

TOWNSHIP OF PEMBERTON

AN ORDINANCE OF THE TOWNSHIP OF PEMBERTON REQUIRING BUSINESS LICENSES FOR MOTELS AND OTHER TRANSIENT RESIDENTIAL BUSINESSES AND ESTABLISHING CERTAIN ADDITIONAL REQUIREMENTS IN THE INTEREST OF PUBLIC SAFETY

ORDINANCE NO. 21-2017

WHEREAS, pursuant to N.J.S.A. 40:52-1(d), the Township of Pemberton (the "Township") may enact and enforce ordinances to license and regulate motels and other similar temporary residences; and

WHEREAS, the Township finds that it is necessary for the safety of visitors as well as the residents of the Township to license and regulate motel establishments in the Township;

WHEREAS, the Township desires to establish by ordinance the licensing requirements, process, and fees to be charged as well as necessary security measurements needed in order to operate a motel in the Township.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Pemberton, in the County of Burlington and State of New Jersey that the Code of the Township of Pemberton shall be amended to add a new chapter entitled "Motels" set forth as follows:

NOW, THEREFORE, IT IS ORDAINED, by the Township Council of the Township of Pemberton, in the County of Burlington, and State of New Jersey, as follows:

§ 1. Purpose.

The Township Council finds and determines that it is important for the safety of visitors to our community to control vice, disturbances and narcotics offenses; and to protect the general public and for peace and good order. To meet these goals, the Township requires certain security measures at motels and temporary housing accommodations, including requiring the licensing of motels and mandating additional requirements necessary to ensure safety based in part on minimum standards required for a motel to receive or renew a motel operation license and requiring additional registration requirements and limiting the length of stay of guests.

§ 2. Definitions.

For the purpose of this chapter, the following words will have the following meanings:

CONTRACT GUEST

Any person who exercises occupancy or is entitled to occupancy by reason of a contract or voucher or by other payment method from a state, county or local agency or not-for-profit corporation engaged in providing housing accommodations for the right to

occupy the premises for a period of one calendar month or less. Any such person so occupying space in a motel shall be deemed a "transient" up to and including the last day of a calendar month. In determining whether a person is a "transient," uninterrupted periods of time extending both prior or subsequent to the effective date of this chapter may be considered.

MOTEL

Any structure or any portion of any structure which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes. For purposes of this chapter, the term "motel" shall include any hotel, inn, tourist home or residential rental housing having ten or more rental units or apartments, or any other similar structure or portion thereof.

NON-CONTRACT GUEST

Any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right to access, license or by other payment of any money for the right to occupy the premises for a period of up to 31 calendar days or less, counting portions of the calendar days as full days. Any such person so occupying space in a motel shall be deemed a "transient" up to and including the 31st day of occupancy. In determining whether a person is a "transient," uninterrupted periods of time extending both prior or subsequent to the effective date of this chapter may be considered. "Non-contract guest" shall not include the owner and the owner's immediate family or one specifically identified employee and the employee's family occupying a living unit on-site equipped with a full kitchen and separate living and sleeping quarters, where same is available. Existing motel rooms shall not, however, be converted to create such living space.

OCCUPANCY

The use or possession or the right to the use or possession of any room(s) or portion thereof in any motel for sleeping purposes.

OPERATOR

Any person, as defined herein, and including agents, employees, and independent contractors thereof, responsible for the day-to-day management and performance of motel activities.

PERSON

Any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit

RENT

The consideration charged, whether or not received, for the occupancy of space in the motel valued in money, whether to be received in money, goods, labor or otherwise, including ail receipts, cash, credits and property and service of any kind or nature, without reduction there from whatsoever.

TRANSIENT

One whose presence in Pemberton Township is temporary or fleeting.

VISITOR

Any person, not employed by or a registered guest of a motel, not including minors and dependents of registered guests.

§ 3. License required; transferability; transfer fee.

- A. It shall be unlawful for any person, partnership, firm, corporation or entity to establish, operate, maintain, occupy or offer for occupancy any property owned, controlled or leased by him as a motel as defined herein, without first having secured a license from the Township of Pemberton. Said license shall be for a period of no more than one (1) year commencing January 1 and terminating December 31 of each calendar year and shall be renewable for additional periods of one year, except that the initial license period shall commence on November 1, 2017 and end on December 31, 2018.
- B. Licenses shall not be transferable from one person, firm, partnership, corporation or entity to another person, partnership, corporation or entity without application to the Township as defined in §5 and the payment of a transfer fee of \$100.

§ 4. Conditions requiring license.

When any person shall, by the use of signs, circulars, business cards, newspapers, other publications, radio or television stations, advertise or solicit patronage, actively or passively, it shall be considered prima facie evidence of the operation of a motel, and a license shall be required for the ownership and/or operation of a motel.

§ 5. Application for license.

- A. Applications for a Township of Pemberton motel operation license shall be made on or before October 1 of each year on a form approved by the Township Business Administrator and shall be signed and sworn to by the person, firm, partnership, corporation or entity actually engaged in such business and actually the true owners thereof. This section shall apply to any individual, firm, partnership, corporation or entity who is now or in the future conducting any activity within the Township of Pemberton regulated by this chapter.
- B. Each applicant for such license shall make written application on forms supplied by the Township Clerk setting forth:
 - (1) The full name, phone number, address and post office address, if applicable, of the applicant (if a corporation, provide the names and addresses of the president and secretary and registered agent, if applicable; if a partnership, provide the names and addresses of all partners).
 - (2) The exact location of the proposed Licensed premises, including the street address, and block and lot number as described on the Tax Map of the Township of Pemberton.

- (3) A description of the business, structure and accommodations upon said land, including a statement of the number of sleeping units and the maximum number of persons who can be accommodated at any given time.
 - (4) The name, address and owner of said lands and buildings and the name and address of the individual, corporation, partnership or other entity renting said building if different than Subsection B(1) above. In the event that the entity which owns or leases the licensed premises is a corporation, the name and address of the officers of the corporation and the particular position they hold, the name and address of any stockholder holding 10% or more of stock, or indirectly, or in any way beneficially of the corporation which is seeking a license and the name, address and phone number of the registered agent, if applicable.
 - (5) The name(s) of the person or persons on the licensed premises upon who process may be served.
 - (6) A statement acknowledging whether the applicant has ever held a motel or hotel license and whether License said has ever been denied or revoked and setting forth details of same.
 - (7) Details of any arrests and/or convictions for crimes or disorderly conduct, including the nature of the offense for which arrested and/or convicted, the date of conviction and the court in which said conviction occurred of each and every person identified in Subsection B (1) and B(4) above.
 - (8) The name and address of the applicant's attorney, if applicable.
 - (9) The telephone number(s) where the owner(s) and/or his or her agent may be reached in the event of an emergency.
- C. The application must contain a certification that the statements made by the applicant in connection with the application and covering the information requested in Subsections A and 8 are true and that the applicant makes such statements to induce the Township of Pemberton to issue a license to operate a motel covering the applicant's business and that the applicant agrees to comply with all rules, regulations and laws of the State of New Jersey and Township ordinances applicable to same.
- D. The application shall be accompanied by a payment in the amount of the license fee for the period involved. In the event that the license applied for shall be denied, said fee shall be returned to the applicant less 10% thereof to cover investigation costs relative to said application.
- E. If the applicant is not the owner of the site where the business is to be conducted, the owner's written consent to the conduct of the business described in the application shall be annexed to the application.

- F. The application for an issuance of a license hereunder shall constitute the consent of the applicant to an inspection of the licensed premises by the Township of Pemberton Police Department, using the standard established at §6-B, for the purpose of determining whether there exists on the premises sought to be licensed compliance with the appropriate registration requirements as defined herein. The applicant shall be given twenty-four-hour notice of this inspection to ensure the owners/operator's presence during such inspection. This requirement in no way limits the Police Department's or other law enforcement agency's ability to perform unannounced inspections as part of ongoing investigations to prevent or discover criminal activity.
- G. Unless the motel license is currently under a suspended or revoked status, the motel will be permitted to operate while the Township considers a pending original or renewal application.

§ 6. Licensing procedures.

- A. Each applicant shall make an application upon forms issued by the Township Clerk. This section shall apply to any individual, firm, partnership, corporation or entity who is now or in the future conducting any activity within the Township limits regulated by this chapter.
- B. Upon application for a license, the Township Clerk shall send a copy of same to the Police Department, the Township Business Administrator, Township Zoning Officer, Fire Inspector and Construction Code Official. Each of the foregoing departments or agencies shall have twenty one (21) days from the date of the application to inspect the premises and issue a written report determining whether or not the premises comply with this chapter and the rules and regulations and laws of the State of New Jersey. The Township shall coordinate the date and time of its inspection and provide twenty-four-hour notice to the motel owner. If the premises complies, the Police Department and other authorized agencies shall provide the Business Administrator and the Township Clerk with a written notice of such approval. Thereupon, if the applicant has complied with the other licensing provisions set forth in this chapter, the Township Clerk shall issue a license in accordance with the terms and conditions of this chapter.
- C. The Township of Pemberton shall issue a motel operation license only when said motel is in compliance with the registration standards established in this chapter, including evidence of maintenance and security requirements set forth in § 9.
- D. If, upon inspection, the premises does not comply with the registration requirements set forth in this chapter, the Police Department and other authorized agencies shall provide the Business Administrator and the Township Clerk with a written report setting forth the specific violations. The Township Clerk shall thereupon transmit a copy of such reports citing violations to the applicant, together with written notice that a license for the premises will not be considered and the operator shall have thirty (30) days to cure deficiencies prior to re-inspection. If the inspection revealed deficiencies based on fire, zoning or construction defects, the applicant shall make the necessary application to the appropriate agency to cure the deficiency within fourteen (14) days of notice and cure said deficiency within sixty (60) days of such notice. The Township

reserves the right to take immediate action outside the scope of this licensing ordinance to abate an issue which, in the Township's sole discretion, is a life-safety issue. The applicant shall have the right to request a hearing before the Township Council to reconsider the inspection report. Said request for hearing must be in writing and received within five business days from receipt of notice sent by the Township Clerk.

- E. The Township Council shall set a date for a hearing to be held on the denial of said application at a reasonable time thereafter or, in the case of a new license, not later than thirty (30) days from the date of a written request for a hearing unless the applicant and the Township agree in writing to a postponement for a reasonable period of time.
- F. A copy of all reports and investigations shall be made available to the applicant, upon request, at least seven days prior to any hearing date set by the Township Council on a particular license.
- G. Nothing contained herein shall prevent the Township of Pemberton or the officers of the Township from proceeding against an applicant who is in violation of any of the provisions of this chapter by filing a complaint in a court of competent jurisdiction.
- H. Any license issued hereunder shall terminate at any time after its issuance in the event that the use of the building or part thereof for motel purposes shall cease.

§ 7. Compliance with all laws and regulations required.

- A. All structures, buildings, dwellings, houses or parts thereof used for the purposes herein regulated shall comply with the Uniform Construction Code or building codes in existence at the time of the issuance of the certificate of occupancy, the Land Use Development Ordinances, the Uniform Fire Safety Code, health ordinances and other applicable ordinances of the Township of Pemberton and with the rules, regulations and laws of the State of New Jersey. Any area of renovation shall be done at the uniform construction standards existing at the time of renovation and with proper permits issued by the Township of Pemberton when necessary. All fire escapes shall comply with the rules, regulations and ordinances of the Township of Pemberton and the State of New Jersey. An exit light shall be installed in the passageway or doorway leading to any such fire escapes. Doors leading to fire escapes shall be unlocked from the inside at all times and shall open outward.
- B. Each motel shall be equipped with sufficient hand fire extinguishers, as determined by the Fire Marshal, whose discretion shall be informed and guided by the New Jersey Uniform Fire Safety Code, which shall be at all times in working order and readily accessible to the occupants.
- C. All such licensed accommodations shall be provided with an adequate supply of potable drinking water, together with toilets and lavatory facilities for guests, and shall contain not less than one separate toilet for each five guests. Said toilet and lavatory facilities shall be maintained in a clean and sanitary manner and disinfected daily.

- D. All trash or other waste matter shall be kept in closed containers, and provisions shall be made for removal of all trash, waste matter or garbage from the licensed premises.
- E. All entrances to motels shall be adequately lighted after dark, and all ground areas about motels shall be adequately illuminated.

§ 8. Fees.

- A. The annual fee for each license hereunder shall be the sum of seventy-five dollars (\$75.00) plus twenty-five dollars (\$25.00) per each unit containing sleeping quarters for units one through 10; fifteen dollars (\$15.00) for units 11 through 20; and ten dollars (\$10.00) per unit thereafter.
- B. The annual fee for each license issued hereunder shall be prorated where the license shall not have been issued on January 1 of each year. Any period of a month over fifteen (15) days shall constitute a full month, and any period less than fifteen (15) days shall constitute a half month for the purposes of prorating the annual fee.
- C. Payment of said fee shall accompany the filing of the application for licenses and any intention to renew thereafter.

§ 9. Security requirements.

All motels are required to meet the following minimum security requirements:

- A. Guest registration regulations.
 - (1) Every registering guest shall furnish to an operator of a motel satisfactory identification as part of the registration process for the hire of lodgings at that motel by the transient.
 - (2) No room shall be rented to any person who shall be under 21 years of age at the time of the rental when not accompanied by a parent or legal guardian or providing proof of emancipation. Said age is set to deter security issues associated with underage drinking.
 - (3) Satisfactory identification shall consist of one of the following: valid driver's license issued in the transient's state; a federal, state or county government photograph identification card; military identification card; a passport; or any other form of valid government identification on which the guest's photograph appears.
 - (4) The operator of the motel shall maintain a record log and photocopy of the identification produced by the guest(s). The record log shall include the name of the transient, current address, ID number (i.e., motor vehicle license number) and state or country of issuance of identification, date of birth, date and time of check in and checkout, method of payment and make, model and license plate number of guest vehicle, if guest intends to park vehicle at establishment. Irrespective of method of payment, the motel operator shall comply with Subsection A (1) of this section,

(5) An operator shall notify any guest who falls or refuses to provide proper identification or refuses to identify occupants to any operator that a room will not be rented.

(6) The record log shall be made immediately available for inspection by the Chief of Police, or his designee, who shall be a uniformed police officer, and shall also be immediately available to any member of the Pemberton Township Police Department or other law enforcement agency, in the event of a police service incident at the motel. Said log shall be kept by the motel owner for a period of no less than three years.

(a) The officer shall request to inspect the record log by asking the operator, or the operator's designee who is "on duty" and/or working at the time, to inspect the record. If inspection is refused, the operator or the operator's employee/designee must secure the record in the presence of the officer or an authorized representative of the Police Department or other law enforcement agency, in a manner directed by the officer or authorized representative, to ensure that no one can tamper with the record and so that the record can be maintained securely in the presence of the officer or authorized representative until such time as the officer takes action authorized by law to require the inspection of the record log and/or a copy of same.

(b) Whenever possible, the inspection shall be conducted at a time and in a manner that minimizes any interference with the operation of the business.

(c) No person shall alter, deface or erase the record so as to make the information recorded in it illegible or unintelligible or hinder, obstruct, or interfere with any inspection of the record under this section.

(7) The duties imposed on an operator by this chapter shall not be interpreted or applied so as to violate or cause the violation of the Americans with Disabilities Act of 1990 (P.L. 101-336).

B. Frequency of rental. The operator shall not rent any room more than two times during any twenty-four-hour period, beginning at 12:00 noon and ending at 12:00 noon the following day.

C. Occupancy. The sleeping accommodations of a motel shall be rented only for the use of contract and non-contract guests as transient occupants and shall not be used or occupied on any permanent basis, and no such occupant shall be deemed to be a resident therein. Every licensed premises shall maintain at all times a complete register of all rentals therein and the true identification and correct dates of occupancy of each person using any room on the licensed premises.

(1) Contract guests. No contract guest shall use or occupy any room or a portion of any room in any motel for more than a calendar month or more than thirty-one (31) days during any three calendar months.

(2) Non-contract guests.

(a) No non-contract guest shall use or occupy any room or a portion of any room in any motel for a period of more than thirty-one (31) consecutive days or more than thirty-one (31) days during any ninety-day period. A portion of a calendar day shall constitute a full day.

(b) A minimum of seven (7) days prior to the expiration of the thirty-one-day limit, it shall be an affirmative duty of the operator to petition the Township Business Administrator in writing to permit a noncontract guest to avail himself of the use of the motel for a period longer than thirty-one (31) days when such non-contract guest provides (i) proof of current, valid residency more than thirty (30) miles from the Township of Pemberton and is utilizing the motel while performing a temporary function or service in Pemberton Township such as employment on a construction project or (ii) where the non-contract guest is in need of temporary quarters while improvements are being performed on the non-contract guest's primary residence making it temporarily uninhabitable, where such time frame remains limited to a definite timeline and where vacancy of the motel premises will occur at the conclusion of the construction project or the primary residents becomes habitable. The decision to permit any stay longer than thirty-one (31) days remains at the sole discretion of the Township Business Administrator and may be appealed to the Township Council in the same manner as provided for denial of license as provided in § 6 of this chapter.

D. Identification of renters; renting for improper purposes prohibited. In addition to the other rules and regulations set forth in this chapter, no licensee shall knowingly rent, allow or permit any room on the licensed premises to be used for any illegal or immoral purpose. The licensee's failure to set forth the true identity and correct hours shall serve as prima facie evidence of violation of this provision.

E. Restriction on ownership and management. The operation, conduct and management of a motel shall not be under the management of, control or supervision of any person convicted of a felony or any conviction involving the sale of drugs and/or narcotics, prostitution or underage drinking. No person shall own, directly or indirectly, more than 10% of stock or be an officer or director of any corporation or participate in any way in the management of any licensed premises if he or she has been convicted of a crime as described in this subsection.

F. Maintenance and enforcement of no rent/no trespass list.

- (1) The Township shall maintain and provide a no rent/no trespass list of persons convicted of any crime while on a motel property or while registered as a guest at a motel in the Township.
- (2) The operator shall refuse to rent any room on the premises to said guest on the list or allow the individuals on said list to remain on the property. At no time shall the operator allow the person on the list or members of the person's party to visit other properly registered guests or visitors.
- (3) Names shall remain on the no rent/no trespass list for the remainder of the current calendar year and the next immediate calendar year (i.e., up to one year and

364 days).

G. Notification to police of suspicious guests. The motel operator shall make reasonable effort to notify the Pemberton Township Police Department of the names and permanent addresses of guests that behave suspiciously after check-in. Suspicious activity shall include an act or event which causes an ordinarily prudent person to believe that unlawful behavior is in process or imminent.

H. Requirement of on-site manager 24 hours a day. The operator shall cause the motel to maintain twenty-four-hour supervision by an on-site manager. Said manager(s) will have supervisory responsibilities over all other employees on site and shall serve as the first point of contact for the Pemberton Township Police Department.

§ 10. Administrative suspension and revocation of license.

- A. In the event that the Township Council finds upon a written complaint filed that there is such a serious infraction of the rules, regulations and ordinances of the Township of Pemberton or the rules, regulations and laws of the State of New Jersey or that the operation of a premises licensed hereunder will constitute a serious menace to the health, safety, welfare and morals of the people of the Township or the occupants of such licensed premises, the Township Council shall have the right to hold a hearing where said operator and complainant will be given the right to provide testimony and be subject to cross-examination regarding said complaint. Upon the Council's finding of good cause, it may immediately suspend the license of such person, firm, partnership, corporation or entity licensed under this chapter. In the event that a license is suspended as set forth herein, the operator must correct such issues and be re-inspected before the Township Council will hold another hearing to reconsider the license. The hearing to continue the suspension or revocation of the license or take such other action as the Township Council deems necessary in its lawful discretion shall proceed where applicable in the same manner as if the proceeding were for the issuance of a new license. Nothing contained herein shall prevent the Township of Pemberton or the officers of the Township from proceeding against the applicant in a court of competent jurisdiction. The Township reserves the right to notify all financial interest(s) of said motel of denial, suspension or revocation of a license.
- B. In the event the license is suspended or revoked, the motel operator shall cause the contract guests and non-contract guests to be removed from the motel within forty-eight (48) hours from the decision of the Township Council. The motel operator shall be responsible for any and all costs associated with the relocation of contract and non-contract guests. In the event the motel operator fails to meet said responsibility and the Township is required to arrange and provide for the relocation of said guests, all costs and expenses incurred by the Township in the course of action associated with said relocation shall become a lien against the property.

§ 11. Enforcement.

The proper enforcement of the provisions of this chapter dealing with licenses shall be within the jurisdiction of the Director of Community Development and the Township of

Pemberton Police Department, within the jurisdiction of those officers at the state, county and local levels of government charged with providing the necessary inspections, regulations and enforcement of the law.

§ 12. Violations and penalties.

A. Noncompliance with the terms and conditions of this chapter shall constitute a violation,

B. Each and every day any violation of this chapter exists or continues to exist shall be determined as a violation or offense under this chapter.

C. Any person, firm, partnership, corporation or entity violating any provision of this chapter by the performance of a prohibited act or by failing, neglecting or refusing to do any act or anything required by this chapter shall, upon a trial and conviction by a court of competent jurisdiction, forfeit or pay such fines not in excess of the sum of \$2,000 for each offense, or be sentenced to a jail term not exceeding ninety (90) days (if the convicted is a natural person) and/or a period of community service not exceeding ninety (90) days.

IT IS FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

IT IS FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

IT IS FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

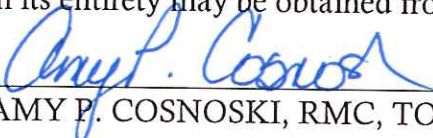
PEMBERTON TOWNSHIP COUNCIL

TOWNSHIP OF PEMBERTON
NOTICE OF PUBLIC HEARING
ORDINANCE NO. 21-2017

AN ORDINANCE OF THE TOWNSHIP OF PEMBERTON
REQUIRING BUSINESS LICENSES FOR MOTELS AND
OTHER TRANSIENT RESIDENTIAL BUSINESSES AND
ESTABLISHING CERTAIN ADDITIONAL
REQUIREMENTS IN THE INTEREST OF PUBLIC SAFETY

The foregoing Ordinance was introduced and passed on first reading by the governing body of Pemberton Township at a meeting held on August 2, 2017 and will be considered for final passage after a public hearing at a meeting of the said governing body to be held on August 16, 2017, at the Pemberton Township Municipal Building, 500 Pemberton-Browns Mills Road, Pemberton, New Jersey, at 6:30 p.m. prevailing time, at which time any interested member of the public may comment on said Ordinance. During the week prior to and up to and including the date of such meeting or further consideration, copies of said Ordinance in its entirety may be obtained from the Township Clerk.

ATTEST:



AMY P. COSNOSKI, RMC, TOWNSHIP CLERK

TOWNSHIP OF PEMBERTON
NOTICE OF FINAL PASSAGE
ORDINANCE NO. 21-2017

AN ORDINANCE OF THE TOWNSHIP OF PEMBERTON
REQUIRING BUSINESS LICENSES FOR MOTELS AND
OTHER TRANSIENT RESIDENTIAL BUSINESSES AND
ESTABLISHING CERTAIN ADDITIONAL
REQUIREMENTS IN THE INTEREST OF PUBLIC SAFETY

Notice is hereby given that Ordinance No. 21-2017 as entitled above has been finally adopted on final reading by the governing body of Pemberton Township after a public hearing, at a meeting held on August 16, 2017. Said Ordinance shall take effect in accordance with law.

ATTEST:



AMY P. COSNOSKI, RMC, TOWNSHIP CLERK

ACKNOWLEDGEMENT OF APPROVAL BY MAYOR


David A. Patriarca

DATE August 18 2017

ATTEST:


AMY P. COSNOSKI, RMC, TOWNSHIP CLERK