:30 p.m.

Further public notice is hereby given that said ordinance shall be considered for final passage and adoption at a regular meeting of the Mayor and Council to be held on Tuesday, December 30, 2025, at 2:30 p.m. at the Municipal Building, 1621 Long Beach Boulevard, Ship Bottom, New Jersey 08008.

Kristy Correnti

Kristy Correnti, RMC
Municipal Clerk