

AN ORDINANCE REQUIRING THE REGISTRATION AND LICENSING OF ALL RENTAL PROPERTY WITHIN THE BOROUGH OF OCEAN GATE, COUNTY OF OCEAN, STATE OF NEW JERSEY; REQUIRING CERTAIN INSPECTIONS ON A PERIODIC BASIS TO QUALIFY FOR SUCH LICENSE; ESTABLISHING FEES; AND PROVIDING PENALTIES FOR VIOLATION THEREOF

WHEREAS, N.J.S.A. 46:8-28 et seq. mandates the registration of rental units either with the State of New Jersey or with the Borough Clerk or designee in the municipality wherein the rental unit is situated;

WHEREAS, the Borough Council intends the within Ordinance to parallel the requirements of N.J.S.A. 46:8-28 et seq. and to the extent that the information required to be furnished by this Ordinance satisfies the requirements of the Statute, the information will be filed and indexed in such a manner that the owner will comply with the requirements of N.J.S.A. 46:8-28 et seq. as well as with the requirements of this Ordinance;

WHEREAS, it is the intention of the Borough Council to rely upon certain of the information required to be furnished to the Borough Clerk or designee pursuant to N.J.S.A.46:8-28 et seq. and to require certain additional information so as to enable the Borough of Ocean Gate to fulfill its responsibilities in promoting and protecting the public health, safety and welfare;

WHEREAS, it is the express intention of the Borough Council to encourage compliance with State law and nothing contained within this Ordinance is intended to be nor shall it be construed to be an attempt to interfere with a legislative policy enacted by the State of New Jersey;

WHEREAS, the purpose of this Ordinance is to insure that residential rental units are properly maintained, to require landlords to comply with the Property Maintenance Code and to protect the lives and property of the Borough residents.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Ocean Gate, in Ocean County and State of New Jersey, as follows:

SECTION 1 .DEFINITIONS:

Unless the context clearly indicates a different meaning, the following words or phrases when used in this Ordinance shall have the following meaning:

- a. The term "agent" shall mean the individual or individuals designated by the owner as the person(s) authorized by the owner to perform any duty imposed upon the owner by this Ordinance. The term does not necessarily mean a licensed real estate broker or salesman of the State of New Jersey as those terms are defined by N.J.S.A. 45:15-3; however, such term may include a licensed real estate broker or salesman of the State of New Jersey *if* such person designated by the owner as his agent is so licensed.
- b. "Apartment Complex" shall mean one or more buildings, each containing two or more apartments, which are located within close proximity of each other and are owned by the same owner.
- c. "Apartment" or "dwelling" shall mean any apartment, cottage, bungalow, any room or rooms in dwelling unit consisting of one or more rooms occupying all or part of a floor or floors in a building, whether designed with or without housekeeping facilities for dwelling purposes and notwithstanding whether the apartment be designed for residence, for office, or the operation of any industry or business, or for any other type of independent use.

d. "License" shall mean the license issued by the Borough Clerk or designee attesting that the rental unit has been properly registered in accordance with this Ordinance.

e. "Licensee" shall mean the person to whom the license is issued pursuant to this Ordinance. The term "licensee" includes within its definition the term "agent" where applicable.

f. "Owner" shall mean any person or group of persons, firm, corporation, or officer thereof, partnership association, or trust, who owns, operates, exercises control over or is in charge of a rental facility.

g. "Person" shall mean an individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.

h. "Rental facility" shall mean every building, group of buildings or a portion thereof which is kept, used, maintained, advertised or held out to be a place where living accommodations are supplied, whether furnished or unfurnished, for pay or other consideration, to one (1) or more individuals and is meant to include apartments and apartment complexes.

i. "Rental unit" shall mean a dwelling unit or "Apartment" as defined above which is available for lease or rental purposes and is meant to include individual apartments located within apartment complexes.

j. "Occupant" shall mean any individual residing in a "Rental Unit" who is not the owner of record or an immediate family member (son, daughter, father, or mother) of the owner of record.

SECTION 2 .REGISTRATION:

All rental units shall hereafter be registered with the Borough Clerk, Code Enforcement Officer, Construction Officer, Zoning Officer or designee of the Borough of Ocean Gate or such other person as designated by the Borough Council on forms which shall be provided for that purpose and which shall be obtained from the Borough Clerk or designee. Such registration shall occur on an annual basis as provided herein.

SECTION 3 .REGISTRATION AND LICENSING: TERM: INITIAL REGISTRATION PROVISIONS:

Each rental unit shall be registered with each change in occupancy. The license term shall commence on the 1st of the month and shall be valid until the last day of the preceding month of the next calendar year, at which time it shall expire and a new registration shall be required. The initial registration shall occur within 45 days following the adoption of this Ordinance. Any lease which has been executed prior to the adoption of this Ordinance shall not be affected but the rental unit must nevertheless be registered, inspected and licensed in accordance with this Ordinance. No rental unit shall hereafter be rented unless the rental unit is registered and licensed in accordance with this Ordinance.

SECTION 4 .REGISTRATION FORMS: FILING: CONTENTS:

Without in any way intending to infringe upon the requirements of N.J.S.A. 46:8-28, all rental units shall be registered and licensed as provided herein. Every owner shall file with the Borough Clerk or designee of the Borough of Ocean Gate or such other person as designated by the Borough Council a registration form for each unit contained within a building or structure which shall include the following information:

a. The name and address of the record owner or owners of the premises and the record owner or owners of the rental business if not the same persons. In the case of a partnership the names and address of all general partners shall be provided together with the telephone numbers for each of such individuals indicating where such individual may be reached both during the day and evening hours. If the record owner is a corporation, the name and address of the registered agent and corporate officers of said corporation together with the telephone numbers for each of such individuals indicating where such individual may be reached both during the day and evening hours;

b. If the address of any record owner is not located in Ocean Gate or in Ocean County, the name and address of a person who resides in Ocean County and who is authorized to accept notices from a tenant and to issue receipts therefore and to accept service of process on behalf of the record owner;

c. The name and address of the agent of the premises, if any;

d. The name and address, including the dwelling unit number of the superintendent, janitor, custodian or other individual employed by the owner or agent to provide regular maintenance service, if any;

e. The name, address and telephone number of an individual representative of the owner or agent who may be reached or contacted at any time in the event of an emergency affecting the premises or any unit of dwelling space therein, including such emergencies as the failure of any essential service or system, and who has the authority to make emergency decisions concerning the building and any repair thereto or expenditure in connection therewith;

f. The name and address of every holder of a recorded mortgage on the premises;

g. If fuel oil is used to heat the building and the landlord furnishes the heat in the building, the name and address of the fuel oil dealer servicing the building and the grade of fuel oil used;

h. As to each rental unit, a specification of the exact number of sleeping rooms contained in the rental unit. In order to satisfy the requirement of this provision, an owner shall submit a floor plan which shall become part of the application and which shall be attached to the registration form when filed by the Borough Clerk or designee;

i. Such other information as may be prescribed by the Borough.

SECTION 5 .REGISTRATION FORM: INDEXING AND FILING: PUBLIC INSPECTION: FEE:

The Borough Clerk or designee shall index and file the registration forms. In doing so the Borough Clerk or designee shall follow the mandates of N.J.S.A. 46:8-28.1 as amended and supplemented so that the filing of the registration form will simultaneously satisfy the registration requirements of N.J.S.A. 46:8-28 to the extent that it applies to the property being registered and will also satisfy the registration requirements of this Ordinance. Registration forms shall include name of occupants, mailing address of occupants, occupant's phone number and the names of all of occupant's children residing with occupants.

SECTION 6 .REGISTRATION FORM: AMENDMENTS: FILING:

Every person required to file a registration form pursuant to this Ordinance, shall file an amended registration form within 20 days after any change in the information required to be included thereon. No fee shall be required for the filing of an amendment except where the ownership of the premises is changed.

SECTION 7. PERIODIC INSPECTIONS:

A. Each rental unit shall be inspected at least once every 12 month period, whether occupied or not.

B. Such inspections shall be performed by such person, persons or agency duly authorized and appointed by the Borough of Ocean Gate and inspections made by persons or an agency other than the duly authorized and appointed person, persons or agency of the Borough of Ocean Gate shall not be used as a valid substitute.

C. Such inspection shall be for the purpose of determining Zoning Ordinance compliance, and to the extent applicable, to determine if the property complies with the International Property Maintenance Code 1998 and all subsequent additions and iterations, or any other codes or standards referenced by the International Property Maintenance Code.

D. UNSATISFACTORY INSPECTION: In the event that the inspection(s) of a rental unit does not result in a satisfactory inspection, such property shall not thereafter be registered, nor shall a license issue, and the owner of the property, or his agent, shall not lease or rent such property, nor shall any tenant occupy the property until the necessary corrections have been made so as to bring the property and rental unit into compliance with the applicable Code and the property is thereafter subsequently inspected, registered and licensed. In the event that the property is occupied when such conditions are discovered, all such corrections shall be made within sixty (60) days; if an imminent hazard all such corrections shall be made immediately within 72 hours; 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 of Section 18 of this Ordinance.

SECTION 8 .ACCESS FOR INSPECTIONS. REPAIRS:

A. The inspection officers are hereby authorized to make inspections to determine the condition of rental facilities and rental units in order that they may promote the purposes of this ordinance to safeguard the health, safety, welfare of the occupants of rental facilities, rental units and of the general public. For the purposes of making such inspections, the inspecting officers are hereby authorized to enter, examine and survey rental facilities and rental units at all reasonable times. The owner, owner's agent or occupant of every rental facility and rental unit shall give the inspecting officer free access to the rental facility, rental unit and at all reasonable times for the purpose of such inspections, examinations and surveys. The owner or owner's agent shall be responsible for scheduling inspections and must be present upon the request of the inspecting officer/code enforcement officer.

B. Every occupant shall give the owner of the rental facility and rental unit access to any part of such rental facility and rental unit at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this ordinance or any lawful order issued pursuant thereto.

C. COMPLAINTS: Within ten (10) days of receipt of a complaint alleging a reported violation of this ordinance, an inspecting officer shall conduct an inspection as hereinbefore provided.

SECTION 9 .PROHIBITIONS ON OCCUPANCY:

No person shall hereafter occupy any rental unit, nor shall the owner permit occupancy of any rental unit within the Borough of Ocean Gate, which is not registered and licensed in accordance with this Ordinance.

SECTION 10 .LICENSE:

Upon the filing of a completed registration form, and payment of the prescribed fee, and a satisfactory inspection the owner shall be entitled to the issuance of a license commencing on the date of issuance and expiring on the same date of the next calendar year. A registration form shall be required for each rental unit, and license shall issue to the owner for each rental unit, even if more than one (1) rental unit is contained in the property.

This License requirement proscribed by this Ordinance shall be a requirement for the issuance of Occupancy Permits for Existing Buildings as required by Borough Ordinance 387-95 and any supplement thereto.

SECTION 11 FEES:

At the time of the filing of the registration form, and prior to the issuance of a license, the owner or agent of the owner must pay a fee in accordance with the following:

- (a) Initial Registration Fee of One Hundred (\$100.00) Dollars;
- (b) An Annual Registration fee of Seventy-five (\$75.00) Dollars per year;
- (c) A Re-inspection fee of Twenty-five (\$25.00) Dollars;
- (d) If the owner of the property is a Senior Citizen who resides in a unit of the property and rents out the remaining unit and would otherwise qualify under the State of New Jersey property tax deduction under New Jersey statute 54:4-8.41, there shall be no fee. Any individual seeking to have their fee waived must meet all of the qualifications identified in N.J.S.A. 54:4-8.41, including the annual income limitation;
- (e) If any fee is not paid within thirty (30) days of its due date, a late fee surcharge of Twenty-five (\$25.00) Dollars will be assessed. If any fee is not paid within forty-five (45) days of the assessment of a late-fee surcharge, a summons will be issued for violating the Ordinance.

SECTION 12 PROVIDING REGISTRATION FORM TO OCCUPANTS AND TENANTS:

Every owner shall provide each occupant or tenant occupying a rental unit with a copy of the registration form required by this Ordinance. This particular provision shall not apply to any hotel, motel, or guest house registered with the State of New Jersey pursuant to the Hotel and Multiple Dwelling Act as defined in N.J.S.A. 55:13A-3. This provision may be complied with by posting a copy of the registration certificate in a conspicuous place within the rental unit(s).

SECTION 13 MAXIMUM NUMBER OF OCCUPANTS: POSTING:

A. The maximum number of occupants shall be posted in each rental unit. It shall be unlawful for any person, including the owner, agent, tenant or registered tenant to allow a greater number of persons than the posted maximum number of occupants to sleep in or occupy overnight the rental unit for a period exceeding 29 days. Any person violating this provision shall be subject to the penalty provisions of section 18 of this ordinance.

B. Only those occupants whose names are on file with the Borough as required in this ordinance may reside in the licensed premises. It shall be unlawful for any other person to reside in said premises and any owner, agent, tenant, or registered tenant allowing a nonregistered party to reside in said premises shall be in violation of this section shall be subject to the penalty provisions of section 18 of this ordinance.

SECTION 14 TAXES AND OTHER MUNICIPAL CHARGES: PAYMENT PRECONDITION FOR REGISTRATION AND LICENSE:

No rental unit may be registered and no license shall issue for any property containing a rental unit unless all Municipal taxes, water and sewer charges and any other Municipal assessments are paid on a current basis.

SECTION 15 .OTHER RENTAL UNIT STANDARDS:

All dwelling units shall be maintained in accordance with the International Property Maintenance Code and referenced standards.

SECTION 16 .OCCUPANT(S) STANDARDS:

A. OCCUPANTS: Only those occupants whose names are on file with the Borough Clerk as provided in the ordinance may reside in the licensed premises. It shall be unlawful for any other person to reside in said premises, and this provision may be enforced against the landlord, tenant, or other person residing in said premises.

B. NUISANCE PROHIBITED: No rental facility shall be conducted in a manner which shall result in any unreasonable disturbance or disruption to the surrounding properties and property owners or of the public in general, such that it shall constitute a nuisance as defined in the ordinances of the Borough of Ocean Gate.

C. COMPLIANCE WITH OTHER LAWS: The maintenance of all rental facilities and the conduct engaged in upon the premises by occupants and their guests shall at all times be in full compliance with all applicable ordinances and regulations of the Borough of Ocean Gate and with all applicable State and Federal laws.

D. PENALTIES: Any landlord, tenant or other person violating the provisions of this section shall be subject to the penalty provisions of Section 18 of this ordinance.

SECTION 17 .REVOCATION OF A LICENSE: PROCEDURE:

A. GROUNDS: In addition to any other penalty prescribed herein, an owner may be subject to the revocation or suspension of the license issued hereunder upon the happening of one or more of the following:

1. Conviction of a violation of this Ordinance in the Municipal Court or any other Court of competent jurisdiction.
2. Determination of a violation of this Ordinance at a hearing held pursuant to Section 17(B) herein.
3. Continuously renting the unit or units to a tenant or tenants who are convicted of a violation of the Noise Ordinance of the Borough.
4. Continuously permitting the rental unit to be occupied by more than the maximum number of occupants as defined in this ordinance;
5. Maintaining the rental unit or units or the property in which the rental unit is a part in a dangerous condition likely to result in injury to person or property.

B. PROCEDURE; WRITTEN COMPLAINT; NOTICE; HEARING

1. A complaint seeking the revocation or suspension of a license may be filed by

any one or more of the following: Chief of Police, Construction Code Official, Code Enforcement Officer, the Zoning Officer or any other persons or office authorized to file such complaint. Such Complaint shall be in writing and filed with the Borough Clerk or designee. The complaint shall be specific and shall be sufficient to apprise the licensee of the charges so as to permit the licensee to present a defense. The individual(s) filing the complaint may do so on the basis of information and belief and need not rely on personal information.

2. Upon the filing of such written complaint the Borough Clerk or designee shall immediately inform the Borough Council and a date for a hearing shall be scheduled which shall not be sooner than 10 nor more than 30 days thereafter. The Borough Clerk or designee shall forward a copy of the complaint and a notice as to the date of the hearing to the licensee and the agent, if any, at the address indicated on the registration form. Service upon the agent shall be sufficient.

3. The hearing required by this section shall be held before the Borough Council unless, in its discretion, the Borough Council determines that the matter should be heard by a Hearing Officer who shall be appointed by the Borough Council. If the matter is referred to a Hearing Officer, such officer shall transmit his findings of fact and conclusions of law to the Borough Council within 30 days of the conclusion of the hearing. Borough Council shall then review the matter and may accept, reject, or modify the recommendations of the Hearing Officer based on the record before such hearing officer. In the event that the matter is not referred to a Hearing Officer and is heard by Borough Council, then the Borough Council shall render a decision within 30 days of the conclusion of the hearing. Following the hearing, a decision shall be rendered, dismissing the complaint, revoking or suspending the license, or determining that the license shall not be renewed or reissued for one (1) or more subsequent license years.

4. A stenographic transcript shall be made of the hearing. All witnesses shall be sworn prior to testifying. The strict rules of evidence shall not apply and the evidential rules and burden of proof shall be that which generally controls administrative hearings.

5. The Borough Solicitor or his designee shall appear and prosecute on behalf of the complainant in all hearings conducted pursuant to this section.

C. DEFENSES:

1. It shall be a defense to any proceeding for the revocation, suspension or other disciplinary action involving a rental license by demonstrating that the owner has taken appropriate action and has made a good faith effort to abate the conditions or circumstances giving rise to the revocation proceeding including but not limited to the institution of legal action against the tenant(s), occupant(s) or guests for recovery of the premises; eviction of the tenant(s) or otherwise.

SECTION 18 .VIOLATIONS: PENALTIES:

Any person who violates any provision of this Ordinance shall, upon conviction in the Municipal Court of the Borough of Ocean Gate or such other court having jurisdiction, be liable to a fine not exceeding \$1,000.00 or imprisonment for a term not exceeding 30 days, or both. Each day that a violation occurs shall be deemed a separate and distinct violation subject to the penalty provisions of this Ordinance.

SECTION 19 .SEVERABILITY:

If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly

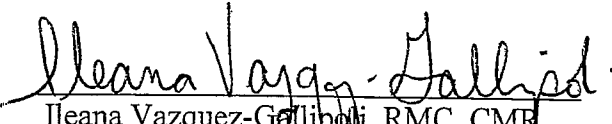
involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

SECTION 20 .EFFECTIVE DATE:

This Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.

NOTICE

PUBLIC NOTICE is hereby given that the foregoing ordinance was introduced and passed on first reading at a Council Meeting of the Borough Council of the Borough of Ocean Gate, in the County of Ocean held on September 12, 2012 and will come on second reading, public hearing and final passage at a Council Meeting of the Ocean Gate Borough Council to be held on October 17, 2012 at the Municipal Complex, 801 Ocean Gate Avenue, Ocean Gate, New Jersey at 1:00 p.m., or as soon thereafter as the matter can be reached, at which last mentioned date, hour and place any person desiring to be heard for or against the adoption of the within Ordinance will be given a chance to be so heard.


Ileana Vazquez-Gallipoli, RMC, CMR
Municipal Clerk