

TOWN OF BOONTON
ORDINANCE 29-2006

AN ORDINANCE OF THE TOWN OF BOONTON AMENDING THE CODE OF THE TOWN OF BOONTON TO INCLUDE PROVISIONS REGULATING RESIDENTIAL RENTAL PROPERTIES

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMAN OF THE TOWN OF BOONTON, COUNTY OF MORRIS AS FOLLOWS:

Section 1. This Ordinance shall be known as the Rental Properties Ordinance of the Town of Boonton

Section 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 the 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.

APARTMENT OR DWELLING - Any apartment, 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 notwithstanding whether the apartment is designed for residence, office or the operation of any industry or business or any other type of independent use.

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 UNIT - Any room or rooms or suite or apartment thereof, whether furnished or unfurnished, which is occupied or intended, arranged, designed to be occupied for sleeping 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.

HABITABLE ROOM - A room or enclosed floor space within a dwelling unit 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.

HOUSING AUTHORITY - The Boonton Housing Authority is exempt from

LICENSE - The license issued by the Building Code Officer, 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 persons living together or by a person living alone, within a building.

MANAGING AGENT - See "agent".

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

RENTAL UNIT - Any "apartment", "dwelling", "building", "dwelling unit", "habitable room" or "lodging unit", as defined by this chapter, regardless of the consideration for occupancy, including but not limited to money paid, services rendered, or accommodation incident to employment.

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

Section 3. Registration with Code Enforcement Officer Required. All rental units shall hereafter be registered with the Code Enforcement Officer or designee on forms which shall be provided for that purpose and which shall be obtained from the Code Enforcement Officer or designee. Such registration shall occur on an annual basis as provided herein.

Section 4. Annual Registration and License Required; Terms. Each rental unit shall be registered and licensed annually. The license terms shall commence August 1 of each year and such registration shall be valid until July 31 of the next year at which time it shall expire and a new registration shall occur. No rental unit shall hereafter be rented unless the rental unit is registered and licensed in accordance with this chapter.

Said license shall only be issued upon inspection of the property and finding that a.) the visible parts of the property, buildings and structures that are to be covered by the license have been inspected by the Code Enforcement Officer or designee and that no visible violations of the building or property maintenance codes exist, and b.) the rental use proposed by the owner is a valid conforming use in the zone as determined by the Code Enforcement Officer or designee. A separate license shall be required for each and every individual dwelling unit existing on a property.

The license shall state a.) the permitted use and/or tenancy; b.) the occupancy limitations stipulated in Section 11.; c.) compliance with fire protection systems; d.) compliance with carbon monoxide detection systems; and e.) the names of the owner, lessor, lessee and/or tenant. Any use of the property in question or occupancy limitation violations taking place on the property not specifically authorized by the license shall be deemed a violation of this section and shall be subject to an immediate summons.

Section 5. Inspections.

A. Each rental unit shall be inspected at least a.) upon the initial registration of a rental unit; b.) upon a change of occupancy c.) when deemed necessary by the municipal code enforcement office and d.) 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 zoning Ordinance compliance and, to the extent applicable, to determine if the property complies with the New Jersey State Housing Code and/or municipal 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 Code Enforcement Officer or designee, 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 been inspected by the

officials of the Town of Boonton having jurisdiction and that the property does not contain any code violations.

Section 6. Prohibitions on Occupancy. No person shall hereafter occupy any rental unit nor shall the owner permit occupancy of any rental unit within the Town of Boonton which is not registered and licensed in accordance with this chapter.

Section 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 the rental term commencing August 1 of the respective year in which said application was filed. 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 annually on July 31.

Section 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 must pay a fee in the amount of \$50 per rental unit.

B. The above fee includes the cost of the initial inspection. Additional inspections, whether due to a change of tenants, non-compliance or inability to gain access for a scheduled re-inspection, will require the payment of a fee of \$50 per re-inspection visit. The cost for all inspections related to the issuance of a license shall be paid in full no less than 24 hours prior to the scheduled re-inspection.

C. If any fee is not paid within thirty (30) days of its due date, a late fee charged at the prevailing rate as set forth in the applicable resolution of the Board of Aldermen will be assessed.

Section 9. Registration Forms.

Without in any way intending to infringe upon the requirements of N.J.S.A. 46:8-28, all rental units shall be registered and licensed as provided herein. Every owner shall file with the Code Enforcement Officer or designee a registration form for each rental unit contained within a building or structure which shall include the following information:

A. 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 the 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 the 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 the 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.

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

C. The name, address and telephone number of the managing agent of the premises, if any.

D. 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.

E. The name, address and telephone number of an individual representative of the owner of record or managing agent who may be reached or contacted 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.

F. The name and address of every holder of a recorded mortgage on the premises.

G. 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.

H. 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. In order to satisfy the requirements of this provision, an owner shall submit a floor plan which shall become a part of the application and which shall be attached to the registration form when filed by the Building Code Official or designee.

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

J. Name, age, and address, including the dwelling unit number of each occupant or tenant occupying the rental unit.

K. Whether or not the landlord has conducted a tenant screening for each new Tenant and authorized adult household member.

L. Such other information as may be prescribed by the Town on the Appropriate form or otherwise by ordinance or resolution.

Section 10. Registration forms available for public inspection.

The Code Enforcement Officer or designee shall index and file the registration form and make it reasonably available for public inspection. In doing so, the Code Enforcement Officer or 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 Code Enforcement Officer or designee shall maintain a master index of all such registration forms and any person may obtain from the Code Enforcement Officer or designee a list of all rental units properly registered and licensed upon payment of a fee of \$25.00.

Section 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.

Section 12. Limitations on 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 number shall not exceed the number which has been computed in accordance with the following:

A. Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one person shall contain at least 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 set forth below:

Minimum Occupancy Area Requirements:

1-2 Occupants – Living Room – no requirements; Dining Room – no requirements; Kitchen – 50 square feet.

3-5 Occupants – Living Room – 120 square feet; Dining Room 80 square feet; Kitchen 50 square feet.

6 or more Occupants -Living Room – 150 square feet; Dining Room – 100 square feet; Kitchen – 60 square feet.

Bedrooms shall comply with Section A.

C. Combined living-room and dining-room spaces shall comply with the requirements of Section B if the total is equal to that required for separate rooms and if the space is so located that functions as a combination living room/dining room.

D. Kitchens, non-habitable spaces and interior public areas shall not be used for sleeping purposes.

E. All spaces to be used for food preparation shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

Section 13. Posting of maximum number of occupants required.

A. It shall be unlawful and in violation of this chapter for an owner, permittee, leassor or registered tenant of any registered dwelling to allow a number of people greater than the maximum number of occupants permitted pursuant to Section 11 to reside in the registered dwelling. It shall also be a violation of this chapter for the owner, permittee, leassor or registered tenant to lease a dwelling unit to a number or group of tenants which exceeds the total number of sleeping accommodations which has been set forth in the permit for which application was made under this chapter.

B. The owner, permittee, leassor or registered tenant of a dwelling unit must post the registration form in a conspicuous location in the dwelling. Such form must contain the name(s) of the owner, permittee, leassor and registered tenant, the maximum number of tenants permitted to occupy the dwelling according to the permit, the maximum number of sleeping accommodations according to the permit

C. It shall be unlawful and a violation of this chapter for an owner, permittee, leassor or registered tenant to fail to post the required registration form or for an owner, permittee, leassor or registered tenant to remove the required registration form.

D. The required registered property must be readily available for inspection upon demand by Police officers of the Town of Boonton or officials of the Town of Boonton Code Enforcement Department. It shall be unlawful and a violation of this chapter for an owner, permittee, leassor or registered tenant to refuse to allow the inspection of said register upon demand by an officer of the Boonton Police Department or an official from the Boonton Code Enforcement Department.

E. The police officers of the Town of Boonton or the officials of the Boonton Code Enforcement Department are authorized to issue a summons for a violation of this chapter to any owner, permittee, leassor or registered tenant found to be in violation of any of the provision of this chapter.

Section 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.

Section 15. Non-Resident Student Enrollment.

It shall be unlawful for any person over the age of eighteen (18) to assist, aid, abet, allow, permit, suffer or encourage a student to register or enroll in the Boonton School District where the student is ineligible to attend. It shall be unlawful for any person over the age of eighteen (18) to knowingly permit his or her name, address, or other residence designating documentation to be utilized in the registration or enrollment of any non-resident student in the Boonton School District. In addition to the penalties set forth in this chapter, any person violating or failing to comply with the provisions of this section shall, upon conviction thereof, be sentenced to make restitution to the Town of Boonton Board of Education. In determining the amount of such restitution, the Court shall include the amounts incurred by the Boonton Board

of Education, including but not limited to tuition costs, investigation expenses and attorneys fees.

Section 16. Access for Inspection.

A. The Code Enforcement Officer, or designee are hereby authorized to make inspections to determine the condition of rental facilities, rental units and rooming/boarding houses in order that they may promote the purposes of this ordinance to safeguard the health, safety, welfare of the occupants of rental facilities, rental units and rooming/boarding houses and of the general public. For the purposes of making such inspections, the Code Enforcement Officer or designee is hereby authorized to enter, examine and survey rental facilities, rental units, and rooming/boarding houses at all reasonable times. The owner or occupant of every rental facility, rental unit, and rooming/boarding house, shall give the Code Enforcement Officer or designee free access to the rental facility, rental unit, and rooming/boarding house at all reasonable times for the purpose of such inspections, examinations and surveys.

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 at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Ordinance or any lawful order issued pursuant thereto.

C. Within ten (10) days of the receipt of the Complaint alleging a reported violation of this ordinance, a Code Enforcement Officer or designee shall conduct an inspection as hereinbefore provided.

Section 17. Occupant Standards.

A. Only those occupants whose names are on file with the Town of Boonton as provided in the ordinance 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 Town of Boonton.

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 Town of Boonton, 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 ordinance.

Section 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 or units to a tenant or tenants who are convicted of a violation of the Noise and/or other Disorderly Persons Ordinances of the Town of Boonton.

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

(5) 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.

(6) 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) Whenever the Code Enforcement Officer or designee determines that there has been a violation of this Code or has reasonable grounds to believe that a violation has occurred, then the enforcing agency shall issue and cause to be served upon the owner of the building, structure or premises, a written notice requiring the owner to terminate or cause to be terminated the violations. The written notice shall state the nature of the violations and a reasonable specified time within which the violations shall be corrected. The written notice shall also require the owner to take or cause to be taken any affirmative action necessary to correct the violations. The written notice shall also advise the owner or persons responsible that they have a right to file an appeal with the Code Enforcement Officer of the Town of Boonton.

(2) Notwithstanding Section 18 B (1), the Code Enforcement Officer or designee, on discovery of a violation of Sections 3, 12, or 15 may immediately issue a summons answerable in municipal court, to any person, firm or corporation who shall violate any of the above named sections. For each and every violation of the above named sections a separate summons may be issued. In addition, for each and every day that the violation continues, a separate summons may be issued.

(3) Service shall be deemed to be properly served upon such owner if a copy thereof is delivered to the owner personally; or by leaving the notice at the usual place of abode, or at the property in the presence of someone in the family of suitable age and discretion who shall be informed of the contents thereof; or by certified or registered mail addressed to the owner of at the last know address with return receipt requested; or if the certified or registered letter is returned with receipt showing that the letter has not been delivered, by posting a copy thereof in a conspicuous place in or about the structure affected by such notice.

(4) Upon the expiration of the period set forth in any notice for the correction of any violation, if the violation is not corrected or in the opinion of the Code Enforcement Officer or designee, corrected improperly, the Code Enforcement Officer or designee without further notification shall have the right to issue a summons for the violation seeking relief including, but not limited to the revocation or suspension of a license and the payment of fines associated with the violations. For each and every day that the violation continues, a separate summons may be issued.

(5) A complaint seeking the revocation or suspension of a license may be filed by one or more of the following: the Mayor, Business Administrator, Chief of Police, Construction Code Official or Zoning Enforcement Officer. Such complaint shall be in writing and filed with the Code Enforcement Officer or 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.

(6) Upon the filing of such written complaint, the Code Enforcement Officer or designee shall immediately inform the Board of Aldermen and a date for a hearing shall be scheduled which shall not be sooner than 10 days nor more than 30 days thereafter. The Code Enforcement Officer or 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.

(7) The hearing required by this section shall be held before the Board of Aldermen unless, in its discretion, the Board determines that the matter should be heard by a hearing officer who shall be appointed by the Board of Aldermen. If the matter is referred to a hearing officer, such officer shall transmit his finding of fact and conclusions of law to the Board of Aldermen within 10 days of the conclusion of the hearing. The Board shall be bound thereby. In the event that the matter is not referred to a hearing officer and is heard by the Board, the Board shall render a decision within 10 days of the conclusion of the hearing. 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.

(8) A recording shall be made of the hearing. 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 that which generally controls administrative hearings.

(9) The Town Attorney or a special prosecutor appointed by the Board of Aldermen 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 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. This Defense shall in no way be available if the owner has refused to submit proof of an adequate tenant screening in accordance with this Ordinance.

Section 19. Violations and penalties.

In addition to the penalties set forth in N.J.S.A. 46:8-35, any person who violates any chapter of this provision shall, upon conviction in the Municipal Court of the Town of Boonton or such other court having jurisdiction, be liable for a minimum fine of \$250.00 (or higher if permitted by court order) and a maximum fine not to exceed \$2,000.00 or imprisonment or community service not exceeding 90 days, or any combination thereof. 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.

Section 20. Enforcement.

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

Section 21. Effect.

This Ordinance shall take effect upon final passage and publication according to law.

Section 22. Consistency.

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 23. Validity.

If any section, paragraph, subdivision, clause or provisions of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision clause or provision and the remainder of this Ordinance shall be deemed valid and effective.

Introduced: November 20, 2006

Adopted: December 18, 2006

Mayor and Board of Aldermen of the
Town of Boonton, County of Morris,
State of New Jersey

ATTEST:

By: _____
Cyril Wekilsky, Mayor

Cynthia A. Oravits, Town Clerk