

ORDINANCE NO. 2014-216:

AN ORDINANCE REVISING AND AMENDING AN
ORDINANCE ENTITLED "THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF UNION BEACH, 1980,".
CHAPTER X, BUILDING AND HOUSING

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE
BOROUGH OF UNION BEACH that Chapter X, Building and Housing Regulations
of the Borough of Union Beach is hereby amended as follows:

10-10. REGISTRATION OF ALL RENTAL PROPERTIES

10-10.1 PURPOSE: The purpose of this Ordinance is to supplement the Landlord
Registration requirement set forth in N.J.S.A. 46:8-28, *et seq.*, to require Landlords to
provide additional information to the Code Enforcement Bureau, which information
will facilitate the enforcement of this Ordinance and all other applicable statutes, codes
and regulations and which will be filed and indexed in such a manner as to comply
with this Ordinance and N.J.S.A. 46:8-28, *et seq.*

10-10.2 DEFINITIONS: As used in this Section

- a. "Agent" shall mean the individual(s) 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
salesperson of the State of New Jersey. However, such term may include a licensed real
estate broker or salesperson of the State of New Jersey if such person is designated
by the Owner as the Owner's Agent.
- b. "Apartment Complex" shall mean two or more buildings, each containing two or
more apartments/condominiums/townhouses which are located within close proximity of
each other and are owned by the same Owner.
- c. "Apartment" or "Dwelling" shall mean any apartment, condominium,
townhouse, bungalow, cooperative, cottage, or any room or rooms in a rooming/boarding
house or in any other building which shall be used as a residence, notwithstanding
whether the room or one of the rooms is designed or used as an office, for the operation
of any business or trade, or any other independent use.
- d. "Enforcing Agency" shall mean all officials of the Code Enforcement Bureau,
the Construction Official, the Sub-Code Officials, the fire protection inspector, the code

enforcement officer, property maintenance officer, zoning officer, regular or special police officers, and all other officials or officers designated by the Borough Council to enforce the provisions of this Ordinance.

e. "Inspector" or "Code Enforcement Officer" shall mean any member of the Enforcing Agency.

f. "Landlord" shall be synonymous with "Owner."

g. "Occupant" shall mean any person who resides in any rental unit.

h. "Owner" shall mean any person or group of persons, firm(s), corporation(s) limited liability company(s) association, trust, any type of partnership, or other entity, which holds title to, or has an interest in, or exercises control over, manages, or Supervises any rental facility.

i. "Rental facility" shall mean every building, group of buildings or 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 or more individuals and is meant to include apartments and apartment complexes.

j. "Rental unit" shall mean a dwelling unit which is available for lease or rental purposes, including, but not limited to, single family homes, two family homes, multi-family homes, individual units located within apartment, condominium or townhouse complexes, and individual rooms or suites located entirely within another dwelling.

k. "Reside" shall mean to use a rental facility by a person for sleeping, eating, bathing or other personal hygiene purposes, housekeeping, storage of clothing or other personal effects, for seven (7) consecutive days. For the purpose of reaching an initial determination that a person resides in a rental facility it shall be sufficient that an Enforcing Officer shall observe the person on seven consecutive days in or about the rental facility or shall observe clothing or personal effects of person in or about the rental facility. Once the Enforcing Officer makes an initial determination that a person resides in a rental facility the burden of proof shall shift to the owner or person to prove by a preponderance of the evidence that the person does not reside in the rental facility.

l. "Violation of this Ordinance" shall also include a violation of any other Ordinance, Code or Regulation which may be enforced pursuant to the provisions of this Ordinance.

10-10.3 REGISTRATION:

- a. Each and every rental unit shall hereafter be registered with the Enforcing Agency on forms which shall be provided for that purpose and which shall be obtained from the office of the Enforcing Agency. The initial Registration of each rental unit within the Borough of Union Beach shall take place on or before January 31, 2015.
- b. No rental unit shall hereafter be rented unless the rental unit is registered in accordance with this Ordinance.
- c. Registration shall be renewed annually, whether the unit is vacant or occupied and at time of certificate of occupancy when ownership or occupancy changes.
- d. If a tenant vacates a rental unit and it remains vacant either due to repairs, renovation, code enforcement or any other reason, the owner shall notify the Enforcing Agency that the unit is vacant.
- e. Registration pursuant to this Ordinance does not constitute an approval for the use and occupancy of said rental unit. A certificate of occupancy is also required for each unit.

10-10.4 REGISTRATION FORMS, FILING AND CONTENT:

The Registration form required by this Ordinance shall include the following information:

- a. The name, address and telephone number of each record owner or owners of the property containing the rental unit and each person or entity exercising control over, managing, or exercising supervision of any rental facility. The telephone numbers provided on the form shall be numbers where the each such individual can be reached both during both day and evening hours. If the record owner or managing/supervising entity is a corporation the names, addresses and telephone numbers of each corporation officer and registered agent of the corporation shall be listed. If the record owner is a partnership the names, addresses and telephone numbers of each general partner shall be listed. If the record owner is a limited liability company the names, addresses and telephone numbers of each person designated in the operating agreement general partner shall be listed.
- b. If the address of any record owner is not located in Union Beach, the name, address and telephone number of a person who reside in Monmouth County shall be provided, which person will be authorized to accept notices from a tenant or Borough representative, to issue receipts therefor and to accept service of process on behalf of the record owner.

- c. The name, address and telephone number of any agent of the record owner of the property, if different from the information provided under "a" above.
- d. The name, address, including the dwelling unit number, and telephone number of the superintendent, janitor, custodian or other individual employed by the owner or agent to provide regular maintenance service to the property, if any. The telephone numbers provided on the form shall be numbers where the each such individual can be reached during both day and evening hours.
- e. The name, address and telephone number of an agent of the record owner of the property, if different from the information provided under "a" above, 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 the financial resources to effect any repair or incur any expenditure in connection therewith.
- f. The name, address and telephone number of any recorded mortgage on the property.
- g. If fuel oil or natural gas is used to heat the building and the Landlord furnishes the heat in the building. The name and address of the fuel oil or natural gas dealer servicing the building and the grade of fuel oil or natural gas being used.
- h. As to each rental unit, a specific statement of the exact number of sleeping rooms contained in the rental unit. A floor plan of each rental unit, identifying each room, including both its designed and actual use, the dimensions and location of each room and the rental unit's location within the property, shall be submitted and shall become part of the registration form maintained by the Enforcing Agency.
- i. Such other information as may be required by the Borough.
- j. All addresses must include the full accurate street address. A PO Box alone is not sufficient, but may be included, if used, along with the street address.
- k. The name, date of birth and gender of each occupant of the rental unit, whether the occupant is a formal tenant or not. This information shall be maintained by and be available only to the Enforcing Agency and shall otherwise remain confidential and shall not be available to the public.

10-10.5 REGISTRATION FORMS, FILING AND INDEXING: The Enforcing Agency shall file a copy of the Registration Form, excepting therefrom the information concerning the occupants and the floor plan of the rental unit, with the Borough Clerk. The Borough Clerk shall index and file the Registration Forms in compliance with 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, *et seq.*, to the extent that it applies to the property being registered, and the registration requirements of the Ordinance.

10-10.6 AMENDED REGISTRATION FORMS: every person required to file a Registration Form pursuant to this Ordinance shall file an amended Registration Form within twenty (20) days after any change in the information required to be included therein.

10-10.7 INSPECTIONS:

a. Rental units shall be inspected by persons or agencies duly authorized by the Borough to conduct inspections. Such inspections shall be for the purpose of determining Zoning Ordinance compliance, and to the extent applicable, to determine if the rental facility complies with all laws including the Property Maintenance Code, Uniform Construction Code, Health Code, Building Code, Housing Code and Fire Code.

b. If a rental unit is not in compliance with all of the applicable Ordinances, Codes and Regulations, the owner or agent shall be given a notice of non-compliance listing the specific deficiencies or violations. Upon receiving the notice of non-compliance the owner or agent shall cause all required repairs or corrections to be completed within the time prescribed by the applicable Code, and if the required repairs and corrections are not made within that time period, the owner shall be deemed in violation of this Ordinance. No rental unit deemed in violation of this Ordinance may be occupied by a tenant or otherwise used as a residence. Each day that the violation continues shall constitute a separate and distinct violation subject to the penalty provisions of Section 10-10.16.

10-10.8 ACCESS FOR INSPECTIONS, REPAIRS AND COMPLAINTS:

a. All rental facilities, rental units, rooming houses and boarding houses subject to this Ordinance are subject to inspections to determine their condition in order to safeguard the health, safety and welfare of the occupants of such rental facilities, rental units, rooming houses and boarding houses and of the general public. At the time of such inspections all rooms in the rental facilities, rental units, rooming houses and boarding houses shall be available and accessible for such inspections, and the owner, operator and occupant are required to provide the necessary arrangements to facilitate the inspections. Inspections shall be made between 8:00 a.m. and 8:00 p.m. with the consent of the occupant, who is of legal age to grant such consent, or with an administrative warrant unless there is reason to believe that a violation exists which is an immediate threat to health or safety requiring inspection and abatement without delay, or where the time taken to apply for and secure the issuance of a warrant would render ineffective the immediate action necessary to abate the condition. Inspection officers shall make reasonable attempts to obtain consent of the occupant prior to application for an administrative warrant.

b. Every occupant shall give the owner of the rental facility, rental unit, rooming house and boarding house, and the owner's agent or representative, access to any part of such rental facility, rental unit, rooming house and boarding house either in accord with the written lease between the parties or, if no written lease is currently in effect between the parties, then the tenant shall give the owner, and the owner's agent or representative, access at all reasonable times between 8:00 a.m. and 8:00 p.m. for the purpose of making such repairs and modifications as are necessary to bring the property into compliance with the provisions of this Ordinance, any other Borough ordinances or codes, any other statutes or regulations or any lawful order issued pursuant thereto.

c. If the Enforcing Agency receives any complaint alleging a violation of this Ordinance an Inspector or Code Enforcement Officer shall conduct an inspection of The property and condition complained of within ten days of receipt of the complaint.

10-10.9 IDENTIFICATION AND CONDUCT OF ENFORCING OFFICERS :

Each Inspector and Code Enforcement Officer shall be supplied with official identification and shall exhibit such identification when entering any rental facility, rental unit, rooming house and boarding house or any part of any premises subject to this Ordinance. Inspectors and Code Enforcement Officers shall conduct themselves in such a manner as to effectively and expeditiously perform their duties while minimizing inconvenience to the occupants.

10-10.10 SEARCH WARRANTS:

a. If the owner or occupant refuses or hinders access to a rental facility, rental unit, rooming house and boarding house or any part of any premises subject to this Ordinance, the Inspector or Code Enforcement Officer may apply to the Judge of the Municipal Court for a search warrant. The grounds for the warrant shall be set forth in an affidavit specifying the conditions and circumstances which support a reasonable belief that a violation of this Ordinance exists or may exist on the property. These conditions or circumstances may include one or more of the following:

1. The property requires inspection according to the cycle or practice established by the Enforcing Agency or other authority of the Borough for periodic inspections of the type of property involved;

2. Actual observation by the person making out the affidavit of an external condition of the property and its public areas which provides a reasonable basis to conclude that a violation exists or may exist;

3. Circumstances such as the age of the building, type of building, particular use or other factors indicate that an inspection of the property is desirable in the interest of health and safety.

b. If the Judge of the Municipal Court of the Borough is satisfied from the matter set forth in the affidavit that reasonable grounds appear that a violation of this Ordinance exists or probably exists on the property, the Judge shall authorize the issuance of a search warrant to the Inspector or Code Enforcement Officer permitting access to the property or that part of the property in which the violation may exist for the purpose of conducting an inspection.

c. If the Inspector or Code Enforcement Officer, acting pursuant to a search warrant, is refused entry or access or is otherwise impeded or prevented by the owner, occupant or any other person acting on behalf or purporting to act on behalf of the owner or occupant, such person shall be in violation of this Ordinance and subject to the penalties thereunder. This violation shall be separate from and in addition to any violation discovered as a result of the ultimate inspection authorized by the search warrant.

d. The Inspector or Code Enforcement Officer, once a search warrant is issued by the Municipal Court Judge, shall, upon request to the Chief of Police, Captain or supervising officer of the shift, be accompanied by an officer of the Police Department to aid in the conduct of the inspection authorized by the search warrant. Before assigning a police officer to accompany and assist the Inspector or Code Enforcement Officer the Chief, Captain or other supervising officer may request to examine the search warrant.

10-10.11 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 Union Beach unless the rental unit is registered in accordance with this Ordinance.

10-10.12 FEES: At the time of the filing of the registration form the owner or agent of the owner must pay a registration fee of \$100.00 per rental unit, but not to exceed \$5000.00 per rental facility or apartment complex. If the owner of the property is a senior citizen (age 65 years or older) who resides in a unit located on the property and rents out the remaining units, and would otherwise qualify under N.J.S.A. 54:4-8.41 for property tax deductions, there shall be no fee. After the annual registration, the fee for an amended registration in the same year is \$50.00 per rental unit, not to exceed \$2000.00 per calendar year per rental facility or apartment complex.

10-10.13 POSTING AND PROVIDING REGISTRATION FORM TO TENANTS
Every owner shall provide each Tenant with a copy of the registration form and shall also post a copy in a public place within the rental facility or apartment complex. If the property is a one to three family rental facility without any common public place the form need not be posted. This requirement shall not apply to a hotel, motel or guest house registered with the State of New Jersey pursuant to the Hotel and Multiple Dwelling Act, N.J.S.A. 55:13A-1, *et seq.*

10-10.14 MAXIMUM NUMBER OF OCCUPANTS-POSTING:

a. The maximum number of occupants shall be posted in a conspicuous area within each rental unit, on a form provided by the Borough, by the owner of each rental unit. 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 sleep in or occupy the rental unit. Any persons violating this prohibition shall be subject to the penalty provisions of Section 10-10.16 of this Ordinance.

10-10.15 UNLAWFUL OCCUPANTS:

a. Only those occupants whose names are on file with the Borough as required in this Ordinance may reside in the registered premises. It shall be unlawful for any other person to reside in said premises. Any persons violating this prohibition shall be subject to the penalty provisions of Section 10-10.16 of this Ordinance.

b. Any person, including the owner, agent or tenant, who allows a non-registered person to reside in said premises shall be in violation of this section. Any persons violating this prohibition shall be subject to the penalty provisions of Section 10-10.16 of this Ordinance.

c. The conduct engaged in by all occupants who reside in registered premises shall at all times be in full compliance with all applicable ordinances and regulations of the Borough and with all applicable State and federal laws.

10-10.16 PENALTIES:

a. Any person who violates any provision of this Ordinance shall, upon conviction in the Municipal Court or such other Court having jurisdiction, be liable to a fine not exceeding \$1,500.00 or imprisonment for a term not exceeding 90 days, or by a period of community service not exceeding 90 days.

b. The minimum penalty that shall be imposed for a violation of this Ordinance is a fine of \$250.00 each day that a violation occurs shall be deemed a separate and distinct violation.

c. Any person convicted of violating any provision of this Ordinance within one year of the date of a previous violation, which resulted in a conviction, shall be sentenced to an additional fine or other penalty as a repeat offender. The additional fine imposed by the Court for a repeat offense shall not be less than the minimum fine or exceed the maximum fine permitted by this Ordinance, but shall be calculated separately from the fine imposed for the violation of the Ordinance.

BE IT FURTHER ORDAINED, that if any provision, paragraph, section or subsection of this chapter be found unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions of this chapter shall remain in full force and effect and shall have continuing validity; and

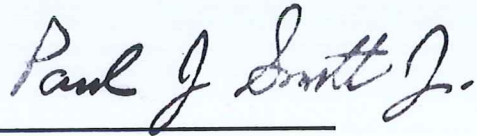
BE IT FURTHER ORDAINED, that this ordinance shall take effect immediately upon final adoption in accordance with law.

ATTEST:



Anne Marie Friscia, RMC
Borough Clerk

APPROVAL:



Paul J. Smith, Jr.
Mayor

INTRODUCED ON FIRST READING: September 18, 2014

FINAL ADOPTION: October 16, 2014