

**BOROUGH OF FREEHOLD
COUNTY OF MONMOUTH
NO. 2010/12**

**ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF FREEHOLD,
COUNTY OF MONMOUTH AND STATE OF NEW JERSEY
AMENDING THE RENTAL PROPERTY REGULATIONS AND
LICENSING OF LANDLORDS**

WHEREAS, the governing body established, by ordinance, the Rental Property Regulations and Licensing of Landlords in 2004; and;

WHEREAS, the Code Enforcement Director, Borough Administrator, Borough Attorney and Council liaison have met on several occasions with representatives of a landlord organization to review the ordinance and procedures in an effort to improve the process and have made several recommendations to the governing body; and

WHEREAS, N.J.S.A. 40:48-2.12(a) authorizes the governing body of any municipality to make, amend, repeal and enforce ordinances to regulate buildings and structures and their use and occupation, to prevent and abate conditions therein harmful to the health and safety of the occupants of said buildings and structures and the general public in the municipality; and

WHEREAS, the Mayor and Council of the Borough of Freehold believe it is in the public interest to amend the regulations for licensing landlords of rental properties and the regulations of rental properties in the Borough of Freehold.

NOW, THEREFORE BE IT ORDAINED AS FOLLOWS:

Section I

Definitions.

"Apartment" shall mean and include that portion of a dwelling unit rented or offered for rent, for living and dwelling purposes, to one individual or family unit together with all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy of such portion of the property.

"Available for Rent to Tenant" shall mean fit for habitation as defined by the Statutes of the State of New Jersey, codes and Ordinances of the Borough of Freehold.

"Dwelling" shall mean and include any building or structure rented or offered for rent to one or more tenants or family units.

"Dwelling Unit" shall mean and include that portion of a building or structure rented or offered for rent to one or more tenants or family units.

"Immediate Family Members" shall mean parent(s), child, sibling(s), grandparent or grandchild.

"Occupants of Rental Units" or "Tenants" shall mean those persons who have leased the unit from the owner regardless of the type of tenancy under which they occupy the unit.

"Owner" shall mean any person who owns any legally cognizable interest in any apartment complex including but not limited to outright ownership, ownership through a partnership, corporation or limited liability company.

"Maintenance" or "Property Maintenance" shall mean the cleanliness and proper working order and upkeep of all areas and facilities of the complex used by the tenants and the public.

"Rental Property" shall mean any structure or building which contains one or more individual residential rental units other than owner occupied structures or buildings.

"Individual condominium units" shall be treated as separate and individual rental properties.

"Rental Unit" shall mean and include that portion of a dwelling, building or structure rented or offered for rent, for living and dwelling purposes to individuals or family units.

"Reside" shall mean to live or dwell permanently or continuously for ten or more days; to occupy a place as one's domicile.

"Owner Occupied" shall mean the primary residential living unit of the owner.

"License Year" shall run from July 1 to June 30.

"Annual Fee" shall mean the fee for the license year.

Section II

1. **LICENSE REQUIRED.** No person(s), corporation or business entity shall offer any rental property for rent, or rent, lease or let any rental property to any person or persons without first registering the property and obtaining a license for each rental property. This Chapter shall not apply to owner-occupied properties.

2. **APPLICATION INFORMATION.** The applicant shall provide the information required on the application form and shall not be required to provide the information required in Section 5.04.020.

3. **LICENSE FEE.** The license term/year shall run from July 1 through June 30. The annual license fee and registration fee for the license year shall be three hundred dollars (\$300.00) per rental property as defined hereinabove. This fee shall be apportioned as of the date the landlord acquires a property which is occupied as a rental property or first offers the property for rent, whichever occurs first. The fee is non-transferrable.

In the event the rental property is a multiple dwelling requiring an annual renewal of the certificate of occupancy, the cost for the annual certificate of occupancy shall be included in this license and registration fee unless the annual certificate of occupancy fee would be greater than the license fee in which case the greater fee shall be charged. This shall not apply to any certificate of occupancy required by change of tenant or owner, for which the normal fee shall be charged.

In the event ownership of the property is transferred during the license year, the new owner shall apply for a license within 10 days of the transfer which fee shall be prorated accordingly.

At the option of the Licensee, the annual fee may be paid in semi-annual increments, July 1 and January 1.

Payments not received within 15 days of the due date will be deemed to be in default and shall constitute a violation of this ordinance.

Licensees who rent to immediate family members at a discounted rent may apply to the Mayor and Council for a hardship waiver of all or a portion of the license fee.

Application for the hardship waiver must be made within 10 days of the occupancy of the family member and the award of all or a portion of the fee shall be within the sole discretion of the Mayor and Council based on the extent of the discounted rent amount.

4. **REVOCATION OF LICENSE.** In the event a licensee is convicted of violations of this or any other Borough ordinance, statute or regulation regarding property maintenance or zoning concerning the licensed rental property, the Mayor and Council may revoke the license after notice is given and an opportunity for a hearing is had. Conviction of a licensee of 3 or more offenses involving different incident dates within a two (2) year period shall be a presumptive basis for revocation of a license. A license shall not be revoked until five days prior notice of the grounds therefore is served on the licensee and a reasonable opportunity is given to the licensee to be heard thereon.

Section III

1. Rental Property Registration

a. The owner of every rental property, with the exception of owner/occupied properties, in the Borough of Freehold shall file a Rental Property Registration Statement with the Borough Clerk, the form of which is on file with the Borough Clerk. The Borough Clerk shall provide a copy of same to the Police Chief, the Construction Official - Local Enforcing Agency, the Fire Chief and to the local School Board. When providing a copy of same to any other person or entity requesting same, the Clerk, Code Office, Fire and Police Department and School Board shall redact the names and addresses, age and gender of the tenants.

b. The Rental Property Registration Statement shall be filed on an annual basis on or before July 1 of each year.

c. The Rental Property Registration Statement shall include:

i. the name and address of all record owners of the rental property, building or of the rental business (including all general partners in the case of a partnership and all members in the case of Limited Liability Company and all shareholders in the case of a Corporation),

ii. the name and address of a person who resides in Monmouth County and is authorized to accept notices from a tenant or a municipality, to issue receipts for these notices and to accept service of process on behalf of the record owner,

iii. the name and address of the managing agent, and if applicable, the name, address and telephone number of the superintendent, janitor, custodian or other person employed to provide regular maintenance services, and the name, address and telephone number of an individual representative of the record owner or managing agent who may be reached or contacted at any time in the event of an emergency affecting the dwelling or any dwelling unit, including such emergencies as the failure of any essential service or system, and who has authority to make emergency decisions concerning the building or unit, including the making of repairs,

iv. the name, age and gender of each and every adult tenant in each unit, and the age and gender of all children occupying the unit. The information contained in the Rental Property Registration Statement must set forth information for each unit within the rental property and must include all tenants in each unit.

v. the name and address of all holders of recorded mortgages on the property,

vi. if fuel oil is used to heat the unit and landlord furnishes heat, the name and address of the fuel oil dealer servicing the unit and the grade of oil used.

vii. as to each unit, the owner shall provide a floor plan of the unit, which shall depict the number, dimensions and location of each room in the unit. No space shall be used for sleeping purposes which has not been so designated as a sleeping area on the sketch provided by the owner and approved by the Construction Official - Local Enforcing Agency which shall be on file with the Construction Official - Local Enforcing Agency.

viii. such other information as may be required by the Borough.

d. In the event the tenancy changes during the year, the landlord, owner or managing agent shall, within 30 days of the change in tenancy, provide an updated Rental Property Registration Statement for every unit in which a change in tenant has occurred. This shall be in addition to the requirements for obtaining a Certificate of Occupancy for the

change of tenancy. A change in tenancy shall mean the addition of any person not included in the annual statement, or deletion of any person on the annual statement.

e. All inspections shall comply with the Code Enforcement Protocols, on file in the Borough Clerk's office or Code Enforcement Office.

Section III

Exceptions. The provisions of the Chapter shall not apply to Public Housing Authorities, Not For Profit Housing Corporations, and rental property restricted to senior housing or housing for the developmentally disabled.

Section IV

Inspections.

- a. All rental units shall be inspected at least every three years by persons or agencies duly authorized by the Borough for inspections for purposes of determining Zoning Ordinance compliance, and to determine if the rental property, unit or complex complies with all laws including, but not limited to the Property Maintenance Code, BOCA, Uniform Construction Code, Health Code, Housing Code and Fire Code. Inspections shall be done street by street, in alphabetical order, and notice of the inspections shall be posted in Borough Hall, published on the Borough web site and in the official newspaper. The owner, operator, agent and occupant shall make the units available for such inspections and are required to provide the necessary arrangements to facilitate such inspections. Inspections shall be made in accordance with the Code Enforcement Protocols, with the consent of the occupant, who is of legal age to grant such consent, or, absent consent, with an administrative search warrant, unless there is reason to believe that a violation exists which poses an immediate threat to health or safety, requiring inspection and abatement without delay. There shall be no cost to the owner or tenant for this inspection.
- b. In the event that the inspection(s) of a rental unit does not result in a satisfactory inspection, the owner or agent shall cause all necessary repairs or corrections to be made within the time prescribed by the applicable official or code, and if not made within that time period, the owner shall be deemed in violation of this Ordinance and every day that the violation

continues shall constitute a separate and distinct violation subject to the penalty provisions herein

- c. In the event of a refusal of entry for inspection, the inspection officer may, upon affidavit, apply to the Judge of the Municipal Court for a search warrant setting forth the reasonable basis for believing that a nuisance or violation of this Ordinance exists or that the inspection of the subject property is pursuant to the systematic inspection process, provided same has been duly advertised.

Section V

Occupancy.

- a. No person shall occupy any rental unit, nor shall the owner permit occupancy of any rental unit unless the unit is registered in accordance with this Ordinance and the person is listed on the rental property registration statement as a named tenant.

No owner, landlord property manager shall knowingly allow occupancy of any rental unit by any person unless that person is a named tenant on the rental property registration statement.

- b. Pursuant to P.M. 901.5, the owner shall post the maximum number of occupants in a conspicuous area within the rental unit. It shall be unlawful for any person, including the owner, agent or tenant, to allow a greater number of persons than the posted maximum number of occupants to reside in the rental unit.

- c. Only those persons whose names are on file as required in this Ordinance may reside in the registered premises. It shall be unlawful and a violation of this Ordinance for any other person to reside in the premises. This provision may be enforced against the landlord, named tenant(s) or person unlawfully residing in the premises.

- d. No rental property or unit shall be conducted or maintained in a manner to constitute a nuisance.

- e. In every written lease for each rental unit, the Landlord shall include the following:

- i. A statement setting forth the maximum number of residents permitted in the unit and the location of designated and permitted sleeping areas. Failure to comply with this requirement shall be a separate violation.

Section VI

Violations and Penalties. Failure to comply with any of the provisions of this Chapter shall result in the imposition of a fine in the amount of \$1,250.00.

In addition to the fine set forth above, the Court may impose imprisonment for a term not exceeding 90 days, or a period of community service not exceeding 90 days, or both.

It shall be deemed a separate and distinct violation, subject to the penalty provisions of this Ordinance, for each and every day that such violation continues and for each and every rental property and/or rental unit for which the violation continues.

Section VII

If any part of this Ordinance shall be deemed invalid such part shall be deemed severable and the invalidity thereof shall not affect the remaining part of this Ordinance.

Section VIII

Any Ordinance or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed and superseded.

Section IX

This Ordinance shall take effect upon final passage and publication in accordance with Law.

ORDINANCE #2010/12

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NOTICE IS HEREBY GIVEN that the forgoing Ordinance was approved for final adoption by the Mayor and Council of the Borough of Freehold at a meeting held on June 28, 2010.

TRACI L. DI BENEDETTO
BOROUGH CLERK

