

ORDINANCE NO. 2013 - 17

**ORDINANCE OF THE TOWNSHIP COMMITTEE
OF THE TOWNSHIP OF BARNEGAT, COUNTY OF
OCEAN, STATE OF NEW JERSEY AMENDING
AND REPLACING CHAPTER 63-B ENTITLED
“RENTAL PROPERTIES”**

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the
Township of Barnegat, County of Ocean, State of New Jersey, as follows:

SECTION 1. The Township Committee hereby deletes existing Chapter 63-B
entitled “Rental Properties,” and directs that the following provisions shall be inserted
into its place:

Chapter 63B

RENTAL PROPERTIES

63B-1. Legislative Findings

- A. The governing body of the Township desires to require the registration of all landlords in the Township so as to better control and oversee issues related to property maintenance and tenant problems in multiple dwelling units.
- B. The Township adopts these regulations with the purpose and intent of promoting the health, safety, and welfare of the public in any properties, buildings, and structures not regulated by any other statute, rule, or ordinance.
- C. Certain provisions are necessary to establish enforcement of the regulations and standards governing certain properties, buildings, and structures located in the Township.

63B-2. Definitions

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

AGENT or MANAGING AGENT

The individuals designated by the owner as the person(s) authorized by the owner to perform any duty imposed upon the owner by this chapter. If the owner provides no such designation, the owner shall be considered the agent or

managing agent. In any event, the owner shall be responsible for any acts or omission by the designated agent. 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.

BUILDING

Any building or structure or part thereof used for human habitation, use or occupancy, and includes any accessory buildings and appurtenances belonging thereto or usually enjoyed therewith.

DWELLING

Any apartment, house, cottage, bungalow or other dwelling unit consisting of one or more rooms occupying all or part of a floor or floors in a building of one or more floors or stories, but not the entire building, whether designed with or without housekeeping facilities for dwelling purposes and, in the case of an apartment, notwithstanding whether the apartment is designed for a residence, office or the operation of any industry or business or any other type of independent use.

DWELLING UNIT

Any room or rooms or suite or apartment thereof, whether furnished or unfurnished, which is occupied or intended, arranged, or designed to be occupied for sleeping and dwelling purposes by one or more persons, including but not limited to the owner thereof or any of his servants, agents or employees, and shall include all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy thereof.

GUEST

A person occupying a dwelling unit for 30 days or less.

HABITABLE ROOM

A room or enclosed floor space within a dwelling that is used or designed to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets and storage space.

LICENSE

The license issued by the Building Code Official, or his or her designee, attesting that the rental unit has been properly registered in accordance with this chapter.

LICENSEE

The person to whom the license is issued pursuant to this chapter. The term "licensee" includes within its definition the term "agent," where applicable.

LODGING UNIT

A room or group of rooms containing no cooking facilities, used for living purposes by a separate family or group of person living together or by a person living alone, within a building.

MANAGING AGENT

See "agent."

OCCUPANT

A person occupying a dwelling unit for more than 30 days.

OWNER

The person who owns, purports to own or exercises control over any building.

PERMITTEE

A person to who a permit is issued hereunder.

PERSON

An individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.

REGISTERED TENANT

The person or person to whom a rental unit is leased or rented by the licensee.

RENTAL UNIT

A. Any "dwelling," "building," "dwelling unit," "habitable room" or "lodging unit," as defined by this chapter, including but not limited to any apartment or house, which is rented or offered for rent, for living and dwelling purposes regardless of the consideration for occupancy, including but not limited to money paid, services rendered, or accommodation incident to employment.

B. A rental unit shall not include any property wherein the person(s) occupying and/or renting the property are related to the owner(s) of the property. For purposes of this chapter, the term "related to" shall mean either a grandparent/grandchild, a parent/child, or a sibling relationship.

SLEEPING ACCOMMODATIONS

The number of individuals who may be properly accommodated in the beds and other sleeping facilities located within any rental unit.

63B-3. Registration with Building Code Official required

All rental units shall hereafter be registered with the Building Code Official or his designee on forms which shall be provided for that purpose and which shall be obtained from the Building Code Official or his designee. Such registration shall occur immediately upon the adoption of this chapter and upon every change in occupancy; however, if there has not been a change in occupancy in three years, then the owner of a rental unit shall register on the first of January following the expiration of the three-year period.

63B-4. Registration and licensing; change of occupancy; term; initial registration.

Each rental unit shall be registered and licensed. The license terms shall commence January 1 of the applicable year the unit is registered with the Township, and such registration shall be valid for a three-year period unless there is a change in occupancy, at which time it shall expire and a new registration shall occur. The initial registration shall occur within 60 days following the adoption of this chapter. Any lease which has been executed prior to the adoption of this chapter shall not be affected, but the rental unit must nevertheless be registered, inspected and licensed in accordance with this chapter. No rental unit shall hereafter be rented unless the rental unit is registered and licensed in accordance with this chapter.

63B-5. Inspections

A. Each rental unit shall be inspected at least once every three years, upon a change of occupancy and as otherwise necessitated by safety considerations, alleged violations and as otherwise required by this chapter. The initial inspection shall occur prior to occupancy in which a license is sought pursuant to this chapter.

B. Such inspection shall be for the purpose of determining compliance with the Township's zoning ordinances and, to the extent applicable, to determine if the property complies with the housing code and/or building code and/or Uniform Fire Safety Code and/or the Property Maintenance Code.

C. In the event that the inspection of a rental unit does not result in a satisfactory determination, such property shall not thereafter be registered nor shall a license be issued, 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 codes and the property is thereafter subsequently registered and licensed. In the event that the property is occupied when such conditions are discovered, all such corrections shall be made within 30 days unless safety considerations, as determined by the enforcement officer, require immediate correction. If not made within that time period, the owner shall be deemed in violation of this chapter, and every day that the violation continues shall constitute a separate offense.

D. No property shall be licensed unless the owner thereof produces, at the time of registration, a current, valid certificate of inspection indicating that the property has either been inspected by the State of New Jersey Bureau of Housing or by the officials of the Township of Barnegat having jurisdiction and that the property does not contain any code violations.

E. The Building Code Official, or his or her designee, shall prepare and maintain a database of all licensees and shall establish a procedure to ensure that an inspection of each rental unit shall be inspected at least once every three years. The procedure shall include a letter to be sent to each licensee informing them of the requirement of an inspection and to establish a timeframe and date for such inspection.

63B-6. Prohibitions on Occupancy

No person shall hereafter occupy any rental unit nor shall the owner permit occupancy of any rental unit within the Township of Barnegat which is not registered and licensed in accordance with this chapter.

63B-7. Issuance of License

Upon the filing of a completed registration form, the provision of a satisfactory and current certificate of inspection, and payment of the prescribed fee, the owner shall be entitled to the issuance of a license for a three-year period commencing January 1 of the respective year in which said application was filed, unless there is a change in occupancy of the unit. A separate registration form shall be required for each rental and a license shall be issued to the owner for each individual unit, notwithstanding the existence of multi-rental-units on the same property. Each renewal for licensure shall be made and filed prior to the expiration of the rental license which occurs on December 31.

63B-8. Fees

A. At the time of filing the rental registration form and prior to the issuance of the license, the owner or agent of the owner shall pay a fee in the amount of \$100.00 per dwelling unit to cover administrative costs.

B. If the owner of the property is a senior citizen age 65 years or older, or a person under age 65 who is permanently and totally disabled, and who resides in a dwelling unit of the property and rents out the remaining unit, and who would otherwise qualify under the State of New Jersey property tax deduction, there shall be no fee.

C. The owner of the inspected property shall be charged an inspection fee as follows:

1. Each dwelling unit: thirty-five dollars (\$35.00)
2. One (1) to five (5) rooms: ten dollars (\$10.00)
3. Six (6) to fifteen (15) rooms: fifteen dollars (\$15.00)
4. Sixteen (16) to twenty-five (25) rooms: twenty dollars (\$20.00)
5. Twenty-six (26) to thirty-five (35) rooms: thirty dollars (\$30.00)
6. Thirty-six (36) rooms or more: forty dollars (\$40.00)
7. Each reinspection: twenty dollars (\$20.00)

63B-9. Registration Forms

In accordance with N.J.S.A. 46:8-28, all rental units shall be registered and licensed as provided herein.

A. Every owner shall file with the Building Code Official or his designee a registration form or other forms developed by the Township for each rental unit contained within a building or structure, which shall include the following information:

(1) The name, address and telephone number of the owner or owners of the premises and the record owner or owners of the rental business, if not the same persons, shall be provided. In the case of a partnership, the names and addresses of all general partners shall be provided, together with the telephone numbers for each individual partner, indicating where such individual may be reached both during day and evening hours, which telephone numbers shall include cell phone numbers. If the record owner is a corporation, the name and address of the registered agent and corporate officers of said corporation shall be provided, together with the telephone number for each such individual, indicating where such individual may be reached both during day and evening hours, which shall include providing the cell phone numbers of each such individual. All registration addresses shall be physical addresses; post office boxes alone are insufficient.

(2) If the address of the owner of record is not located in the County of Ocean, the name, address and telephone number of a person who resides in the County of Ocean who is authorized to accept notices from a tenant and to issue receipts therefor and to accept service of process on behalf of the owner of record.

(3) The name, address and telephone number of the managing agent of the premises, if any.

(4) The name, address and telephone number of the superintendent, janitor, custodian or other individual employed by the owner of record or managing agent to provide regular maintenance service, if any.

(5) The name, address and telephone number and cellular telephone number of an individual representative of the owner of record or managing 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.

(6) The name and address of every holder of a recorded mortgage on the premises.

(7) 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.

(8) As to each rental unit, a specification of the exact number of sleeping rooms contained in the rental unit and the exact number of sleeping accommodations contained in each of the sleeping rooms, identifying each sleeping room specifically by number and location within the apartment or dwelling and by the square footage thereof.

(9) Name, address and telephone number of any and all rental agencies with the authority to lease or otherwise permit occupancy of the subject premises.

(10) Number of occupants or tenants occupying the rental unit.

(11) Whether or not the landlord has conducted a tenant screening for each new tenant and authorized adult household member.

(12) Such other information as may be prescribed by the Township on the appropriate form or otherwise by ordinance or resolution.

B. In addition to the registration information set forth above in this section, every owner shall file with the Township Clerk and provide a copy to each individual tenant by separate forms the name, age and address, including the dwelling unit number, of each occupant or tenant occupying a rental unit and a floor plan of the rental unit. These forms shall be filed with the Township Clerk and shall not be available for public inspection.

63B-10. Registration Forms

The Building Code Official or his designee shall index and file the registration form and make it reasonably available for public inspection. In doing so, the Building Code Official or his 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 chapter. The

Building Code Official or his designee shall maintain a master index of all such registration forms and any person may obtain from the Building Code Official or his designee a list of all rental units properly registered and licensed upon payment of a fee of \$25.

63B-11. Amended registration forms

Every person required to file a registration form pursuant to this chapter shall file an amended registration form within 20 days of any change in the information required to be included thereon. No fee shall be required for the filing of an amendment, with the exception of a change in ownership of the premises.

63B-12. Owner to provide copies to occupants; exceptions

The owner shall provide each occupant or tenant occupying a rental unit with a copy of the rental registration ordinance and registration form required by this chapter and with the Truth in Renting Handbook published by the New Jersey Department of Community Affairs. This particular provision shall not apply to any hotel, motel, or guesthouse or bed-and-breakfast 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.

63B-13. Limitations on occupancy/maximum occupancy

Each licensee granted a license pursuant to this chapter shall be permitted to lease or rent the rental unit which has been registered and for which a license has been granted hereunder to a specific number of registered tenants, which shall be calculated in accordance with the standards and limitations set forth in the New Jersey State Building Code.

63B-14. Payment of taxes and municipal charges required.

No rental unit may be registered and no license shall be issued for any property containing a rental unit unless all municipal taxes, water and sewer charges and other municipal assessments are current.

63B-15. Tenant screening at change of occupancy

A. At each change of occupancy of any rental unit, the record owner or owners of the premises shall be required to conduct a tenant screening for the new inhabitants of the unit. Such screening shall include the substantial equivalent of the following:

(1) A check for activity in the Landlord/Tenant Section of the Special Civil Part of the Superior Court of the State of New Jersey for the county of the tenant's last residence for a period of three years.

(2) All records of any conviction for any offense in the municipal court of the municipality of the resident's last residence for a period of three years.

(3) All records of any conviction for any offense in the Superior Court of the State of New Jersey for the county of the resident's last residence for a period of three years.

(4) Subsection [A\(2\)](#) and [\(3\)](#) above shall apply to the tenant(s) and all authorized adult members of the tenant's household.

B. Proof of an adequate screening shall be a letter indicating that such a screening was completed by a reputable tenant screening company or organization. Such a letter must be dated and shall be prepared by a screening company or organization.

C. No certificate of occupancy shall issue unless proof of an adequate screening has been provided.

63B-16. Access for inspection

A. The inspection officers are hereby authorized to make inspections to determine the condition of rental facilities, rental units and rooming/boardings in order that they may promote the purposes of this chapter to safeguard the health, safety and welfare of the occupants of rental facilities, rental units and rooming/boardings 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, rental units, and rooming/boardings after giving 48 hours' notice unless there is an emergency requiring immediate access. The owner or occupant of every rental facility, rental unit, and rooming/boardings shall give the inspecting officer free access to the rental facility, rental unit, and rooming/boardings at all reasonable times for the purpose of such inspections, examinations and surveys, including inspections of the registration forms and other forms required to be supplied to each tenant.

B. Every occupant shall give the owner of the rental facility, rental unit and rooming/boarding house access to any part of such rental facility, rental unit and rooming/boarding house after giving 48 hours' notice unless there is an emergency requiring immediate access for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or any lawful order issued pursuant thereto.

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

63B-17. Occupant standards

A. Only those occupants whose names are on file with the Township Clerk as provided in this chapter 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. 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 the public in general, such that it shall constitute a nuisance as defined in the ordinance of the Township of Barnegat.

C. 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 Township of Barnegat and state and federal laws.

D. Any landlord, tenant, or other person violating the provisions of this section shall be subject to the penalty provisions of this chapter.

63B-18. Revocation of license; procedure

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

(1) Conviction of a violation of this chapter in the Municipal Court or other court of competent jurisdiction.

(2) Determination of a violation of this chapter at a hearing held pursuant to Subsection **B** herein.

(3) Renting the unit to a tenant who is convicted of two or more violations during the course of their tenancy of the Noise Ordinances of the Township of Barnegat.

(4) Renting the unit to a tenant who is convicted of two or more offenses in the Superior Court relating to controlled dangerous substances (CDS).

(5) Permitting the rental unit to be occupied by more than the maximum number of occupants as defined herein.

(6) Maintaining the rental unit or units or the property on which the rental unit is located in a dangerous condition likely to result in injury to persons or property.

(7) A rental license issued under this chapter shall be suspended and considered revoked if taxes or other assessments are delinquent for three consecutive quarters. Upon payment of such delinquent taxes or assessments, the license or permit shall be restored, upon new inspections for occupancy taking place.

B. Procedure; written complaint; notice; hearing.

(1) A complaint seeking the revocation or suspension of a license may be filed by one or more of the following: the Chief of Police, Construction Code Official or Zoning Enforcement Officer. Such complaint shall be in writing and filed with the Building Code Official or his designee. The complaint shall be specific and shall be sufficient to appraise the licensee of the charges so as to allow the licensee the opportunity to present a defense. The individuals 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 Building Code Official or his designee shall immediately inform the Township Committee and a date for a hearing shall be scheduled which shall not be sooner than 10 days nor more than 30 days thereafter. The Building Code Official or his designee shall forward a copy of the complaint and a notice as to the date of the hearing to the licensee and the managing agent, if any, at the address indicated on the rental registration form. All such correspondence shall be sent by certified mail, return receipt requested. Service upon the managing agent shall be sufficient.

(3) The hearing required by this section shall be held in the Municipal Court of the Township of Barnegat. Following the hearing, a decision shall be rendered dismissing the complaint, revoking or suspending the rental license, or determining that the license shall not be renewed or reissued for one or more subsequent rental license terms.

(4) A recording shall be made of the hearing. All witnesses shall be sworn prior to testifying.

(5) The Township Attorney, municipal prosecutor or a special prosecutor appointed by the Township Committee shall appear and prosecute on behalf of the complainant in all hearings conducted pursuant to this section.

C. Defenses. It shall be a defense to any proceeding for the revocation, suspension, or other disciplinary action involving the rental license by a demonstration that the owner has abated 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 guest(s) for the recovery of the premises, eviction of the tenant(s) or otherwise and has submitted proof of adequate tenant screening in accordance with this chapter.

63B-19. Violations and penalties

In addition to the penalties set forth in N.J.S.A. 46:8-35, any person who violates any provision of this chapter shall, upon conviction in the Municipal Court of the Township of Barnegat or such other court having jurisdiction, be liable for a minimum fine of \$500 for the first offense, \$1,000 for a second offense and \$2,500 for any additional offenses. Each day that the violation occurs shall be considered a separate and distinct violation subject to the penalty provisions of this chapter. Any person who is convicted of violating this chapter within one year of the date of the previous violation of this chapter and who was fined for same shall be sentenced by the court to an additional fine as a repeat offender and calculated separately from the fine imposed for the violation of the chapter.

63B-20. Enforcement

Any of the violations referred to in this chapter may be enforced, as applicable, by the Police Department, the Building Department or such other persons designated by the Administrator, or having such authority by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Barnegat held on the ___ day of _____, 2013, and will be considered for second reading and final passage at a regular meeting of the Township Committee to be held on the ___ day of _____, 2013 at 6:30 p.m., at the Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey, at which time and

place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

SHARON AUER
Township Clerk, Township of Barnegat

CERTIFICATION

I, **SHARON AUER**, Acting Township Clerk of the Township of Barnegat, do hereby certify that the foregoing ordinance was duly adopted on second reading by the Township Committee of Barnegat Township at a meeting held on the ____ day of _____, 2013.

SHARON AUER
Township Clerk, Township of Barnegat