

## ORDINANCE 2265

### AN ORDINANCE OF THE BOROUGH OF SOUTH PLAINFIELD, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY AMENDING THE BOROUGH CODE TO PROVIDE FOR LICENSING OF HOTELS AND MOTELS

**WHEREAS**, New Jersey State statute N.J.S.A. 40:52-1(n) authorizes municipalities to license hotels and motels; and

**WHEREAS**, the Mayor and Council of the Borough of South Plainfield have determined that it is important for the safety of visitors to the community to protect the general public and provide for peace and good order, and providing for licensing of motels and hotels to require certain security measures and compliance with all State, County and local laws;

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of South Plainfield, County of Middlesex, State of New Jersey that the Borough Code shall be amended as follows:

#### **Chapter 196 - Motels and Hotels.**

##### **Section 196-1 - Purpose and Definitions.**

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

B. The following terms shall, for the purpose of this Article, have the meaning indicated in this section.

Applicant - Includes an individual, all partners of a partnership, all principals of an association, a corporation, all owners of more than 10% of the stock of a corporation, and all corporate officers.

Adequate lighting- Lighting fixtures are to be maintained in a working order providing enough light to allow ease in visibility at night to ensure that people can walk safely to and from parking spaces and to and from the premise without tripping, while also discouraging criminal activity. Entrances and Exits shall have a minimum of 5 foot candles. Parking lots shall have a minimum of 2 foot candles.

Boarding House - A structure, building, dwelling or house where the business of keeping boarders is generally carried on, and where furnished rooms are offered and meals are regularly served as part of such accommodations.

Common Areas- Including but not limited to but to include hallways, lobbies, parking lots, stairwells, laundry room(s), and fitness area(s).

Good Cause - Includes any applicant's conviction for a crime involving moral turpitude, a violation of any of the provisions of this Chapter or provisions of any other standards set forth in the Code of the Borough of South Plainfield or failure to pay the license fee due hereunder.

Hotel/Motel - Any building, including, but not related to any related structure, accessory building, and land appurtenant thereto, and any part thereof, which contains ten or more dwelling units or has sleeping facilities for 25 or more persons and is kept, used, maintained, advertised as or held out to be a place where sleeping or dwelling accommodations are available to guests. It shall also mean any facility that is commonly regarded as a hotel, motor hotel, motel or established guest house in the community in which it is located. It does not include facilities that are excluded by State statute (see N.J.S.A. 55:13A-3(j)). It shall also mean any structure or any portion of any structure which is occupied or intended or designed for temporary occupancy for transients for dwelling, lodging or sleeping purposes.

Licensed Premises - Any lands or buildings, or both, on which a motel, hotel, inn, boarding house, rooming house or lodging house is maintained for which a license is issued hereunder.

Lodging House - A structure, building or house where the business of accommodating lodgers is carried on in substantially the same manner as a rooming house, except the units rented as a part of such accommodation are furnished apartments rather than furnished rooms.

Occupancy - The use or possession or the right to the use or possession of any room(s) or portion thereof in any motel, hotel, inn, boarding house, rooming house or lodging house 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 activities of any motel, hotel, inn, board house, rooming house or lodging house.

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.

Rooming House - A structure, building, dwelling or house where the business of accommodating roomers is carried on in substantially the same manner as a boarding house, except no meals are served as part of such accommodations.

Visitor - Any person, not employed by or a registered guest of a motel, hotel, inn, boarding house, rooming house or lodging house.

**Section 196-2 - License Required.** It shall be unlawful for any person to establish, operate, maintain, occupy or offer for occupation upon any property owned, controlled or leased by such person a hotel/motel, inn, boarding house, rooming house or lodging house as defined herein without first having secured a license from the Borough of South Plainfield. Said license shall be for a period of no more than one year commencing January 1 and terminating December 31 of the same calendar year, and shall be renewable for additional periods of one year each. Licenses shall not be transferrable from one person to another, except as provided in this Article.

### **Section 196-3 - Application for License.**

A. Applications for a hotel/motel operation license shall be made on or before November 1 of each year on a form approved by the Borough Council 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 Borough of South Plainfield regulated by this Article.

B. Each applicant for a license shall make written application on forms supplied by the Borough 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, secretary and registered agent, if applicable) and (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 Borough of South Plainfield. (3) A description of the business, structure and accommodations upon said land, including a statement on 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 set forth in 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 of the corporation which is seeking a license, and the name, address and telephone number of the registered agent, if applicable. (5) The name of each person on a licensed premises upon whom process may be served. (6) A statement acknowledging whether the applicant has ever held a motel license and whether said license has ever been denied or revoked and setting forth details of same. (7) A telephone number of the owner or their 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 providing the information requested are true and that the applicant makes such statements to induce the Borough of South Plainfield 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 the Borough ordinances applicable to same.

D. 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.

E. Unless the applicant opts for third-party inspection, the application for the issuance of a new or renewed license hereunder shall constitute the consent of the applicant to an inspection of the licensed premises by any employee or agent of the Borough of South Plainfield 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 24-hour notice of the inspection to insure the owner/operator's presence during such inspection. This requirement shall not limit in any way the ability of the Police Department or other law enforcement agency to perform unannounced inspections as part of ongoing investigations to prevent or discovery criminal activity.

F. Unless the motel license is currently under suspended or revoked status, the motel will be permitted to operate while the Borough considers a pending application.

G. The operation, conduct and management of a hotel/motel or boarding house or rooming house 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 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 they have been convicted of a crime as described herein.

#### **196-4 - Licensing Procedure.**

A. By October 31 for a new license, and 45 days prior to the expiration of an existing license, each applicant shall make an application upon forms issued by the Borough Clerk. This section shall apply to any individual, firm, partnership, corporation or entity who is now conducting or shall in the future conduct any activity within the Borough limits regulated by this Chapter.

B. Upon application for a license, the Borough Clerk shall forthwith forward a copy of such application to the Health Officer, Fire Chief, Chief of Police, Zoning Official, Construction Code Official and any other authorized agency which has an officer who shall have the duty to inspect the premises regulated by this Chapter. Each of the foregoing individuals shall inspect the premises to determine whether or not the premises comply with the rules and regulations and ordinances of the Borough of South Plainfield and State of New Jersey. If the premises do comply, the respective officer shall provide the Borough Council with a written certificate of such approval. If the premises do not comply, the respective officer shall return a written certificate or report setting forth the specific violation(s) of the rules and regulations or ordinances of the Borough of South Plainfield and laws of the State of New Jersey with which the applicant has not conformed. The Borough Council shall thereupon cause to be made such further investigation of the premises as it deems appropriate. Upon completion of the investigation, the applicant shall be notified of the decision of the Council. In the event a license is denied, the applicant shall be entitled to a hearing before the Borough Council.

C. All written reports and certificates by the various officers charged with making an inspection under this Chapter shall be completed within 14 days from the time an application is made. All written reports and certificates shall be transmitted to the Borough Council when received by the Borough Clerk.

D. The Borough Council may consider the application at a meeting set by the Borough Council for which such applications for renewal are to be considered, or it may set a date for a hearing to be held on said application at a reasonable time thereafter, which hearing, however, shall not be later than December 15 of each year unless the applicant consents to a postponement of such hearing, which shall not be for more than ten calendar days from the date a hearing of a particular application has been set by the Borough Council. At said hearing, any objectors to the license or the applicant shall be heard and may present any relevant evidence.

E. A copy of all reports, certificates or other written documents resulting from investigations shall be made available to the applicant if they so request at least seven days prior to any hearing date set by the Borough Council.

F. In the event objections in writing are filed with the Borough Clerk as to the issuance or renewal of a particular license, or objections are made orally on the night set for issuance or

renewal of a license, the Borough Council may set a date for hearing. However, it will not be obligated to do so. If it schedules such a hearing, it shall proceed to hear the objections and all evidence born against the issuance of such license and shall, within five days of conclusion of the hearing, determine whether to issue or renew the license or deny the same if the evidence presented indicates a good cause for denial of such license. All reasons for denial of a license shall be placed on the record.

G. After considering all evidence with respect to an application, the Borough Council may, for good cause, deny a license to an applicant or suspend or revoke an existing license, and if any application or license is denied, suspended or revoked, the Borough Council shall state its reasons on the record.

H. The license when issued by the Borough shall be displayed in a conspicuous place upon the licensed premises at all times.

I. The Borough Council, after investigating and considering an application for a license hereunder, or after a hearing on the same, shall, if the application complies with the provisions of this Chapter, authorize the Borough Clerk to issue a license to the applicant, which license shall become effective 12:01 a.m. on January 1 of the year subsequent to when the license has been approved.

J. In the event that the Borough Council finds upon a written report filed that there is such a serious infraction of the rules, regulations, ordinances of the Borough of South Plainfield or laws of the State of New Jersey that the continued operation of a premises licensed hereunder will constitute a serious menace to the health, safety, welfare and morals of the peoples of the Borough of South Plainfield or the occupants of such licensed premises, the Borough Council shall have the right, upon a finding of good cause, suspend immediately a license of such person, firm, partnership, corporation or entity licensed under this Chapter. In the event a license is suspended in this manner, the Borough Council shall, within ten business days, hold a hearing, unless the licensee requests a postponement. A copy of the written report upon which the Borough Council originally based its determination shall be made available to the licensee at the time the license is suspended. A hearing to continue the suspension or take such further action as the Borough Council deems in its lawful discretion shall proceed, where applicable, in the same manner as if the proceeding were for the issuance of a new license.

K. Nothing contained herein shall prevent the Borough of South Plainfield or the officers of the Borough from proceeding against a licensee who is in violation of any of the provisions of this Chapter by filing a summons in the Municipal Court of the Borough of South Plainfield.

#### **196-5 - Premises Requirements.**

All hotels/motels, boarding houses and rooming houses are required to meet the following requirements:

A. Guest registration.

1. Every registering guest, irrespective of method of payment, shall furnish to an operator of a hotel/motel, boarding house or rooming house satisfactory identification as part of the registration process for the hire of lodging at such establishment by such guest.

2. No room shall be rented to any person who shall be under 21 years of age at the time of 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. No owner or employee shall rent a room or unit in a hotel or motel to any person, nor permit, suffer, or allow the renting of any room or unit to any person for less than a period of 10 hours.

4. Satisfactory identification shall consist of one of the following: a valid driver's license issued in the guest'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. For persons legally residing outside the United States, valid government identification shall include an official passport, U.S. visa, United States Citizen and Immigration Services Alien Registration card (Green Card), or the United States Citizenship and Immigration Services Border Crossing Card.

5. The operator of the hotel/motel, boarding house or rooming house shall maintain a record log and photocopy of the identification produced by the guest. The record log shall include the name of the guest, current address, phone number, identification number (i.e., driver's license number), number of guests in the room, and state or country of issuance of identification, date of birth, date and time of check in and check out, method of payment and make, model and license plate number of the guest's vehicle if the guest intends to park the vehicle at the establishment. A mirror hang tag shall be required for any guest vehicle to be parked on a premises which tag shall be placed on the guest's vehicle rearview mirror and shall identify the guest's check in and check out dates and the vehicle identification plate number.

6. An operator shall notify any guest who fails or refuses to provide proper identification or refuses to identify occupants to any operator that a room will not be rented.

7. The operator of the hotel/motel, boarding house or rooming house shall maintain a record log and photocopy of the identification produced by all owners, management and supervisors of the hotel/motel, boarding house or rooming house.

8. The record log shall be made immediately available for inspection by the Chief of Police or his or her designee, or other law enforcement agency, in the event of a police service incident or criminal investigation at the premises. Such log shall be kept by the owner of the facility and readily accessible 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 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 an administrative subpoena, administrative search warrant, or other court order has been issued or denied. If the operator or operator's designee cannot be located, or if inspection is refused, the police officer of an authorized representative may seek entry by serving the issuance of an administrative subpoena, an administrative search warrant, or other court order authorizing inspection of the record log.

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.

d. If, upon refusal to allow the officer to inspect the record, and the officer requires the record to be secured, the officer or authorized representative must apply with the administrative subpoena, administrative search warrant, or such other court order in an expeditious fashion, but within no less than 48 hours following said refusal.

e. In the event that the law enforcement officer or authorized representative seeks an administrative search warrant, it shall be sought and processed and the conduct of same shall be in accordance with applicable New Jersey Court Rules and statutes.

f. In the event that the law enforcement officer or authorized representative seeks an administrative subpoena, the same may only be sought if the Borough's governing body has established an investigative committee under the New Jersey Municipal Investigations Act, N.J.S.A. 40:48-27, et seq. Should the governing body form such an investigative committee, it shall be entitled to exercise all powers delegated to it under said statutory provisions, including the authority to issue subpoenas such as those contemplated herein.

9. The duties imposed by an operator by this article shall not be interpreted or applied so as to violate or cause a violation of the American's Disabilities Act of 1990.

#### B. Occupancy.

The sleeping accommodations for a hotel/motel shall be rented only for use of 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. No occupant or employee shall rent for more than 30 days in a 90 day period. Each hotel/motel shall maintain at all times a complete register of all rental there and the true identification and correct dates of occupancy of each person using any room on the premises.

#### C. Identification of Renters; Renting for Improper Purposes Prohibited.

In addition to all other rules and regulations proposed hereunder, no licensee shall knowingly rent, allow or permit any room on a licensed premises to be used for any illegal or immoral purpose. A licensee's failure to set forth the true identity of a guest shall serve as prima facie evidence of violation of this provision.

#### D. Notification to Police of Suspicious Guests.

A hotel/motel, boarding house or rooming house operator shall make a reasonable effort to notify the Borough Police Department of the names and 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 an unlawful behavior is in process or imminent.

E. Requirement of an On-Site Manager 24 Hours Per Day.

The operator shall cause the hotel/motel, rooming house or boarding house to maintain 24-hour supervision by an on-site manager. Said manager shall have supervisory responsibilities over all other employees on site and shall serve as the first point of contact for the Borough Police Department.

F. Security

All sidewalks, driveways, parking facilities, porches and entranceways in any licensed premises shall be adequately lighted at least between one hour after sundown and 1/2 hour before sunrise. Every licensed premises shall have a custodian or caretaker who shall be responsible for the enforcement of and compliance with the terms of the ordinances and regulations of the Borough of South Plainfield and the regulations and laws of the State of New Jersey applicable to the licensed premises.

The operator shall cause the hotel/motel, rooming house or boarding house to maintain a working video surveillance system covering common areas and parking lots.

**196-6 - License Fees.**

A. The annual fee for each license hereunder shall be a nonrefundable \$75.00 application fee plus \$10.00 per each unit with sleeping quarters. Such fee may be revised by the Borough Council by resolution. In the event an application is submitted after the time specified under Section 196-4 (A), the applicant shall pay a late fee of \$75.00 in addition to the annual fee.

B. License fees shall not be proportioned or prorated regardless on the date on which such license may be issued.

C. Payment of such fee shall accompany the filing of the application for licenses and any intention to renew thereafter.

D. All licenses shall be displayed in a prominent place on the licensed premises, and each license shall be valid only to the applicant to whom it is issued and to such applicant to whom the license may be transferred as hereinafter provided.

E. A transfer of a license may be requested on a form prescribed by the Borough Clerk, setting forth the same matters and information required by this chapter as set forth in connection with the original application for a license. The Borough Council, with the consent of the licensee and upon payment of 10% of the annual fee of the license sought to be transferred, being transferred to such applicant any license issued under the terms and provisions of this chapter, said 10% to be retained by the Borough whether the transfer is granted or not to defray costs of an investigation. No additional fee shall be paid to the Borough upon a transfer.

F. Where the licensee is engaged in more than one activity as enumerated in this article at the same location, which may be subject to more than one fee, said licensee shall be required to pay that fee which would be charged for the activity assessed the highest fee.

G. Any change in any of the information set forth in the applications during the term of the license shall forthwith be communicated by the licensee in writing to the Borough Clerk.



**196-7 - Violations and Penalties.**

A. Non-compliance with the terms and conditions of this chapter shall constitute a violation.

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

C. Any person, firm, partnership, corporation or entity violating any provision of this article by the performance of a prohibited act or by failing, neglecting or refusing to do any act or anything required by this article, shall be subject to a fine of no more than \$2,000.00, imprisonment for a term not exceeding 90 days, a period of community service not exceeding 90 days, or any combination thereof and in the discretion of the Municipal Court judge. Each day on which a violations exists shall be considered a separate and distinct violation and subject to the imposition of a separate penalty for each day of the violation as the Municipal Court judge may determine.

This Ordinance shall take effect upon final passage and publication in accordance with New Jersey law.