

**BOROUGH OF WASHINGTON
WARREN COUNTY, NEW JERSEY
ORDINANCE NO. 3-2009**

**AN ORDINANCE AMENDING CHAPTER 66 OF THE CODE OF THE
BOROUGH OF WASHINGTON REGULATING THE RENTAL OF HOUSING UNITS**

WHEREAS, the Borough of Washington has determined that it is necessary to regulate the rental of housing units to ensure that rental units are in compliance with the Code of the Borough of Washington and other applicable laws and regulations prior to individuals and families occupying them; and

WHEREAS, the Borough of Washington desires to establish rules and regulations for the issuance of a Certificate of Occupancy for rental units; and

WHEREAS, the Borough of Washington has determined that such regulations will promote the health, safety and welfare of the citizens of the Borough of Washington; and

WHEREAS, the Borough of Washington wishes to preserve its residential neighborhoods, and to assure they continue to possess characteristics of stability, permanency, quiet and repose; and

WHEREAS, the Borough of Washington wishes to avoid the consequences of overcrowding which include inadequate space for individuals and families to inhabit, insufficient natural light sources, bedrooms that do not possess adequate space for individuals to inhabit, increased risk of fire resulting from over utilization of electric facilities, the overtaxing of plumbing and wastewater facilities, the increased risk of disease and the emotional toll inflicted on individuals who lack adequate personal space; and

WHEREAS, the Borough of Washington has experienced several fires in residential units that have led to either injury or death; and

WHEREAS, the Borough of Washington is very concerned about the risk of multiple injuries or deaths that could result if excessive numbers of individuals are permitted to occupy inadequately sized units, or units whose utilities or fire safety features are inadequate; and

WHEREAS, the Borough of Washington desires to establish applicable laws and regulations governing the required space necessary in rental units, the means to be appraised of the number of occupants residing in a particular rental unit in relation to the gross floor area of said rental unit, and to provide the means for regular inspection of rental units upon the change in occupancy so as to protect future occupants from the risk and hazards of overcrowding and the occupancy of units which are not in compliance with the Uniform Construction Code and other applicable codes, laws and regulations;

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and the Council of the Borough of Washington as follows:

Section 1. Section 66-1 entitled “Definitions” of Chapter 66 entitled “Rental Property” of the Code of the Borough of Washington is amended to read as follows:

SECTION 66-1. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

ADULT TENANT - shall mean a person over the age of eighteen (18) years who resides in a rental unit for a period of at least one month, regardless of the type of tenancy under which the unit is occupied.

HABITABLE SPACE - shall mean the space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space in similar areas are not considered habitable space.

HOUSING ENFORCEMENT OFFICER - shall mean the person authorized by this Chapter to issue Notice of Violations or Summons to enforce compliance with this Chapter and includes the rental housing officer, zoning official, fire official, construction code official, and any police officer of the Borough of Washington.

LANDLORD - shall mean the owner or owners of rental property, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, or their duly authorized agents, firm or corporation in control of rental property.

OCCUPANT - shall mean any person, including minors, who resides or intends to reside in a rental unit.

OWNER – Any person who owns any legally cognizable interest in any rental property, including but not limited to outright ownership or ownership through a partnership, corporation or limited liability company.

RENTAL HOUSING OFFICER - shall mean the person authorized by this Chapter to issue permits and conduct inspections.

RENTAL PROPERTY – Any structure, or building, or part thereof which contains one or more individual residential rental units.

RENTAL PROPERTY RESIGTRATION STATEMENT – The form filed by rental property owners pursuant to this chapter.

RENTAL PROPERTY STANDARDS - For all rental property in the Borough of Washington the following standards are adopted by reference:

In accordance with the provisions of *N.J.S.A. 40:49-5.1* and *N.J.A.C. 5:28-1.11*, the 2006 edition of the International Property Maintenance Code is hereby adopted as the standard governing

supplied utilities, facilities and other physical things and conditions to make buildings and dwellings, both residential and non-residential, safe, sanitary and fit for human habitation, occupancy or use.

RENTAL UNIT – Includes that portion of a dwelling, building or structure, with or without housekeeping facilities, rented, offered for rent, or provided to an occupant as compensation for services rendered to the Owner, Landlord, or any third party, with facilities which are used or designed to be used for living, sleeping, cooking, or eating by individuals or family units.

TENANT – Any person who resides in a rental unit for a period of at least one month regardless of the type of tenancy under which the person occupies the unit.

VACANT RENTAL UNIT - shall mean a rental unit where the previous tenants have vacated, or where more adult tenants than permitted by the Rental Certificate of Occupancy occupy or seek to occupy the rental unit.

Section 2. Section 66-2 entitled “Registration Requirement” of Chapter 66 entitled “Rental Property” of the Code of the Borough of Washington is amended to read as follows:

SECTION 66-2. Registration Requirement.

- A. Registration requirement. The owner or landlord of every rental property shall provide, at least once per year, the information required on the rental property registration statement set forth in §66-3. In the event of a change in owner or landlord during the license year, a new rental property registration statement as provided herein shall be filed within 10 days of the transfer.
- B. Registration fee. All owners of rental property shall pay upon registration a fee as set forth in §66-13 below.

Section 3. Section 66-3 entitled “Rental Property Registration Statement” of Chapter 66 entitled “Rental Property” of the Code of the Borough of Washington is amended to read as follows:

SECTION 66-3. Rental Property Registration Statement.

- A. Rental property registration statement filing requirements. The owner or landlord of every rental property in the Borough of Washington 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 health and safety officials. The rental property registration statement shall be filed on an annual basis on, or before July 1 of each year.
- B. Rental property registration statement contents. The rental property registration statement shall include:

- (1) The address of the building.
- (2) The name and address of all record owners of the rental property, building or of the rental business (including all general partners holding 10% interest or more in the case of a partnership and all members in the case of limited liability company and all shareholders holding 10% or more of its stock in the case of a corporation.).
- (3) The name and address of a person who resides in Warren 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.
- (4) The name and address of the landlord, 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 rental property owner or landlord who may be reached or contacted at any time in the event of an emergency affecting the rental property or rental unit, including such emergencies as the failure of any essential service or system, and who has authority to make emergency decisions concerning the rental property or rental unit, including them making of repairs.
- (5) The name and address of all holders of recorded mortgages on the property.
- (6) Number of rental units in the building.
- (7) For each rental unit in the building:
 - a. Identify the unit number or other identifying information.
 - b. Set forth the gross floor area in square feet of each room occupied for sleeping purposes.
 - c. Set forth the total gross floor area in square feet of habitable space.
 - d. State the total number of tenants permitted in the rental unit.
- (8) Proof of current payment of property taxes, assessments against property,

municipal water and sewer charges, or other municipal charges, or assessments pursuant to N.J.S.A. 40:52-1.2.

- (9) 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.
- (10) Such other information as may be required by the Mayor and Borough Council.

Section 4. Section 66-4 entitled “Violations and Penalties” of Chapter 66 entitled “Rental Property” of the Code of the Borough of Washington is hereby deleted.

Section 5. Chapter 66 of the Code of the Borough of Washington entitled “Rental Property” is hereby amended to add the following new sections:

SECTION 66-4. Rental Certificate of Occupancy Required.

No landlord shall permit a tenant to occupy, let or re-let to a tenant, nor shall any person or persons lease or occupy any vacant rental unit, without obtaining a Rental Certificate of Occupancy certifying that the rental unit complies with the provisions of the 2006 edition of the International Property Maintenance Code, this Chapter and any other applicable laws and regulations.

SECTION 66-5. Application for Rental Certificate of Occupancy.

An application form for a Rental Certificate of Occupancy shall be available from the Borough Clerk and shall not be deemed complete unless the applicant provides the following:

- A. Name, address and phone number of the landlord.
- B. Address and rental unit number or other identifying information for the rental unit.
- C. Total number of occupants who are to reside in the rental unit.
- D. The date tenancy commenced or will commence.
- E. Total gross floor area in square feet of habitable rooms.
- F. Total gross floor area in square feet of rooms occupied for sleeping purposes.
- G. Total number of tenants permitted in the rental unit.

- H. A certification from the landlord that the rental unit is in compliance with the applicable sections of the 2006 edition of the International Property Maintenance Code, this Ordinance and all applicable laws and regulations.
- I. A certification from the landlord the rental unit to be rented complies with this Chapter.
- J. A certification from the landlord that he/she will not authorize more than the maximum permitted tenants to occupy the rental unit
- K. A certification from each tenant who has signed the lease, or who entered into the oral lease, that the tenants will not permit more than the permitted number of tenants to occupy the premises.

SECTION 66-6. Procedure Upon Increase of Occupants.

- A. Every landlord shall have the obligation to monitor any increase in the number of adult tenants in each rental unit and prevent any increase in tenants that exceeds the number of tenants permitted in the Rental Certificate of Occupancy. In addition, the Landlord shall have the obligation to alert the Rental Housing Officer within 10 days of increase in the number of tenants in a rental unit above that permitted in the Rental Certificate of Occupancy.
- B. Every tenant shall have the obligation to notify the landlord of any increase in the number of tenants within ten (10) days of the arrival of a new tenant.
- C. Neither the tenant nor the landlord shall permit more tenants to occupy the rental unit than the maximum number of tenants set forth in the Rental Certificate of Occupancy.

SECTION 66-7. Limitations of Occupancy.

The maximum number of persons which may inhabit a rental unit shall be computed as follows:

- A. Every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one person shall contain at least fifty (50) square feet of floor area for each occupant thereof.
- B. Rental units shall not be occupied by more occupants than permitted by the Minimum Occupancy Area Requirements as set forth in the 2006 edition of the International Property Maintenance Code.

- C. Maximum Occupancy. The maximum number of tenants inhabiting a building rented for residential purposes shall be stated in the Rental Certificate of Occupancy.

SECTION 66-8. Minimum Standards for Room Occupancy: Light, Ventilation, Bath and Kitchen Requirements, and Decks.

- A. Light and Ventilation. Every room containing habitable space must have at least one (1) window capable of being opened or other opening directly upon a street, yard, court or other open space. The total area of such opening shall be not less than twelve (12%) percent of the floor area of such room and in no case less than twelve (12) square feet as set forth in the 2006 International Property Maintenance Code.
- B. Bathroom and Kitchen. Each rental unit shall contain or provide access to a full bathroom (including a water closet, lavatory and either a bathtub or shower) and a kitchen meaning an area for the preparation of food (including a stove and sink).
- C. Maximum Deck, Balcony or Porch Space. The maximum allowable number of people on any deck, balcony or porch shall be one person per nine (9) square feet in accordance with the maximum standing room space allowed as per the New Jersey Uniform Construction Code, N.J.A.C. 5:23-1.1, *et seq.*
- D. Structures that preexisted the adoption date of this ordinance may continue to be used as a rental unit notwithstanding they do not meet the requirements of this Ordinance, providing their continued use is permitted by the 2006 edition of the International Property Maintenance Code, Section 105, and the Uniform Fire Safety Act, N.J.S.A. 52:27D-192, *et seq.*, and New Jersey Uniform Fire Safety Code, N.J.A.C. 5:70-1.1, *et seq.* (jointly referred to as “Uniform Fire Safety Code”). The Landlord shall submit a written request with the application for the Rental Certificate of Occupancy for such continued use along with a written explanation as to how compliance with the 2006 edition of the International Property Maintenance Code and the Uniform Fire Safety Code creates practical difficulties.

SECTION 66-9. Violation of Occupancy Requirements, Inspections, Enforcement.

- A. It shall be unlawful and in violation of this Chapter for a landlord, owner or a tenant of a rental unit to allow a greater number of people than the permitted maximum number of tenants listed in the Rental Certificate of Occupancy to rent or occupy any rental unit.
- B. It shall also be unlawful and in violation of this Chapter for a tenant, landlord or an owner to allow a number of people greater than the maximum number of people permitted to occupy the deck, balcony or porch of said rental unit to occupy the deck, balcony or porch of said rental unit.

- C. The Housing Enforcement Officer is authorized to issue summons for violations of this Chapter to any owner, landlord or tenant found to be in violation of this Chapter.
- D. Inspections. The Rental Housing Officer or his agents or duly designated designee shall make inspections to determine the condition of dwellings containing a rental unit to be rented to a tenant prior to the issuance of a Rental Certificate of Occupancy. An initial inspection shall not be required until a change of tenancy has occurred. For the purpose of making inspections, the Rental Housing Officer is authorized to enter and examine any dwelling, rental unit, rooming unit or premises at such reasonable hours as the circumstances of the case permit with the permission of an occupant, tenant, owner or landlord. In the event entry is denied, then, upon advice of the municipal attorney, recourse to a court of competent jurisdiction shall be pursued.

SECTION 66-10. Unlawful Activities.

It shall be unlawful and in violation of this Chapter for a landlord or owner of a rental unit or tenant of a rental unit or apartment:

- A. To permit or allow people to reside in a rental unit in a number in excess of the number of people for which sleeping accommodations are provided in accordance with this Ordinance.
- B. To lease or rent a rental unit where the number of tenants exceeds the total number of sleeping accommodations as set forth in Section 66-7 of this Ordinance.
- C. To knowingly permit a number of people, greater than the maximum number of occupants or tenants permitted, to occupy a rental unit.
- D. To rent or permit the occupancy of a rental unit without securing a Rental Certificate of Occupancy therefore.
- E. For the landlord to fail to file with the Rental Housing Officer a Rental Property Registration Statement as required by Section 66-2 of this Ordinance for each building owned by him/her in the Borough of Washington containing a rental unit.
- F. To violate any other provisions of the New Jersey State Housing Code, N.J.A.C. 5:28-1.1 *et seq.*, the 2006 International Property Maintenance Code, or the Uniform Fire Safety Code.
- G. To enter into a lease agreement without at least one tenant being an adult, and requiring all adult tenants to sign the lease.
- H. To violate any section of this Ordinance.

SECTION 66-11. Reporting of Violations.

It shall be the legal duty of each holder of a Rental Certificate of Occupancy to immediately report any breaches of the peace or violations of this Chapter which he or she may know or believes to have occurred on the leasehold premises, which report shall be made to the Rental Housing Officer or the Police Department of the Borough of Washington by the most expedient means.

SECTION 66-12. Violation for False Information.

Any person who is found to have submitted false information, documentation or identification in connection with an application for a Landlord's Registration Statement or a Rental Certificate of Occupancy shall pay a minimum fine of Two Hundred and Fifty (\$250.00) Dollars, plus court costs to a maximum of \$2,000 for each document containing false information, documentation or identification. Any person who submits a false certification or documentation shall be subject to criminal prosecution, in addition to the penalties contained herein. In addition to the foregoing, a certificate of occupancy that is issued on the basis of information or documentation that is knowingly false or fraudulent when made, shall be subject to revocation pursuant to and in accordance with the provisions herein.

SECTION 66-13. Fees.

- A. There shall be a Twenty-Five Dollar (\$25.00) fee to file a Rental Property Registration Statement for each building containing one or more rental units.
- B. There shall be a Thirty-Five Dollar (\$35.00) fee paid by each landlord to obtain a Rental Certificate of Occupancy except that the fee shall be Ten Dollars (\$10.00) if the Rental Certificate of Occupancy is issued in conjunction with a fire inspection.
- C. There shall be a Twenty-Five Dollar (\$25.00) fee for each reinspection of a rental unit in connection with an application for a Rental Certificate of Occupancy except that the fee shall be Ten Dollars (\$10.00) if the Rental Certificate of Occupancy is issued in conjunction with a fire reinspection..

SECTION 66-14. Tenant Subject to Removal.

Any tenant of a rental unit in the Borough of Washington who occupies the premises prior to obtaining a Rental Certificate of Occupancy shall be subject to immediate removal from the unit. Any costs associated with the removal and subsequent relocation of tenants that are incurred by the Borough of Washington shall be the responsibility of the landlord and/or tenant.

SECTION 66-15. Appeal.

Any applicant denied the Rental Certificate of Occupancy under this Chapter may appeal

the denial within ten (10) days thereof to the Borough Manager of the Borough of Washington by a notice of appeal, in writing, served on the enforcing authority and on the Rental Housing Officer. The Rental Housing Officer shall notify the occupant of the time and place of hearing. The hearing shall be held and the decision made within twenty (20) days of the service of the notice of appeal.

SECTION 66-16. Violations and Penalties.

In addition to the penalties set forth in Section 66-12, any owner or agent, landlord, tenant, and any person or corporation who shall violate any of the provisions of this Chapter or fail to comply therewith or with any of the requirements thereof shall be liable to a fine of not more than \$2000, community service or imprisonment for not more than 90 days, or a fine, community service and imprisonment. Each and every day such violation continues shall be deemed a separate and distinct violation. Each violation of this Chapter shall be a separate and distinct violation.

Section 6. A copy of the 2006 International Property Maintenance Code is attached to this Ordinance and three (3) copies of the 2006 International Property Maintenance Code are on file in the Borough Clerk's office and will remain there for the use and examination of the public until final action is taken on the ordinance.

Section 7. All ordinances or parts of ordinances or resolutions that are in conflict with the provisions of this Ordinance are repealed to the extent necessary.

Section 8. If any article, section, subsection, term or condition of this Ordinance is declared invalid or illegal for any reason, the balance of the Ordinance shall be deemed severable and shall remain in full force and effect.

Section 9. In accordance with Chapter 3, Article II, Section 15, Subsection E of the Code of the Borough of Washington, this Ordinance shall become effective 20 days after final passage unless the Council, by an affirmative vote of five (5) Council Members, shall adopt a resolution declaring the Ordinance to be an emergency upon which said Ordinance will take effect upon final passage.

Introduction 6/3/2008

Public Hearing/Adoption 7/7/2009