

TOWNSHIP OF WALL

ORDINANCE NO. 8-2017

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF WALL, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY CREATING NEW CHAPTER 149 ENTITLED “LICENSING OF SPACE FOR ACCOMODATION OF TRANSIENT GUESTS”

WHEREAS, the Township of Wall is authorized pursuant to N.J.S.A. 40:52-1 et seq. to regulate and license the rental of real property for a term less than 175 consecutive days for residential purposes, through municipal ordinances adopted by the Wall Township Mayor and Committee; and,

WHEREAS, the Township of Wall recognizes that various commercial entities, including AirBnB, are conducting rentals of residential premises through a transient space market place that includes use of the Internet to advertise and execute rental agreements with guests for monetary or other compensation; and,

WHEREAS, the proliferation of the transient space marketplace as a vehicle for conducting real estate rentals has caused the Township of Wall to require licensure of these rental units in an effort to safeguard the quiet enjoyment and public safety of Wall Township residents; and,

NOW, BE IT ORDAINED by the Township Committee of the Township of Wall, in the County of Monmouth, in the State of New Jersey, as follows:

Section 1. (NEW) Chapter 149. Licensing of Space for Accommodation of Transient Guests.

Article I. Transient Space Rental Licenses.

§ 149-1. Definitions.

“Multiple dwelling” means a multiple dwelling subject to the requirements of the “Hotel and Multiple Dwelling Law,” P.L.1967, c.76 (C.55:13A-1 et seq.).

“Registered host” means an owner or lessee of a residential unit registered pursuant to (§ 149), to rent a residential unit or part thereof and to offer the unit or space for accommodation to the public as a business activity through the placement of an advertisement, or the listing of the space for accommodation, with a transient space marketplace.

“Residential unit” means 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.

“Seasonal rental” means a dwelling unit rented for a term of not more than 125 consecutive days for residential purposes by a person having a permanent residence elsewhere.

“Space for accommodation” means a room, group of rooms, or other living or sleeping space within a residential unit that is designated for the overnight accommodation of a transient guest and for which the keys thereto are not kept by a real estate agent.

“Transient guest” means a person who, for consideration uses, possesses, or has the right to use or possess any space for accommodation for a period of 30 consecutive days or less under a lease, concession, permit, right of access, license to use, or other agreement.

“Transient space marketplace” means a digital platform through which person offering space for accommodation to transient guests may offer the space for accommodation in exchange for monetary or other compensation. A “transient space marketplace” allows a person offering space for accommodation to advertise or list the space for accommodation through a hosted internet website and provides a means for a transient guest to arrange for the use of the space for accommodation in exchange for monetary or other consideration.

§ 149-2. License required.

No owner or lessee shall offer a residential unit or space for accommodation therein through a transient space marketplace for a period of 30 consecutive days or less, unless the owner or lessee becomes licensed as a registered host. The provisions of this section shall not apply to a seasonal rental.

A registered host may rent a portion of a residential unit in which the host is present for an unlimited number of days per year, and may rent the entire residential unit while the host is not present for a maximum of 30 consecutive days per transient guest rental. If a registered host owns a multiple dwelling, the host may only register a single residential unit within the building.

§ 149-3. Application for license.

Any person desiring to obtain a license or relicense as a registered host to offer for rental a residential unit or space for accommodation therein shall yearly make application therefor to the Township Clerk, no earlier than the first day of April, on forms prescribed by the Township Clerk and signed by the owner of the premises or the owner’s authorized agent. Persons applying for relicense shall be authorized to continue operating as a registered host unless their license is not renewed as a result of the application process or as a result of violations pursuant to §149-11 or other violation of the requirements enumerated in the ordinance. The Township Clerk may revoke a license at any time if the registered host is found to be non-compliant with the requirements of licensure. The Township Clerk may require proof of agency. Applications for licenses shall not be deemed complete by the Township Clerk unless the applicant:

- (1.) Fully completes the form required by the Township Clerk for such applications, which shall include at a minimum, the following information:
 - (a.) The street address and the tax map lot and block number of the premises.
 - (b.) The names and mailing addresses and telephone numbers of all owners of the premises.
 - (c.) The name, mailing address, and daytime telephone number of the person signing the application.

- (2.) Submits the appropriate fees prescribed by Section 149-4.
- (3.) Provides proof of payment of property taxes, assessments against the property, municipal water charges, municipal sewer charges and any other municipal charges or assessment pursuant to N.J.S.A. §40:52-1.2.
- (4.) Provides a written statement accompanying the forms required by the Township Clerk that contains the following:
 - (a.) any previous revocation or suspension and the reasons therefor.
 - (b.) Statement that applicant is not violating the Zoning Regulations of the Township. If applicant occupies a nonconforming use, proof of date of occupancy and operation must be given.
 - (c.) Name of person to whom license will be issued and his/her residence address. If applicant is not an individual, then the names, positions and residence addresses of all officers and managers of the applicant.
 - (d.) Where applicable, if the applicant does not reside or have its principal business office in the Township, the name and address of the agent of the applicant located in the Township, who is authorized to accept service of process, summonses, any notices or orders in connection with the issuance of and operation under any licenses issued under this Section on behalf of the applicant, and to comply with same on behalf of the applicant.
 - (e.) Where applicable, if the applicant is a lessee seeking to become a registered host, applicant shall have a valid lease for the residential unit at the time the lessee submits application to the Township to become a registered host. The applicant shall have a valid consent form executed by the owner of the residential unit authorizing the lessee to become a registered host of the owner's property.
 - (f.) Where the application for licensure misrepresents or omits information required by the Township Clerk pursuant to this ordinance, the license may be revoked or denied.
 - (g.) Acknowledgement that the rental is not operating as a Bed and Breakfast as defined in N.J.A.C. 5:23-6.31. The applicant shall provide the maximum number of transient guests that will reside in the residential unit and in each space of accommodation.
 - (h.) Demonstrate compliance with §149-7. Fire Prevention.
- (5.) If requested by the Township, the application must include a floor plan of the dwelling unit proposed to be licensed, in a form satisfactory to the Township Clerk, accurately depicting the locations of the bedrooms, kitchen, bathrooms and other rooms in the dwelling unit, and all routes of ingress and egress; provided, however, that nothing contained herein shall be construed to require that the floor plan be prepared by an architect or other licensed professional.

All information and documentation required to be provided pursuant to this section shall be deemed material. Any person who knowingly misstates any fact therein shall be subject to criminal prosecution. Any license that is issued on the basis of false information or documentation shall be subject to revocation.

§149-4. License fee.

Designation as a registered host shall be for a duration of one (1) year from the date of issuance of a license by Wall Township. Applications shall be made no earlier than April 1 of each year. Persons applying for relicensure shall be authorized to continue operating as a registered host unless their license is not renewed as a result of the application process or as a result of violations pursuant to §149-11 or other violation of the requirements enumerated in the ordinance. The fee for such a designation shall be \$100.00. Of that fee, \$75.00 shall be retained by the Township, and \$25.00 shall be deposited into the “New Jersey Affordable Housing Trust Fund,” established pursuant to Section 20 of P.L. 1985, c.222 (C. 52:27D-320).

§149-5. Issuance of license.

Upon receipt of the application, fees, and other applicable forms, the Township Clerk shall issue a license provided that same conforms to the provisions of this article.

§149-6. Liability insurance.

The registered host shall maintain property liability insurance in an amount of no less than \$500,000.00, or demonstrate that a transient space marketplace maintains liability coverage in an equal or higher amount.

§149-7. Fire Prevention.

Every 30 days, the registered host shall schedule a Fire Inspection with the Wall Township Bureau of Fire Prevention. Registered hosts must demonstrate that the residential unit is equipped with a fire extinguisher, carbon monoxide detector and smoke detector pursuant to Wall Township Municipal Code Chapter 113. The fee associated with this inspection shall be \$75.00. The request for inspection must be made more than five days before the date required for inspection. A registered host renting a portion of a residential unit in which the host is present will not be subject to the requirements of Fire Inspections.

§149-8. Expiration of license.

All licenses issued pursuant to this article shall expire within one (1) year from the date of issuance.

§149-9. Not to supersede certain agreements or restrictions.

The registration of a registered host’s primary residence shall not supersede any lease agreements, homeowner’s association by-laws, covenants, conditions and restrictions, or any other agreement, law, or regulation that prohibits the subletting or use of that residential unit as a space for accommodation.

§149-10. Violations.

A person offering a space for accommodation on a transient space marketplace, who has not become a registered host pursuant to this section, or whose license has been revoked or non-renewed, shall be subject to a penalty for violating the Wall Township Municipal Code. The amount of the penalty shall not exceed \$100.00 for each day of violation.

§149-11. Revocation of license.

If in any one year period, two (2) complaints, on separate occasions, of disorderly, noise, indecent, tumultuous, or riotous conduct upon, in or in proximity to any transient rental premises, and attributable to the acts or incitements of any of the tenants, or their guests, of those premises, have been substantiated by prosecution and conviction in any court of competent jurisdiction, the Township Clerk shall revoke the registered host's license for one calendar year (12 months) from the date of the 2nd conviction. A violation and conviction pursuant to §149-10 shall constitute a violation which may be counted by the Township Clerk under this section.

§149-12. Refusal to Grant, renew license; Appeal.

Upon determination by the Township Clerk to refuse the granting or renewal of a license, or to revoke a license, the licensee or individual affected shall be entitled to appeal the decision to the appropriate tribunal or court of competent jurisdiction.

Section 2. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in such conflict or inconsistent.

Section 3. This Ordinance may be renumbered for codification purposes.

Section 4. In the event that any section, part or provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid.

Section 5. This Ordinance shall take effect upon final passage and publication as provided by law.

Introduced: **June 28, 2017**

Adopted: **July 26, 2017**

Attest: _____
Roberta M. Lang

Attest: _____
Dominick DiRocco, Mayor