

BOROUGH OF MOUNTAINSIDE
COUNTY OF UNION, NEW JERSEY

NOTICE OF PROPOSED ORDINANCE

NOTICE IS HEREBY GIVEN that the following proposed ordinance was introduced and passed on first reading at a meeting of the Mayor and Council of the Borough of Mountainside in the County of Union, New Jersey, held on May 5, 2026 and that said ordinance will be taken up for further consideration for final passage at the meeting of said Mayor and Council to be held in the Municipal Building, 1385 Route 22, Mountainside, New Jersey on June 2, 2026 at 7:30 PM, or as soon thereafter as said matter can be reached, at which time and place all persons who may be interested therein will be given an opportunity to be heard concerning the same.

Martha Lopez
Borough Clerk

ORDINANCE 1353-2026

WHEREAS, the New Jersey Legislature has, pursuant to N.J.S.A. 40:52-1(d) and (n), authorized municipalities to regulate "furnished and unfurnished rented housing or living units and all other places and buildings used for sleeping and lodging purposes, and the occupancy thereof," as well as the "rental of real property for a term of less than 175 consecutive days for residential purposes by a person having a permanent place of residence elsewhere"; and

WHEREAS, in recent years, there has been a marked increase in the advertisement of short-term rental of dwelling units for periods from one to thirty days ("short-term rentals") within the Borough and neighboring municipalities; and

WHEREAS, the Borough has determined that short-term rentals frequently result in a deterioration of the neighborhood character, public nuisance, noise complaints, overcrowding and illegal parking within the residential neighborhoods in the Borough, and the effective conversion of residential dwelling units into unregulated de facto hotels, motels, or similar facilities; and

WHEREAS, the Borough therefore wishes to prohibit short-term rentals in order to ensure that traditional residential neighborhoods are not turned into tourist areas to the detriment of long-time residents; eliminate property uses that may negatively affect property value; minimize public safety risks and the noise, trash and parking problems often associated with short-term rentals without creating additional work for the local Police Department; and prohibit the unlawful creation of commercial enterprises in both single-family and multi-family dwelling units in violation of Borough zoning ordinances and public nuisance ordinances.

NOW THEREFORE BE IT ORDAINED, by the Governing Body of the Borough of Mountainside, County of Union, State of New Jersey, that the Borough Code of the Borough of Mountainside is amended as follows:

Chapter XXII, Section 1017 Prohibited Uses is amended as follows:

Section 1017 Title is modified from Prohibited Use to Prohibited Uses.

A. Cannabis Establishments Prohibited

All classes of cannabis establishments or cannabis distributors of cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a licensed cannabis delivery service.

New Section B. Short Term Rentals Prohibited is added.

B. Short-Term Rentals Prohibited

I. Definitions

As used in this article, the following terms shall have the meaning indicated:

ADVERTISE or ADVERTISING

Any form of solicitation, promotion, and communication for marketing used to solicit, encourage, persuade, or manipulate viewers, readers, or listeners into contracting for goods and/or services in violation of this article, as same may be viewed through various media, including, but not limited to, signs, newspapers, magazines, flyers, handbills, pamphlets, commercials, radio, direct mail, internet websites, or text or other electronic messages for the purpose of establishing occupancies or uses of rental property, for consideration, which are prohibited by this article.

CONSIDERATION

Soliciting, charging, demanding, receiving or accepting any legally recognized form of consideration, including a promise or benefit, a quid pro quo, rent, fees, other form of payment, or thing of value.

DWELLING UNIT

Any structure, or portion thereof, whether furnished or unfurnished, which is occupied in whole or in part, or intended, arranged or designed to be occupied, for sleeping, dwelling, cooking, gathering

and/or entertaining, as a residential occupancy, by one or more persons. This definition includes an apartment, condominium, building, single-family home, cooperative, converted space, or portions thereof, that is offered to be used, made available for use, or is actually used for accommodations, lodging, cooking, sleeping, gathering and/or entertaining of occupants and/or guest(s), for consideration.

HOSTING PLATFORM

A website or marketplace in whatever form, whether online or not, which facilitates short-term rentals through advertising, searching, matchmaking or any other means, using any medium of facilitation and from which the operator of the hosting platform derives revenues, including but not limited to booking fees or advertising revenues, from providing or maintaining the website or marketplace.

HOUSEKEEPING UNIT

Constitutes a family-type situation involving one or more persons living together that exhibit the kind of stability, permanency and functional lifestyle equivalent to that of a traditional family unit, as further described in the applicable reported and unreported decisions of the New Jersey Superior Court.

OCCUPANT

Any individual using, inhabiting, living, gathering, entertaining, being entertained as a guest, or sleeping in a dwelling unit, or portion thereof, or having other permission or possessory right(s) within a dwelling unit.

OWNER

Any person(s) who legally uses, possesses, owns, leases, subleases or licenses (including an operator, principal, shareholder, director, agent, or employee, individually or collectively) one or more dwelling units, or who has charge, care, control, or who participates in the expenses and/or profit of a dwelling unit pursuant to a written or unwritten agreement, rental, lease, license, use, occupancy agreement or any other agreement.

PERSON

An individual, firm, corporation, association, partnership, limited liability company, association, entity, and any person(s) and/or entity(ies) acting in concert or any combination therewith.

RESIDENTIAL OCCUPANCY

The use of a dwelling unit by an occupant(s).

SHORT-TERM RENTAL

A residential occupancy for a period of less than 30 days. Nothing in this Ordinance shall preclude the residential occupancy of an otherwise lawful and lawfully occupied dwelling unit for a period of 30 days or more by any person who is a member of the housekeeping unit of the owner, or invitee/house guest of the owner, without consideration as defined by this Ordinance.

II. Short-Term rental prohibited

- A. Notwithstanding anything to the contrary contained in the Borough Code, it shall be unlawful for a person or owner to receive or obtain actual or anticipated consideration for using, authorizing, permitting, or failing to discontinue the use of any dwelling unit as a short-term rental, as defined herein.
- B. Nothing in this article will prevent formation of an otherwise lawful residential occupancy of a dwelling unit for a rental period of 30 days or more.
- C. Nothing in this article shall be deemed to prohibit the lawful operation of any hotel as that term is defined in the New Jersey Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq.

III. Rental of Amenities Prohibited:

- A. The lease or rental, for any purpose, of any amenity, feature, accessory, or structure incidental to the primary property or associated with the principal building is prohibited, including but not limited, to swimming pools, sports courts, backyards, etc.

IV. Advertising prohibited; hosting platform prohibitions

- A. It shall be unlawful for any person to advertise by any means all actions, or failures to act, that would be in violation of the provisions of this article.
- B. It shall be unlawful for any hosting platform to undertake, maintain, authorize, aid, facilitate or advertise any short-term rentals in violation of this article.

V. Violations and penalties; enforcement

- A. The provisions of this article shall be enforced by the Construction Official, Zoning Official, Health Department, other Subcode or Code Official, as their jurisdiction may arise, or other persons designated by the Governing Body of the Borough of Mountainside, to issue municipal civil infractions directing alleged violators of this article and/or to appear in court or file civil complaints.
- B. A violation of this article is hereby declared to be a public nuisance, a nuisance per se, and is hereby further found and declared to be offensive to the public health, safety and welfare.

- C. Any person found to have violated any provision of this article, without regard to intent or knowledge, shall be liable for the maximum civil penalty, upon adjudicated violation or admission, of a fine not exceeding \$2,000.
- D. The penalty imposed herein shall be in addition to any and all other remedies that may accrue under any other law, including, but not limited to, eviction proceedings and/or injunction, reasonable attorneys' fees or other fees and costs, in the Borough's Municipal Court or the Superior Court of New Jersey in the vicinage of Union County.

Section II: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.

Section III: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

Section IV: This ordinance shall take effect immediately upon final passage and publication as provided by law.