

BOROUGH OF AVALON  
CAPE MAY COUNTY  
NEW JERSEY

ORDINANCE NO. 695 -2014

AN ORDINANCE TO AMEND CHAPTER 27  
(ZONING) OF THE CODE OF THE BOROUGH  
OF AVALON ORDINANCE TO AMEND TO  
PROVIDE FOR RESORT HOUSES AS  
CONDITIONAL USES ONLY IN THE R/M (HOTEL-  
MOTEL) ZONING DISTRICT,

**BE IT ORDAINED** by the Borough Council of the Borough of Avalon in the County of Cape May, State of New Jersey, as follows:

Section 1. Findings: The Borough Council finds and determines that:

1. The Borough of Avalon is primarily a residential community located along the Atlantic Ocean with residential homes occupied by a year-round population of approximately 1,315 and a seasonal (primarily June, July and August) population of approximately 35,000. Of the total number of residential units (5,055) in the Borough, only 1132 are licensed for rentals.
2. The Borough of Avalon has established specific areas of the Borough to accommodate residential uses and, through adopted ordinances, to preserve, maintain and enhance the residential character of those areas.
3. The Borough of Avalon has established areas of the Borough to accommodate commercial uses in areas that will not intrude in or negatively impact on the residential areas.
4. The Borough of Avalon has established areas of the Borough to accommodate hotel, motel, and transient uses in areas appropriate for those uses and to ensure that those uses do not intrude in or negatively impact on the residential areas of the Borough.
5. The intrusion of hotel, motel, resort houses, and other commercial uses in the residential areas would substantially, negatively and permanently impact on the very character and quality of life in the Borough of Avalon.
6. The Borough Council has become aware of attempts to use properties in the residential zoning districts for Resort Houses which uses are inappropriate for the residential zoning districts.
7. Allowing the intrusion of Resort Houses in the residential zoning districts would negatively impact both on the residential character of the Borough as well as the businesses properly located in the R/M (Hotel-Motel) zoning district.

8. The Master Plan of the Borough of Avalon establishes goals for the regulation of land uses in the Borough with the first goal to “Maintain community character and visual environment.”
9. The Master Plan sets forth specific objectives, including the encouragement of commercial uses “in the commercial districts”, i.e. the B-1 and B-2 Business Zones; to “control the overnight parking of trucks from the business district on adjacent residential streets”; to “curtail the use of Borough streets for the storage of boats/trailers and commercial trailers”; to “reduce traffic congestion and on-street residential parking”; and to “preserve and enhance the hotel/motel district”.
10. The goals and objectives of the Master Plan are clearly and unequivocally set forth to contain hotel/motel uses in the hotel/motel district, i.e., the R-M (Motels and Hotels) Zone, to contain commercial uses in the commercial district and to preserve the residential character of the residential districts.
11. It is essential to preserve the character of and the quality of life in the Borough of Avalon by preventing the intrusion of hotel/motel and commercial uses in the residential areas of the Borough.
12. It is necessary to prevent the undermining of the Master Plan and the Ordinances of the Borough by those who misrepresent prohibited or conditional uses as being permitted.
13. It is the purpose of this ordinance to preserve the residential character of the Borough, to prevent commercialization of the residential areas, and to recognize and accommodate the traditional rentals of residential properties on a seasonal or weekly basis in a manner that does not disrupt or impair the residential character of the neighborhoods.

Section 2. Definitions: The following definitions are added to Chapter 27-3 c (Definitions) of the Code of the Borough of Avalon

**Resort House.** A residentially styled structure that is used, maintained, marketed, promoted and/or advertised as a destination location available for rent, lease or sub-lease for a gathering of invited guests for functions and special events, including, but not limited to, weddings, retreats, family reunions, parties and meetings. A Resort House is a commercial use appropriate only in areas zoned for hotel/motel use and never has been permitted as a legal use under existing ordinance standards. A Resort House is a commercial use and is not a traditional single-family residence and requires more off-street parking in order to accommodate the number of guests. Traditional seasonal rentals as defined in Chapter 22 or bed and breakfast establishments, licensed by the Borough and intended to accommodate not more than 18 persons shall not be considered to be Resort Houses.

Section 3. Chapter 27 is amended so that wherever the R/M Zoning District is referenced it shall be re-designated as the R/M-(Hotel-Motel) District. The purpose of the re-designation is to provide clarity and consistency with the intentions of the Master Plan.

Section 4. Chapter 27-6.1.i is added to provide that Commercial Residential Uses, specifically including Resort Houses, are prohibited in all zones except the R/M (Hotel-Motel) zone.

Section 5. Chapter 27-6.2 g.2.f is added to provide that Resort Houses are permitted as conditional uses only within the R-M (Motels and Hotels) Zone.

Section 6. Chapter 27-6.2 g.6 is added to provide the following bulk requirements for Resort Houses as conditional uses only within the R-M (Motels and Hotels) Zone:

- a. Lot area shall be not less than 8,000 square feet;
- b. Lot frontage shall be not less than 80 feet
- c. Setbacks shall be not less than
  - Front yard 15 feet
  - Side yard (each side) 10 feet
  - Rear yard 25 feet
- c. Average Lot Width not less than 55% of Lot Frontage
- d. Maximum height 30 feet
- e. Building coverage 27%
- f. Building coverage with deck 38%
- g. FAR 0.70
- h. Off street parking shall be provided on the basis of 1.5 parking spaces for each bedroom, which shall include any room that is able to be used for overnight accommodations regardless of how it is named;
- i. Occupancy shall be for no more than 24 people
- j. Landscaping must comply with Ch. 27-7.3(t)
- k. Storm water management must comply with Ch. 27-7.3(u)

Section 7. Chapter 27 (Zoning) of the Code of the Borough of Avalon is amended by adding to section 27-8.6, Violations, Remedies and Penalties, new subparagraphs as follows:

- d. It shall be a violation of this Chapter for any person acting as an owner, agent, real estate broker, real estate sales agent, property manager, reservation service or otherwise to arrange, negotiate, advertise or promote the use of property in violation of this Chapter and the ordinances of the Borough of Avalon in any medium, including, but not limited to, print media, flyers, signs, billboards, radio, television, cable, internet, web pages, social media, e-mail or otherwise.

Section 8. EXCEPTION. Where a Settlement Agreement, consented to by the Borough, has been entered into with respect to a specific property prior to the adoption of this ordinance, setting standards and conditions applicable to that specific property for the rental and use of that property, the conditions established in this ordinance shall not apply, provided that all conditions set forth in the Settlement Agreement are strictly satisfied. Violation of the terms and conditions of the Settlement Agreement or the expiration, revocation, invalidation or repeal of the Settlement Agreement shall subject the property to the terms of this Ordinance.

Section 9. REPEALER. All Ordinances or parts of Ordinances which are in conflict or inconsistent herewith are hereby repealed to the extent of such inconsistency or conflict only.

Section 10. SEVERABILITY. If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

Section 11. EFFECTIVE DATE: The amendments to Chapter 27 (Zoning) shall become effective upon final passage, publication as required by law.

#### **NOTICE OF PENDING ORDINANCE**

The Ordinance published herewith was introduced and passed on first reading of the Municipal Council of the Borough of Avalon on February 12, 2014. It will be further considered for second reading, public hearing and final adoption at a meeting of said Council to be held on the 12<sup>th</sup> day of March, 2014 in the Meeting Room of the Municipal Building, Avalon, New Jersey at 7:15 p.m. and during the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's Office in said Municipal Building to the members of the general public who shall request the same.

GEORGANN M. BERARDIS  
Borough Clerk