

BOROUGH OF WATCHUNG

ORDINANCE NO. OR:19/18

AN ORDINANCE OF THE BOROUGH OF WATCHUNG, COUNTY OF SOMERSET, STATE OF NEW JERSEY, AMENDING CHAPTER XXVII TITLED "RESIDENTIAL RENTAL PROPERTY REGISTRATION" OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF WATCHUNG.

WHEREAS, in Cona v. Township of Washington, Docket No. A5067-15T3 (App. Div. 2018), the Appellate Division affirmed the authority of New Jersey municipalities to register and inspect long term residential rental properties; and

WHEREAS, the Cona decision clarified Timber Glen Phase III, LLC, 441 N.J. Super. 514 (App. Div. 2015), by holding that while municipalities can "register" and "regulate" long term rentals, they cannot "license" same; and

WHEREAS, the Borough of Watchung ("Borough") wishes to revise Chapter XXVII, titled "Residential Rental Property Registration" of the Revised General Ordinances of the Borough of Watchung to conform to Cona and Timber Glen Phase III.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Watchung, in the County of Somerset, State of New Jersey, as follows:

Section 1. Chapter XXVII, titled "Residential Rental Property Registration", of the Revised General Ordinances of the Borough of Watchung is amended as follows¹:

...

27-2 DEFINITIONS.

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

Agent shall mean the individual or individuals designated by the owner of a rental unit as the person authorized by the

¹Editor's Note: The portions to be deleted are shown with a strike through in brackets and will be deleted from the codified version of this Ordinance and the underlined portions will remain in the codified version of this Ordinance.

owner to perform any duty imposed upon the owner by this Chapter. The term agent does not necessarily mean a licensed real estate broker or salesperson of the State of New Jersey as that term is defined by N.J.S.A. 45:15-3; however, such term may include a licensed real estate broker or salesperson of the State of New Jersey if the person designated by the owner as his agent is so licensed.

Apartment complex shall mean two (2) or more buildings, each containing two (2) or more apartments, which are located within close proximity of each other and are owned by the same owner.

Apartment or dwelling shall mean any apartment, cottage, bungalow, any room or rooms in a rooming/boarding house or other dwelling unit consisting of one (1) or more rooms occupying all or part of a floor or floors in a building, whether or not designed with cooking and/or plumbing facilities.

Certificate of Registration [~~License~~] shall mean the certificate ~~{license}~~ issued by the Borough Clerk or designee attesting that the rental unit has been properly registered in accordance with this chapter.

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

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

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

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.

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

...

27-4 REGISTRATION [~~AND LICENSING~~] TERM; INITIAL REGISTRATION PROVISIONS.

a. Each rental unit shall be registered with the Borough Clerk prior to each change in occupancy.

b. The registration[~~license~~] term shall commence on January 1st and shall be valid until December 31st of the second year, at which time it shall expire and a new registration shall be required. The initial registration shall occur within forty-five (45) days following the adoption of this Chapter. Any lease agreement which has been executed prior to the adoption of this Chapter shall not be affected but the rental unit must nevertheless be registered[~~r~~]and 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.

27-5 REGISTRATION FORMS; FILING, CONTENTS.

Without in any way intending to infringe upon the requirements of N.J.S.A. 46:8-28 et seq., all rental units shall also be registered[~~and licensed~~] as provided in this Chapter. Every owner shall file with the Borough Clerk or designee 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:

...

27-8 PERIODIC INSPECTIONS; UNSATISFACTORY INSPECTIONS.

...

d. *Unsatisfactory Inspection.* In the event that the inspection 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 agent, shall not lease or rent such property; nor shall any~~] no tenant shall occupy the property until the necessary corrections have been made so as to bring the property and rental unit into compliance with the applicable law and the property is

thereafter subsequently inspected[7] and 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, and if not made within that period, the owner shall be deemed in violation of this Chapter and every day that the violation continues shall constitute a separate and distinct violation, subject to the penalty provisions of Section 27-178 of this Chapter.

27-9 ACCESS FOR INSPECTION; REPAIRS; COMPLAINTS.

...

c. *Complaints.* Within ten (10) business days of receipt of a complaint alleging a reported violation of this Chapter, an inspecting officer may, upon written request to the owner, conduct an inspection as provided by this Chapter. In the event that the owner fails to respond to the written request or authorize the inspection, the owner may be issued a summons for a violation of this Chapter. [~~Alternatively, the Borough may seek to have the license revoked.~~]

27-10 PROHIBITIONS ON OCCUPANCY.

No person shall occupy any rental unit, nor shall the owner permit occupancy of any rental unit within the Borough which is not registered [~~and licensed~~] in accordance with this Chapter.

27-11 ISSUANCE OF CERTIFICATE OF REGISTRATION[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~~]Certificate of Registration commencing on the date of issuance and expiring on the same date of the second calendar year. A registration form shall be required for each rental unit, and Certificate of Registration[~~license~~] shall issue to the owner for each rental unit, even if more than one (1) rental unit is contained in the property.

27-12 FEES.

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

a. A biennial (every other year) registration fee of fifty (\$50.00) dollars per unit;

b. An inspection fee because of a change in tenant occupancy of fifty (\$50.00) dollars per unit;

c. A reinspection fee of fifteen (\$15.00) dollars per unit;

d. If the owner of the property is a senior citizen, a person sixty-five (65) years or older, who resides in a unit of the property and rents out the remaining unit or units and would otherwise qualify for a property tax deduction pursuant to N.J.S.A. 54:4-8.41, there shall be no fee for all of the units;

e. If any fee is not paid within thirty (30) days of its due date, a late fee surcharge of thirty (\$30.00) dollars will be assessed.

...

27-14 TAXES AND OTHER MUNICIPAL CHARGES; PAYMENT PRECONDITION FOR REGISTRATION [~~AND LICENSE~~].

No rental unit may be registered and no [~~license~~] Certificate of Registration 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.

...

~~{27-17 REVOCATION OF A LICENSE; PROCEDURE.~~

~~a. Grounds. In addition to any other penalty prescribed herein, an owner or landlord may be subject to the revocation or suspension of the license issued hereunder upon the happening of one (1) or more of the following:~~

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

~~2. Determination of a violation of this chapter at a hearing held pursuant to subsection 27-17b of this section.~~

~~3. Continuously permitting the rental unit to be occupied by more than the maximum number of occupants as defined in this chapter.~~

~~4. 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 written complaint seeking the revocation or suspension of a license may be 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.~~

~~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 ten (10) nor more than thirty (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. The Borough Council shall render a decision within thirty (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. 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 those which generally control administrative hearings.~~

~~5. The Borough Attorney or designee 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 a rental license by demonstrating that the owner or~~

~~landlord 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, occupant or guests for recovery of the premises; eviction of the tenant or otherwise.]~~

27-17~~(8)~~ VIOLATIONS; PENALTIES.

Any person who violates any provision of this Cchapter shall, upon conviction in the Municipal Court of the Borough or such other court having jurisdiction, be liable to the penalty stated in Chapter I, Section 1-5, General Penalty.

Section 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

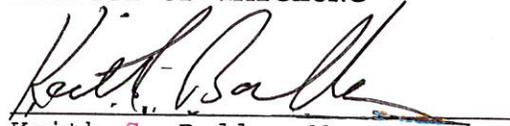
Section 3 In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Watchung, the provisions hereof shall be determined to govern.

Section 4. This Ordinance shall take effect upon adoption and publication according to law.

ATTEST:


Michelle DeRocco, Clerk

BOROUGH OF WATCHUNG


Keith S. Balla, Mayor

Introduced by: Black
Published: November 14, 2019
Adopted: November 25, 2019