

Mr. Urbanski offered the following Ordinance pass third and final reading and authorized its publication according to law:

O-03-15

AN ORDINANCE AMENDING “THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHLANDS, 1975” CHAPTER IV ADDING NEW LICENSING SECTION 4-12 ESTABLISHING RENTAL REGULATIONS AND LICENSING OF LANDLORDS

WHEREAS, N.J.S.A. 46:8-28.1 mandates the registration of rental units within the State of New Jersey or within the municipality wherein the rental unit is situated; and

WHEREAS, municipalities are authorized to regulate buildings used for sleeping, lodging and occupancy purposes, including but not limited to boarding houses, rooming houses, and rental housing or living units under N.J.S.A. 40:52-1, et seq., and;

WHEREAS, N.J.S.A.40:82-2.12(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 the general public in the municipality; and

WHEREAS, the Mayor and Council of the Borough of Highlands have received numerous complaints related to rental properties located within the Borough of Highlands; and

WHEREAS, it has come to the intention of the governing body that a number of rental units within the Borough of Highlands are overcrowded and unsupervised by the landlord, creating conditions harmful to the health and safety of the occupants and the general public; and

WHEREAS, the problems are exacerbated by absentee landlords who do not properly manage or supervise their rental properties; and

WHEREAS, conditions such as overcrowding, noise complaints, and code violations have caused and continue to cause the Borough to incur considerable expense in it’s enforcement efforts and to have a deleterious effect on the quality of life of Borough Residents; and

WHEREAS, in an effort to rectify the many problems presented by poorly managed rental units, the Borough has determined to establish Rental Property Regulations administered by a Housing Official and Housing Inspector; and

WHEREAS, it is the express intention of the governing body to hold landlords accountable for unsafe conditions, unsanitary conditions and for units which experience disturbances, damage, and may incur public expense resulting from inadequately supervised rental units, and which often disturb the peace and tranquility of the general public; and

WHEREAS, the Mayor and Council have determined that it is necessary to require persons who engage in the business of offering property for rent to obtain a license and file a registration statement in order to protect the public health and safety; and

WHEREAS, to assist the Housing Official in effectively fulfilling his responsibilities, it is necessary to identify all rental properties and the number and names of all tenants therein in order to properly regulate the rental properties, enforce all law, ordinances and regulations, safeguard the health and safety of all residents of Highlands, and ensure proper management of rental properties; and

WHEREAS, it is the intention of the Borough to use the information contained in the registration statement to create a data base which may be supplied to the police department, fire department and code enforcement office to better oversee rental properties, enforce violations and protect the tenants in the rental units; and

WHEREAS, the Mayor and Council of the Borough of Highlands believe it is in the public interest to license all landlords of rental properties and to provide for the establishment of additional regulations of rental properties which will identify all rental properties, owners, managing agents and tenants in order to ensure the safety of all tenants and the quality of life for all residents in the Borough of Highlands;

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS: “ THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHLANDS, 1975” CHAPTER IV LICENSING IS HEREBY AMENDED AND REVISED TO ADD NEW SECTION 4-12 ESTABLISHING RENTAL REGULATIONS AND LICENSING OF LANDLORDS.

4-12.1 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 occupancy of such portion of the property.

“Available to for Rent to Tenant” shall mean fit to habitation as defined by the Statutes of the State of New Jersey, and the Codes and Ordinances of the Borough of Highlands.

“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.

“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 used by tenants and the public.

“Rental Property” shall mean any structures or building which contains one or more individual residential units.

“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 to family units.

“Reside” 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.

“Owner occupied” shall mean the primary residential living unit of the owner.

4-12.2 License

- a. **LICENSE REQUIRED.** No person(s) corporation or business entity shall offer any residential property for rent, or shall rent, lease or let any residential property to any person or persons, without first obtaining a license.
- b. **APPLICATION INFORMATION.** The applicant shall provide the information required on the application form.

- c. LICENSE FEE. The annual non-refundable license fee **Per Block & Lot** shall be as follows:

Year 1: \$250.00

Year 2: \$125.00

Year 3: and every year thereafter: \$75.00 provided that, in the past the license has not received any violation of this ordinance or any other Borough ordinances, statute or regulation concerning rental property. In the event of any such violation, the annual fee shall remain \$250.00. The annual fee shall not decrease unless the landlord and all units in the rental property have been violation-free for a period of a year.

This ordinance 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 that ownership of the property is transferred, the new owner shall apply for a license within the (10) days of transfer.

The annual fee is to be paid annually within (20) days of the first of the year or when it is due.

- d. REVOCATION OF LICENSE

In the event of a violation(s) of this or any other Borough ordinance statute or regulation concerning rental property in the Borough of Highlands, by a license of rental property, the Mayor and Council may revoke the license after notice is given and the opportunity for a hearing is had. A license shall not be revoked until five days prior notice of the grounds therefore is served on this licensee and a reasonable opportunity is given to the licensee to be heard thereon.

4-12-.3 Rental Property Registration

- a. The owner of every rental property within the Borough of Highlands 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 Housing Official. When providing a copy of same to any other person or entity requesting same, the Clerk, Code Official, shall redact the names and addresses, age and gender of tenants.
- b. The Rental Property Registration Statement shall be filed on an annual basis on or before **June 1st** of each year.

- c. The Rental Property Registration Statement shall include:
- (1) The names and addresses of record owners of the rental property, including all general partners in the case of partnership and all members in the case of a limited liability company and all shareholders in the case of a corporation;
 - (2) The name and address of a person who reside in Monmouth County and who is authorized to accept notices from a tenant Or a municipality, to issue receipts for these notices, and to accept the services of process on behalf of the record owner;
 - (3) 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 of an individual representative of the record owner of 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 concurring the building or unit, including the making of repairs;
 - (4) The name, age and gender of each and every tenant in each unit, including children. The information contained in the Rental property Registration Statement must be sent forth information for each unit within the rental property and must include all tenants in each unit.
 - (5) The names and addresses of all holders of recorded mortgages on the property;
 - (6) If fuel oil is used to heat the unit, the names and address of the fuel oil dealer servicing the unit and the grade of oil used;

- (7) As to each unit, the owner shall provide a floor plan of each rental unit which shall depict the number, dimensions and location of each room in the unit identifying each room, including both its designed and actual use. 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 Housing Official, which shall be on file with the Housing Official; and
 - (8) 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 (10) 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 the deletion of any person on the annual statement.

4-12-.4 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.

4-12.5 Inspection.

- a. All rental units shall be inspected by persons or agencies duly authorized by the Borough for inspections for purpose 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, Uniform Construction Code, Health Code, Housing Code, and Fire Code.
- b. In the event that the inspection(s) of 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. All rental units subject to this Ordinance shall be subject to inspections to determine their condition in order to safeguard the health, safety and welfare of the occupants of such rental units and of the general public and to determine compliance with this Ordinance. The owner, operator, agent and occupants shall make the units available for such inspections and are required to provide the necessary arrangements to facilitate such inspections. Inspections shall be made 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. Reasonable attempts shall be made to obtain that consent of the occupant.
- d. In the event of a refusal of entry in 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 of violation of this Ordinance.

4-12.6 Occupancy

- a. No person shall occupy any rental unit, nor shall the owner permit occupancy of an rental unit, unless the unit is registered in accordance with this Ordinance.
- b. Pursuant to BOCA 1996 and 1997, Property Maintenance Schedule 405.5, "Overcrowding" 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 and tenant and/or other person residing in the premises.
- d. No rental property or unit shall be conducted or maintained in such a manner as to constitute a nuisance.

- e. In every written lease for each rental unit, the landlord shall include the following:
- (1) A statement setting forth the maximum number of residents permitted in the unit and the location of designated and permitted sleeping areas; and
 - (2) A provision that the tenant agrees to reasonable inspections of the demised premises by Borough officials upon reasonable notice to tenant.

4-12.7 Fees, Violations & Penalties

- a. Failure to comply with 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 ninety (90) days, or a period of community service not exceeding ninety (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.

- b. Other Fees and Penalties

Annual Electrical Inspection for pool	\$ 50.00
Change of CCO inspection fee	\$ 50.00
Re-inspection fee	\$ 25.00
Re-inspection of re-inspection of violations	\$ 75.00
Requested pre-inspection	\$ 40.00
Request for Hearing Board	\$ 500.00
No show at requested inspection, re-inspection Fee (15 minute wait)	\$ 80.00
No show Re-inspection fee (15 minute wait)	\$ 100.00
TCO	\$ 75.00
Replacement of lost Inspection Certificate by Applicant	\$ 10.00
Failure to register – 1 st offense	\$1,250.00
Failure to register – 2 nd offense	\$2,500.00

Negligent or inadvertent failure to register a unit, apartment, home for rental	\$1,250.00
Refusal or deliberate failure to register a unit, apartment, home or rental	\$2,500.00
Failure to supply copy of lease (1 copy)	\$ 100.00
Overcrowding	\$1,250.00
Request for extension of time, must be in writing	\$ 10.00
Failure to supply floor plan	\$ 250.00

4-12.8 If any part of this Ordinance shall be deemed invalid, such part shall be severable and the invalidly thereof shall not affect the remaining part of this Ordinance.

4-12.9 Any Ordinance or portions thereof which are inconsistent with the provisions of this ordinance are hereby repealed and superseded.

4-12.10 This Ordinance shall take effect immediately following the adoption and publication pursuant to law.

Seconded by Ms. Kane and adopted on the following roll call vote:

ROLL CALL:

AYES: Ms. Kane, Mrs. Little, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: None

DATE: October 15, 2003

NINA LIGHT FLANNERY, BOROUGH CLERK
CAROLYN CUMMINS, DEPUTY CLERK

Introduction: September 17, 2003
Publication: September 25, 2003 – The Courier`
2nd Reading: October 15, 2003
P.H. Date: October 15, 2003
Adoption: October 15, 2003
Publication: October 23, 2003

I hereby certify this to be a true copy of the Ordinance adopted by the Governing Body of the Borough of Highlands on October 15, 2003.

BOROUGH CLERK/DEPUTY CLERK

