



ORDINANCE 11-2011

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF ATLANTIC HIGHLANDS, CHAPTER 211 THEREOF, ENTITLED LICENSES, TO ADD A NEW SECTION PROVIDING FOR THE LICENSING OF BED AND BREAKFAST ESTABLISHMENTS

WHEREAS, Bed and Breakfast Establishments provide an opportunity to enhance the choice of goods and services available within the Borough, and

WHEREAS, the Governing Body has proposed the adoption of an Ordinance providing for Bed and Breakfast Establishments as a conditional use; and

WHEREAS, it is appropriate that Bed and Breakfasts should be licensed in order to insure that such establishments are properly maintained and operated in order to promote the health, safety and welfare of the community and persons visiting the community who use such establishments; and

WHEREAS, the Governing Body is authorized by N.J.S.A. 40:52-1.d. to make, amend, repeal and enforce Ordinances to license and regulate hotels, boarding houses, lodging and grooming houses, trailer camps and campsites, motels, furnished and unfurnished rented housing or living units and all other places and buildings used for sleeping and lodging purposes.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Atlantic Highlands, in the County of Monmouth and State of New Jersey that Chapter 211 entitled Licensing, of the Code of the Borough of Atlantic Highlands is hereby amended to add a new article following Article I to be known as Article II "Bed and Breakfasts":

211-3 LICENSING OF BED AND BREAKFAST ESTABLISHMENT DEFINITIONS

- A.** "Bed and Breakfast Establishment" shall also meet the definitions and standards established by any applicable Federal, State or local building, fire, health, or safety code. Bed and Breakfast Establishments shall not include establishments providing accommodations that are classified as "R-3 Bed And Breakfast Home Stay" or providing long-term accommodations such as a rooming house or boarding house as defined by N.J.S.A. 55:138-3.
- B.** "OWNER" shall mean the title owner of record to property on which a bed and breakfast establishment is proposed to be conducted.
- C. PERSON**" shall mean any individual, firm, partnership, corporation, limited liability company, voluntary association, incorporated association and any principal or agent thereof.

D. COMPLIANCE CODES” shall mean all applicable federal, State and local codes regulating Bed and Breakfast Establishments including, but not limited to, building, fire, health and safety codes.

211-4 License Requirement

It shall be unlawful for any person to operate a Bed and Breakfast Establishment within the Borough of Atlantic Highlands without first obtaining a license.

A. Application for license

Any person desiring a license to operate a bed and breakfast establishment must be the owner of the property on which said establishment is to be located and shall file with the Municipal Clerk an application containing the following information:

- 1) **Name of Applicant.**
- 2) **The address of the premises** desired for use as Bed and Breakfast Establishment.
- 3) **Statement of compliance** with owner occupancy requirements.
- 4) **Information relating to proposed business operations.** The Applicant shall also provide the following information with the license application: including number of employees, maximum number of occupants, meals to be provided, amenities to be provided and hours of operation.

211-5 Granting of license

Following the filing of the application, the Code Enforcement Officer shall conduct an inspection of the property and shall issue an approval or rejection of the application. Upon payment of prescribed fee the license herewith shall be issued by the Municipal Clerk. The license shall not be transferable from the person to whom issued to any other person. In the event of a change of the owner/operator, of a Bed and Breakfast establishment, a new license shall be applied for and obtained before the new owner/operator may conduct business on the premises.

211-6 Recording and reporting of license

The guest register shall be available for inspection by authorized Borough officials at all times, only for the enforcement of compliance with Federal, State and local laws.

All licenses shall be issued on forms prepared and approved by the Municipality. The license shall be posted in a conspicuous location on the business premises and shall be produced at the request of any official of the Borough.

211-7 License fee

The license fee shall be Two Hundred Fifty Dollars (\$250.00) and shall be valid for one year from the date of issue. It shall be licensees' responsibility to renew the license on a timely basis. Any license not renewed within thirty days after expiration will be deemed lapsed and a new application will be required along with the \$250.00 application fee, and the satisfaction of all requirements to obtain a license.

211-8 Revocation and suspension of license

Any license issued hereunder may be suspended or revoked by the Mayor and Council of the Borough of Atlantic Highlands upon conviction for violation of the terms of the license or of any Borough Ordinance, State or Federal Statute or regulation including, but not limited to, violations of Compliance Codes, misrepresentation or falsification in applying for a license. After a written complaint is filed with the appropriate agency, and upon the determinations thereof, the Mayor and Council must, within 45 [forty five] days schedule a hearing and may or may not, at that time proceed with an action to revoke or suspend the license.

- A. **Temporary Suspension:** If the violation concerns the health, safety and welfare of the Borough or the guests of the established bed and breakfast, a temporary suspension may be issued by the hand delivering of such notice of suspension and by mailing a notice, by certified mail, to the owner, at the address appearing on the application. The Temporary Suspension notice shall state at a time certain, within ten (10) days from the date of notice, that the opportunity for a hearing will be given before the Borough Administrator, Municipal Clerk and Code Enforcement Officer, who may continue the suspension of the license until such time, as previously stated, in which the governing body has to convene.
- B. In the event of the failure of a licensee to appear at any of the above mentioned hearings, the license shall automatically be revoked and the establishment closed.

211-9 Inspections

Prior to the issuance of any license or annually, prior to renewal the premises shall be inspected by the appointed Code Enforcement officer and Fire Marshall to confirm compliance with all Federal, State and local regulations and other compliance codes. The license holder shall also permit inspection by an authorized Official of the Borough at any time to insure compliance with the terms of the license, upon twenty-four (24) hours notice or, in the case of an emergency, without notice.

211-10 Violations and penalties

The maximum penalty upon conviction by any person, firm, corporation or entity who shall violate any of the provisions of this Article shall be by one or more of the following: imprisonment in the County Jail or in a place provided by the municipality for the detention of prisoners, for any term not exceeding 90 days; or by a fine not exceeding \$2,000; or by a period of community service not exceeding 90 days; and each violation of any of the provisions of this Article, and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

BE IT FURTHER ORDAINED that all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon passage and publication as provided by law.

A motion to approve this ordinance was offered by Councilman L Fligor and was duly seconded by Councilman R Dellosso

This motion was passed by the following vote:

Ayes:	Councilman J Archibald , Councilman R Dellosso, Councilman P Doyle, Councilman L Fligor, Councilman J Hoffmann and Councilman R Sutton (6)
Nays:	None (0)
Abstain:	None (0)
Absent:	None (0)

Public Hearing and possible Adoption is scheduled for July 27, 2011.