



Borough of Red Bank

90 Monmouth Street ♦ Red Bank, NJ 07701

MUNICIPAL COUNCIL SPECIAL MEETING AGENDA MARCH 3, 2023 ♦ 6:30 PM

SUNSHINE STATEMENT This meeting is being held in accordance with the Public Laws of 1975, Chapter 231 and adequate notice of this meeting has been provided by a notice sent to Asbury Park Press, Two River Times and Star Ledger and posted in the Main Lobby of the Municipal Building and on the municipal website. Proper notice having been given, the Municipal Clerk is directed to include this statement in the minutes of this meeting.

The purpose of this meeting is consider a resolution to overturn the Mayoral Veto of Ordinance 2023-02 ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY CREATING A NEW CHAPTER ENTITLED SHORT TERM RENTALS and the introduction of AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, STATE OF NEW JERSEY IMPOSING THREE PERCENT (3%) TRANSIENT ACCOMMODATION OCCUPANCY TAX

PLEDGE OF ALLEGIANCE

ROLL CALL

PUBLIC COMMENT (*Agenda Items Only*)

DISCUSSION

EXECUTIVE SESSION

ADJOURNMENT

NOTE: This may not be the order of business. There may be additions or deletions.

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH**

RESOLUTION NO. 23-

RESOLUTION OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY
OVERRIDING THE MAYOR’S VETO OF PORTIONS OF ORDINANCE NO. 2023-02 ORDINANCE
OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY CREATING A
NEW CHAPTER ENTITLED SHORT TERM RENTALS

WHEREAS, NJ.S.A. 40A:60-5(d) provides that every ordinance adopted by a municipal council shall, within five days after its passage, Sundays excepted, be presented to the mayor by the borough clerk, and the mayor shall, within ten days after receiving the ordinance, Sundays excepted, either approve the ordinance by affixing his signature thereto or return it to the municipal council by delivering the ordinance to the borough clerk together with a statement setting forth his objections thereto or any item or part thereof; and

WHEREAS, on February 13, 2023, the Clerk of the Borough (the “Clerk”) presented the Ordinance to the Mayor of the Borough (the “Mayor”); and

WHEREAS, on February 22, 2023, the Mayor delivered to the Clerk a statement, a copy of which is attached hereto as Exhibit A, setting forth his objections to the Ordinance since it fails to allow short term rentals in owner-occupied dwellings; and

WHEREAS, NJ.S.A. 40A:60-5(d) provides that the Borough Council may override the Mayor’s veto if, upon consideration of the ordinance following its return, the Borough Council resolves to override the veto, with no less than two-thirds of its membership concurring.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE BOROUGH OF RED BANK, IN THE COUNTY OF MONMOUTH, NEW JERSEY (NO LESS THAN TWO-THIRDS OF ITS MEMBERSHIP AFFIRMATIVELY CONCURRING) AS FOLLOWS:

- Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.
- Section 2. The Borough Council, in accordance with the statute, hereby overrides the Mayor’s veto of the Ordinance, and the Ordinance shall become effective in accordance with applicable law.
- Section 3. This resolution shall take effect immediately.

	MOVED	SECONDED	AYES	NAYS	ABSTAIN	ABSENT
Councilmember Jackson						
Councilmember Mirandi						
Councilmember Sturdivant						
Councilmember Triggiano						
Councilmember Ballard						
Councilmember Zipprich						
Mayor Portman						
ON CONSENT AGENDA	Yes <u> </u>	No <u> </u>				

I hereby certify that the above Resolution was adopted by the Borough Council of the Borough of Red Bank, In the County of Monmouth at a Meeting held on March 3, 2023.

Laura Reinertsen, Borough Clerk

RED BANK MAYOR VETOES SHORT TERM RENTAL ORDINANCE

Press Release

Red Bank, NJ - On February 8, 2023, the majority on the Red Bank Borough Council passed an ordinance effectively banning short term rentals in Red Bank. In truth, an outright ban would be more equitable as the ordinance levies differential treatment across zones. However, the intent to prohibit homeowners broadly from offering short term rentals is unmistakable.

Slight variations of this ordinance were brought before the council several times in 2022. During the final council meeting of 2022, the ordinance was tabled, with a promise by Councilman Michael Ballard that there would be a meeting with the public in January to work out the contended details. This meeting never happened. Instead, Councilman Ballard came back with an even more restrictive ordinance that was introduced and passed this month by his council-majority bloc. During public comment, we heard from numerous residents, including residents who share their homes with travel nurses, with visiting artists performing at the Two River theatre, or with people in town visiting family. We heard from neighbors who had formed an informal supportive network of hosts, some of whom use the extra income in order to afford to stay in their homes. These ways of helping one another would no longer be allowed under Councilman Ballard's new ordinance effectively banning short term rentals.

In an effort to appease a few people in complete opposition to short term rentals, Councilmembers Ballard, Jackson, Sturdivant, Mirandi, and Zipprich ignored the simple and widely acceptable solution - to require that short term rentals are owner-occupied. This would eliminate the concerns raised about individual properties, while preserving the rights of Red Bank homeowners in all districts. I believe a governing body that does not listen to its residents and is not forthright about its aims is not an effective governing body. Having received voluminous e-mails and feedback from Red Bank residents in support of allowing at least owner-occupied short term rentals, I believe it is my obligation as mayor to veto this ordinance.

As always, I invite any resident that has any concerns about this issue to e-mail me at wportman@redbanknj.org, or you can visit me at my open public office hours every Monday from 4-6 PM.

ORDINANCE NO. 2023-XX

**AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH,
STATE OF NEW JERSEY IMPOSING THREE PERCENT (3%) TRANSIENT
ACCOMMODATION OCCUPANCY TAX**

WHEREAS, the Borough of Red Bank has found that it is in the public interest to impose a three percent (3%) Transient Accommodation Occupancy Tax; and;

THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Red Bank, State of New Jersey, as follows:

SECTION I

There shall be added to Chapter 628, entitled Taxation the following

Article IV Transient Tax

628.34 Purpose.

It is the purpose of this ordinance to implement provisions of N.J.S.A. 40:48F-1, which authorizes the governing body of the Borough to adopt an ordinance imposing a tax at a uniform percentage rate not to exceed three percent (3%) on all charges of rent for every occupancy on or after November 10, 2021, of a room, rooms, or other sleeping or living space subject to taxation pursuant to N.J.S.A. 40:48F-1.

628.35 Transient Accommodation Occupancy Tax Established

- a. It is the purpose of this section to implement the provisions articulated under P.L. 2018 c. 49 and N.J.S.A. 40:48F. Under this law, a municipality may establish a tax on transient accommodation occupancies, including, but not limited to, such accommodations conveyed by transient space marketplaces.
- b. This ordinance shall hereby establish a transient accommodation occupancy tax in the Borough of Red Bank, which shall be fixed at a uniform percentage rate of three percent (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. 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. This tax shall be collected on behalf of the Borough of Red Bank by the person collecting receipts, charges, or rent from the customer.
- d. Each person required to collect a tax imposed by the ordinance 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 of Red Bank shall be joined as a party in any action or proceeding brought to collect the tax.
- e. Notwithstanding any other provision of law of 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 the State of New Jersey for tax transactions solely consummated through the transient space marketplace.

628.36 Definitions.

Transient accommodation means 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 that is obtained through a transient space marketplace or is a professionally managed unit. The following are not considered transient accommodations: Hotel or hotel room; Room, group of rooms, or other living or sleeping space used as a place of assembly; Dormitory or other similar residential facility of an elementary or secondary school or a college or university; 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; Leases of real property with a term of at least 90 consecutive days;

Campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; or Furnished or unfurnished private residential property, including but not limited to condominiums, bungalows, single-family homes, and similar living units, where no maid service, room service, linen-changing service, or other common hotel services are made available by the lessor, and the rental transaction is executed by a real estate broker licensed by the New Jersey Real Estate Commission pursuant to N.J.S.A. 45:15-1 et seq., and where the keys to the property, whether a physical key, access to a keyless locking mechanism, or other means of physical entrance to the property, are provided to the lessee at the offsite location of the licensed real estate broker.

Transient space marketplace means a marketplace or travel agency through which a person may offer transient accommodations to customer and through which customers may arrange for occupancies of transient accommodations. This 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.

Obtained through a transient space marketplace means a rental where the agreement for the rental is made through the marketplace or travel agency and where payment for the accommodation is made through a means provided by the marketplace or travel agency, regardless of who receives the payment.

628-37 Tax Is Additional To Any Other Tax or Fee

The transient accommodation occupancy tax shall be in addition to any other tax or fee imposed pursuant to statute or Borough of Red Bank ordinance or resolution by any governmental entity upon the occupancy of transients accommodations.

628-38 Requirements.

In accordance with the requirements of N.J.S.A. 40:48F-2:

- a. All taxes imposed by this Ordinance shall be paid by the purchaser.
- b. A vendor shall not assume or absorb any tax imposed by this Ordinance.
- c. A vendor shall not, in any manner, advertise or hold out to any person or to the public in general, 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 advertising continues shall be deemed a separate offense.

628-39 Violations and penalties

In addition to the special provisions and penalty provided in this article, any person who violates, or who fails or refuses to comply with this article, shall be liable for penalty, upon conviction thereof, as provided in Chapter 1, General Provisions, Article II, General Penalty, of the Code of the Borough of Red Bank.

628-40 Effective Date

The tax is effective on the first day of the first full month following 90 days after the New Jersey Division of Taxation has received the adopted ordinance.

SECTION II

A copy of this ordinance shall be transmitted to the New Jersey Division of Taxation.

SECTION III

All ordinances or parts of ordinances inconsistent with the provision of this Ordinance are hereby repealed.

SECTION IV

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed as separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION V

This Ordinance shall take effect immediately upon its final adoption, approval and publication as required by law. The tax shall be effective on the first day of the first full month following 90 days after the New Jersey Division of Taxation has received the adopted ordinance.

INTRODUCTION						COUNCILMEMBER	FINAL ADOPTION					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
						JOHN JACKSON						
						ANGELA MIRANDI						
						JACQUELINE STURDIVANT						
						KATE TRIGGIANO						
						MICHAEL BALLARD						
						EDWARD ZIPPRICH						
						MAYOR PASQUALE MENNA						
Introduced: March 3, 2023						I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Red Bank, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: March 22, 2023												
						_____ Laura Reinertsen, Borough Clerk						