

**AN ORDINANCE TO AMEND CHAPTERS 3.40 AND 3.41 OF THE CODE OF THE CITY OF ELIZABETH REGARDING USE AND OCCUPANCY TAXES IN LIGHT OF RECENT LEGISLATION REGARDING TRANSIENT ACCOMMODATIONS AND ROOMING HOUSES**

**WHEREAS**, the City Council adopted Ordinance No. 3537 on August 26, 2003, (codified as Chapter 3.40 of The Code of the City of Elizabeth) imposing a sales and use tax pursuant to the “Sales and Use Tax Act” N.J.S.A. 54:32B-1, et seq.; and

**WHEREAS**, the City Council adopted Ordinance No. 3899 on June 12, 2007, (codified as Chapter 3.41 of The Code of the City of Elizabeth) imposing an occupancy tax pursuant to the “Hotel Occupancy Tax Act” N.J.S.A. 40:48E-1, et seq.; and

**WHEREAS**, the New Jersey Legislature has adopted chapter 49 of the Laws of 2018 which, among other things, expands the “Sales and Use Tax Act” and the “Hotel Occupancy Tax Act” to include taxation upon transient accommodations and explicitly clarifies that a rooming house is subject to taxation; and

**WHEREAS**, New Jersey Governor Phil Murphy signed the bills into law, P.L. 2018, c. 49, which shall go into effect September 29, 2018; and

**WHEREAS**, the City Council desires to adopt an ordinance to amend these taxes in light of the changes in state law; now, therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH:**

**SECTION 1.** Section 3.40.011 of The Code of the City of Elizabeth entitled “Definitions” is hereby established and shall read as follows:

As used in this chapter, the following terms or words shall have the following meanings:

“Hotel” shall have the same definition as given to it by the legislature at N.J.S.A. 54:32B-2(j) and shall mean and include a building or portion of a building which is regularly used and kept open as such for the lodging of guests. “Hotel” includes an apartment hotel, a motel, inn, and rooming or boarding house or club, whether or not meals are served, but does not include a transient accommodation.

“Transient accommodation” shall have the same definition as given to it by the legislature at N.J.S.A. 54:32B-2(ggg) and shall mean 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. “Transient accommodation” does not include: a hotel or hotel room; a room, group of rooms, or other living or sleeping space used as a place of assembly; a dormitory or other similar residential facility of an elementary or secondary school or a college or university; 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; a campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; or a 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 where the keys to the furnished or unfurnished private residential property, whether a physical key, access to a keyless locking mechanism, or other means of physical ingress to the furnished or unfurnished private residential property, are provided to the lessee at the location of an offsite real estate broker licensed by the New Jersey Real Estate Commission pursuant to N.J.S.A. 45:15-1 et seq.

PRESENTED to the Mayor for  
APPROVAL or DISAPPROVAL on  
SEP 12 2018  
City Clerk

**SECTION 2.** Section 3.40.020 of The Code of the City of Elizabeth entitled "Tax Established" is hereby amended and shall read as follows:

There is established a tax in the City of Elizabeth which shall be fixed at three percent on charges of rent for every occupancy of a hotel or transient accommodation room or rooms in the City of Elizabeth subject to taxation pursuant to N.J.S.A. 54:32B-3.

**SECTION 3.** Section 3.41.011 of The Code of the City of Elizabeth entitled "Definitions" is hereby established and shall read as follows:

As used in this chapter, the following terms or words shall have the following meanings:

"Hotel" shall have the same definition as given to it by the legislature at N.J.S.A. 40:48E-2 and shall mean and include a building or portion of a building which is regularly used and kept open as such for the lodging of guests. "Hotel" includes an apartment hotel, a motel, inn, and rooming or boarding house or club, whether or not meals are served, but does not include a transient accommodation.

"Transient accommodation" shall have the same definition as given to it by the legislature at N.J.S.A. 40:48E-2 and shall mean 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. "Transient accommodation" does not include: a hotel or hotel room; a room, group of rooms, or other living or sleeping space used as a place of assembly; a dormitory or other similar residential facility of an elementary or secondary school or a college or university; 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; a campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; or a 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 where the keys to the furnished or unfurnished private residential property, whether a physical key, access to a keyless locking mechanism, or other means of physical ingress to the furnished or unfurnished private residential property, are provided to the lessee at the location of an offsite real estate broker licensed by the New Jersey Real Estate Commission pursuant to N.J.S.A. 45:15-1 et seq.; or leases of real property with a term of at least 90 consecutive days.

**SECTION 4.** Section 3.41.020 of The Code of the City of Elizabeth entitled "Tax Imposed" is hereby amended and shall read as follows:

There is imposed a six percent tax on charges for the use or occupation of a room or rooms in a hotel or transient accommodation as authorized by the "Hotel Occupancy Tax Act" N.J.S.A. 40:48E-1, et seq.

**SECTION 5.** Section 3.41.021 of The Code of the City of Elizabeth entitled "Other Taxes" is hereby established and shall read as follows:

The tax imposed by this chapter shall be in addition to any other tax or fee imposed pursuant to any federal law, state statute, local ordinance including, but not limited to, any and all real estate (ad velorem) taxes, service charges, sales taxes, and the taxes established in Chapter 3.40 of the Code of the City of Elizabeth.

**SECTION 6.** All ordinances or parts of ordinances inconsistent with the provisions of this ordinance be and the same are hereby repealed.

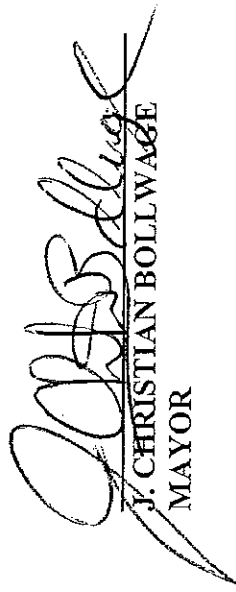
SECTION 7. If any portion or clause of this ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this ordinance.

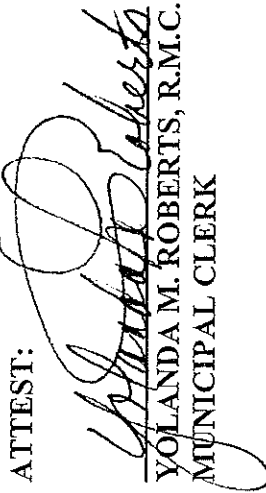
SECTION 8. The effective date of this ordinance shall be twenty (20) days after its final passage by City Council and approval by the Mayor at the time and in the manner provided by law, but shall not go into effect at any point prior to the effective date of P.L. 2018, c. 49.

PASSED: 9-11-18

  
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MANNY GROVA, JR.  
PRESIDENT OF CITY COUNCIL

APPROVED: 9/12/18

  
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J. CHRISTIAN BOLLWAGE  
MAYOR

ATTEST:  
  
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YOLANDA M. ROBERTS, R.M.C.  
MUNICIPAL CLERK