

Ordinance

NO. 6-2006

AN ORDINANCE AMENDING ORDINANCE NO. 02-2009 OF THE CODE OF THE BOROUGH OF WESTVILLE, IN THE COUNTY OF GLOUCESTER AND STATE OF NEW JERSEY, ENTITLED AN ORDINANCE REQUIRING THE REGISTRATION AND INSPECTION OF RENTAL PROPERTIES AND PROVIDING FOR LANDLORD RESPONSIBILITY WITHIN THE BOROUGH OF WESTVILLE

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Governing Body of the Borough of Westville, County of Gloucester and State of New Jersey that the following Chapters/Sections be amended:

Chapter 272. Rental Property

Article I. Registration of Rental Property

§ 272-1. 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

The individual or individuals designated by the owner as the person(s) authorized by the owner to perform any duty imposed upon the owner of this article. 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 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, any room or rooms in a rooming house/boarderhouse or other dwelling unit consisting of one or more rooms occupying all or part of a floor or floors in a building, whether designed with or without housekeeping facilities for dwelling purposes and notwithstanding whether the apartment be designed for residence, for office or the operation of any industry or business or for any other type of independent use. Each dwelling unit shall contain no more than one kitchen or cooking facility.

COMMERCIAL

Related to or connected with trade and traffic or business and commerce.

COMMERCIAL UNIT

A building or structure, or any part thereof, used for the manufacturing, processing or assembling of material or manufactured products or for research, office, industrial, commercial, retail, service, recreational, hotel or motel facilities or for warehousing purposes or for any combination thereof.

DWELLING UNIT

Any room or rooms or suite or apartment, including any room or rooms in a rooming house/boardinghouse, whether furnished or unfurnished, which is occupied or intended, arranged or designed to be occupied for sleeping or 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 improvement connected with use or occupancy thereof. Each dwelling unit shall contain no more than one kitchen or cooking facility.

FAMILY MEMBER

Shall include parents of the owner or the owner's spouse, as well as children of the owner or owner's spouse.

[Added 2-11-2009 by Ord. No. 02-2009]

REGISTRATION

The registration issued by the Borough Clerk or designee attesting that the rental unit has been properly registered in accordance with this article.

REGISTRANT

The person to whom the registration is issued pursuant to this article. The term "registrant" includes within its definition the term "agent," where applicable.

OWNER

Any person or group of persons, firm, corporation or officer thereof, partnership, association or trust who owns, operates, exercises control over, or is in charge of a rental facility.

OWNER-OCCUPIED

A portion of a rental facility, dwelling, commercial unit or dwelling unit shall be considered owner-occupied if the owner makes his primary residence therein. A person may have only one primary residence in the Borough.

PERSON

An individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.

RENTAL FACILITY

Every building, group of buildings or a portion thereof consisting of less than three dwelling units and having sleeping facilities for less than 25 occupants, 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.

RENTAL UNIT

A dwelling unit or commercial unit which is available by lease, rental or otherwise to persons other than the owner. "Rental unit" shall not include that portion of a rental facility, dwelling, commercial unit or dwelling unit that is owner-occupied.

RENT or RENTED

Occupied by any person or persons other than the owner, regardless of whether there is a written or oral agreement and regardless of whether the owner receives consideration for the occupancy.

TENANCY

Occupancy of the unit by one or more tenants.

TENANT

Occupant in a unit other than the owner.

§ 272-2. Registration required.

All rental units shall hereafter be registered with the Borough Clerk or designee of the Borough of Westville, or such other person as designated by the Borough Council, on forms which shall be provided for that purpose and which shall be obtained from the Borough Clerk or designee. Such registration shall occur on an annual basis, as provided herein.

§ 272-3. Registration upon change in occupancy; effect on prior leases; initial registration provisions.

Each rental unit shall be registered with each change in occupancy. Any lease which has been executed prior to the adoption of this article shall not be affected, but the rental unit must nevertheless be registered and inspected in accordance with this article. No rental unit shall hereafter be rented unless the rental unit is registered in accordance with this article.

§ 272-4. Filing of registration form; contents.

Without in any way intending to infringe upon the requirements of N.J.S.A. 46:8-28, all rental units shall be registered as provided herein. Every owner shall file with the Borough Clerk or designee of the Borough of Westville, 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:

A.

The name and address of the record owner or owners of the premises and the record owner or owners of the rental business, if not the same persons. In the case of a partnership, the name and addresses of all general partners shall be provided, together with the telephone numbers for each of such individuals, where such individual may be reached both during the day and evening hours.

B.

If the address of any record owner is not located within a radius of 35 miles of the Borough of Westville, or if the record owner resides out of the State of New Jersey, the owner must submit the name and address of a person who resides within the State of New Jersey and within a thirty-five-mile radius of the Borough of Westville who is authorized to accept notices from a tenant and to accept receipts therefrom and to accept service of process on behalf of the record owner.

C.

The name and address of the agent of the premises, if any.

D.

The name and address, including the dwelling unit number, of the superintendent, janitor, custodian or other individual employed by the owner or agent to provide regular maintenance service, if any.

E.

The name, address and telephone number of an individual representative of the owner or agent or the owner, if domiciled in Gloucester County, 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 any repair thereto or expenditure in connection therewith.¹

[1]

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).

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. In order to satisfy the requirement of this provision, an owner shall submit a floor plan, which shall become part of the application and which shall be attached to the registration form when filed by the Borough Clerk or designee.

I.

Such other information as may be prescribed by the Borough of Westville.

§ 272-5. Indexing and filing of registration form; posting of certificate of inspection.

The Borough Clerk or designee shall index and file the registration forms. In doing so, the Borough Clerk 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 article. .

§ 272-6. Amended registration form; fee.

Every person required to file a registration form pursuant to this article shall file an amended registration form within 20 days after any change in the information required to be included thereon. No fee shall be required for the filing of an amendment, except where the ownership of the premises is changed.

§ 272-7. Inspections.

A.

Each rental unit shall be inspected upon change in ownership or upon change in tenancy or occupancy.

B.

Such inspections shall be performed by such person, persons or agency duly authorized and appointed by the Borough of Westville, and inspections made by persons or an agency other than the duly authorized and appointed person, persons or agency of the Borough of Westville shall not be used as a valid substitute.

C.

Such inspection shall be for the purpose of determining Chapter **205**, Land Use and Development, compliance and, to the extent applicable, to determine if the property complies with the Property Maintenance Code, Uniform Construction Code,^[1] Housing Code and/or Building Code and/or Uniform Fire Safety Act.^[2]

[1]

*Editor's Note: See Ch. **142**, Uniform Construction Codes.*

[2]

*Editor's Note: Amended at time of adoption of Code (see Ch. **1**, General Provisions, Art. **I**).*

D.

Unsatisfactory inspection. In the event that the inspection(s) of a rental unit does not result in a satisfactory inspection, such property shall not thereafter be registered 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 code, and the property is thereafter subsequently inspected and registered. In the event that the property is occupied when such conditions are discovered, all such corrections shall be made within 30 days except in the case of life safety violations, then the repairs shall be made immediately or as soon as practicable after the owner is notified, and, if not made within that time period, the owner shall be deemed in violation of this article, and, every day that the violation continues shall constitute a separate and distinct violation, subject to the penalty provisions of § 272-3 of this chapter. The owner, however, shall be permitted to apply for an extension of time to make repairs or corrections so as to comply with this article, for good cause shown.

§ 272-8. Access for inspections and repairs; complaints.

A.

The inspection officers are hereby authorized to make inspections to determine the condition of rental facilities, rental units and rooming houses/boardingshouses in order that they may promote the purposes of this article to safeguard the health, safety and welfare of the occupants of rental facilities, rental units and rooming houses/boardingshouses and of the general public. For the purposes of making such inspections, the inspecting officers are hereby authorized to enter, examine and survey rental facilities, rental units and rooming houses/boardingshouses at all reasonable times. The owner or occupant of every rental facility, rental unit and rooming house/boardingshouse shall give the inspecting officer free access to the rental facility, rental unit and rooming house/boardingshouse 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 house/boardingshouse access to any part of such rental facility, rental unit and rooming house/boardingshouse at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or any lawful order issued pursuant thereto.

C.

Complaints. Within 10 days of receipt of a complaint alleging a reported violation of this article, an inspecting officer shall conduct an inspection as hereinbefore provided.

§ 272-9. 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 Westville which is not registered in accordance with this article.

§ 272-10. Issuance of registration.

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 registration commencing on the date of issuance and expiring on the 30th day of June of the next calendar year. A registration form shall be required for each rental unit, and a registration certificate shall issue to the owner for each rental unit, even if more than one rental unit is contained in the property.

§ 272-11. Fees.

At the time of the filing of the registration form and prior to the issuance of a registration certificate, the owner or agent of the owner must pay a fee in accordance with the following:

A. REGISTRATION FEES

An annual registration fee is required for each rental unit due and payable on July 1 for a 12 month period according to the following schedule:

(1)

For each non-owner-occupied rental units: \$60 per unit. All previously registered rental units are required to pay a full year rental regardless as to when they are actually rented. For example: if a unit previously rented and is vacant in July and August and has not renewed the registration, a full \$60 is due regardless of when the unit is re-registered. All new rental units not previously rented shall be prorated for a registration beginning in July and expiring in June of the next year.

(2)

If there are eight or more rental units on a property (block and lot), for each non-owner-occupied rental units: \$50 per unit.

B. INSPECTION FEES

An inspection fee of \$60 is required upon every change in ownership, tenancy or occupancy

Reinspection Fees as follows:

(1)

First reinspection: \$30 per unit;

(2)

Second reinspection: \$40 per unit;

(3)

Third reinspection: \$70 per unit; and

(4)

Fourth or subsequent reinspection: \$100 per unit.

C.

If the owner of the property is a senior citizen or disabled citizen who resides in a unit of the property and rents out the remaining units and would otherwise qualify under the State of New Jersey property tax deduction under N.J.S.A. 54:4-8.41, there shall be no fee.

D.

If any fee is not paid within 30 days of its due date, a late fee surcharge of \$30 will be assessed.

E.

If the occupant of a rental unit is a family member, as defined by this article, no registration fee or inspection schedule shall apply, except upon change in occupancy. Registration of units occupied by family members is required and, in addition, must be accompanied by an affidavit stating the relationship of the occupant to the owner or owner's spouse.

[Added 2-11-2009 by Ord. No. 02-2009]

§ 272-12. Provision of forms to occupants and tenants.

Every owner shall provide each occupant or tenant occupying a rental unit with a copy of the registration form required by this article. This particular provision shall not apply to any hotel, motel or guesthouse registered with the State of New Jersey, pursuant to the Hotel and Multiple Dwelling Act, as defined in N.J.S.A. 55:13A-3. This provision may be complied with by posting a copy of the registration certificate in a conspicuous place within the rental unit(s).

§ 272-13. Maximum number of occupants; posting.

A.

The maximum number of occupants shall be posted in each rental unit. It shall be unlawful for any person, including the owner, agent, tenant or registered tenant, to allow a greater number of persons than the posted maximum number of occupants to sleep in or occupy overnight the rental unit for a period exceeding 29 days. Any person violating this provision shall be subject to the penalty provisions of § 272-22 of this chapter.

B.

Only those occupants whose names are on file with the Borough of Westville, as required in this article, may reside in the registered premises. It shall be unlawful for any other person to reside in said premises, and any owner, agent, tenant or registered tenant allowing a nonregistered party to reside in said premises shall be in violation of this section and shall be subject to the penalty provisions of § 272-3 of this chapter.

§ 272-14. Maintenance standards.

All dwelling units shall be maintained in accordance with the Uniform Construction Code, the BOCA National Property Maintenance Code and the New Jersey State Housing Code.

§ 272-15. Standards for occupants.

A.

Occupants. Only those occupants whose names are on file with the Borough Clerk, as provided in this article, may reside in the registered 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.

Nuisance prohibited. 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 of the public in general, such that it shall constitute a nuisance, as defined in the ordinances of the Borough of Westville.

C.

Compliance with other laws. 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 Borough of Westville and with all applicable state and federal laws.

D.

Penalties. Any landlord, tenant or other person violating the provisions of this section shall be subject to the penalty provisions of § 272-22 of this chapter.

Article II. Vacant Rental Units

§ 272-16. Applicability; exemptions.

A.

The owner of any dwelling unit or commercial units, other than those exempted below, shall be subject to the provisions of this article.

B.

The following are exempt from the provisions of § 272-17A of this article:

(1)

Units in owner-occupied buildings where there are four units or less and one of these units is owner-occupied.

(2)

Units in newly constructed buildings, which are being rented for the first time. After the first rental, such units will be subject to the provisions of this article.

(3)

Units where the owner is participating in an affordable housing project approved by the Borough of Westville.

(4)

Units in a building whose owner has transmitted his first sixty-day notice of his intentions to convert the building into a condominium or cooperative and his full plan of conversion to the Borough Clerk pursuant to N.J.S.A. 2A:18-61.8.

C.

The following are exempt from the provisions of § 272-17B of this article:

(1)

Any unoccupied property that is under agreement of sale. This exemption shall be limited to the first three months after a property becomes unoccupied. Thereafter, all provisions of this article are applicable, and all time requirements are considered to be extended by said three-month period.

(2)

Any unoccupied property that is listed for sale by a realtor or by the owner. This exemption shall be limited to the first three months after a property becomes unoccupied. Thereafter, all provisions of this article are applicable, and all time requirements are considered to be extended by said three-month period.

§ 272-17. Rental requirement; exception.

A.

All such units that have been rental units shall be rented and occupied by a new tenant within six months after the end of the preceding tenancy, which shall be defined as the last day of residence by the preceding tenant or tenants, except where this requirement has been waived by the Land Use Board under the provisions of § 272-19 below, in which event the unit shall be rented and occupied within the time period specified in the waiver.

B.

All such units that have not been rented, but become vacant for any reason, shall be occupied within six months after the property becomes vacant, except where this requirement has been waived by the Land Use Board under the provisions of § 272-19 below, in which event the unit shall be occupied within the time period specified in the waiver.

§ 272-17. Notification of vacancies.

A.

The owner of any rental unit which is still vacant six months after the end of the preceding tenancy shall notify the Zoning Officer within five days, in writing, of said continuing vacancy.

(1)

"Vacancy," as it applies to a dwelling unit, is defined as:

(a)

Being unoccupied by any person or persons for more than 20 days out of a month;

(b)

Receiving no electricity, gas or fuel heat; or

(c)

Appearing to manifest no evidence of occupancy by a person or persons, such as by lack of furniture, lack of food or clothing, lack of mail delivery or by being boarded up.

(2)

"Vacancy," as it applies to a commercial unit, is defined as:

(a)

Lacking a main entrance open to the general public for business; or

(b)

Being closed to the general public for business for more than 18 out of 24 hours per day for more than three out of seven days per week for a period of three or more weeks.

B.

Said notification shall include the following information:

(1)

The address and location within the building of the unit.

(2)

The rent charged the preceding tenant and rent to be charged the proximate incoming tenant.

(3)

The name, address and telephone number of the owner.

(4)

The name, address and telephone number of the owner's agent and/or resident manager, if any.

C.

No notification shall be required with respect to any unit rented and occupied within 60 days or less from the end of the preceding tenancy.

D.

The owner or other representative of any unit that has not been previously rented, which is vacant for more than 90 days, shall notify the Zoning Officer within five days, in writing, of such vacancy. Such notification shall include the name, address, telephone number of the owner and any other relevant information, such as identification of attorney, estate or relatives with knowledge of status of ownership.

§ 272-18. Notification of occupancy.

A.

Within 60 days after submission of the report required under § 272-17 above, the landlord (in those cases involving rental units) shall notify the Zoning Officer that the unit has been rented and occupied, with the names of the new tenant or tenants and the terms of the tenancy. Failure to have the unit rented and occupied within 90 days after the end of the preceding tenancy, except where a waiver has been granted by the Land Use Board, shall be considered a violation of this article and subject to the penalties set forth in § 272-22 of this chapter.

B.

Within 60 days after submission of the report required under § 272-17 above, the owner (in those cases not involving rental units) shall notify the Zoning Officer that the unit has been occupied, with the names of the new occupant or occupants. Failure to have the unit occupied within 120 days from the time that the unit became vacant, except where a waiver has been granted by the Land Use Board, shall be considered a violation of this article and subject to the penalties set forth in § 272-22 of this chapter.

§ 272-19. Waivers.

A.

A landlord may seek a waiver of the requirement to rent the unit within 60 days of the end of the preceding tenancy where the condition of the unit or other special circumstances make rental within such time period impossible. In order to obtain a waiver, the landlord must submit a request, in writing, to the Land Use Board within 30 days or less from the end of the preceding tenancy, setting forth with specificity:

(1)

The reasons that the unit cannot be rented within such time period.

(2)

The steps that the landlord shall take to remedy the conditions that make it impossible to rent the unit.

(3)

The date by which the unit shall be rented and occupied.

B.

Full documentation, such as code violation reports, engineering or inspection reports, etc., shall be provided by the landlord. Any waiver granted by the Board under this section shall specify a date by which the unit shall be rented and occupied. The Board may extend that date upon written request of the landlord, but may not provide more than two such extensions of not more than 60 days each.

C.

In no circumstance shall any waiver, including extensions, exceed six months from the time of granting of such waiver.

D.

The following circumstances shall constitute grounds for granting of a waiver by the Land Use Board:

(1)

Any owner wishes to maintain a vacant unit in order to reserve said unit for a family member. The owner shall provide in the waiver request full documentation, such as the name of the future tenant, and the date of occupancy.

(2)

An owner wishes to maintain a vacant unit in order to improve the conditions of said unit. The owner shall provide full documentation in the waiver request, such as up-to-date building and housing inspection reports, improvement plans, all related permits and the date by which the unit shall be rented and occupied.

(3)

An owner maintains a vacant unit in order to correct code violations in said unit. The owner shall provide in the waiver request full documentation, such as code violation reports, correction plans, permits and the date by which the unit shall be rented and occupied.

E.

In the case of properties that have not been previously rented, an owner may seek a waiver of the requirement to have the unit occupied within 60 days from the time that it became vacant where the condition of the unit or other special circumstances make occupancy within such time period impossible. In order to obtain a waiver, the owner must submit a request, in writing, to the Land Use Board within 30 days or less from the time that the unit became vacant, setting forth with specificity:

(1)

The reasons that the unit cannot be occupied within such time period.

(2)

The steps that the owner shall take to remedy the conditions that make it impossible to occupy the unit.

(3)

The date by which the unit shall be occupied.

F.

To the extent applicable, the provisions of Subsections B, C and D above shall be applied to properties that have not been rented.

§ 272-20. Filing of complaints.

Any individual affected by the action or inaction of an owner of a dwelling unit or commercial unit subject to the provisions of this article, any civic organization and any appropriate municipal agency may file a complaint of violation of this article with the Westville Court.^[1]

[1]

§ 272-21. Preexisting vacancies.

Any landlord of any unit which has been vacant 30 days or more from the end of the preceding tenancy, as of the effective date of this chapter, shall be required to file the notification required under § 272-23 of this chapter within 15 days of the effective date of this chapter.

§ 272-22. Violations and penalties.

A.

Any person who shall violate the provisions of this chapter, except § 272-17, shall, upon conviction, be subject to the penalties as set forth in Chapter 1, Article I, § 1-15, General penalty.

B.

A first violation of § 272-17, or the conditions upon which a waiver has been granted by the Board, shall be punishable by a fine of not more than \$500 for each unit in violation. Subsequent violations

shall be punishable by a fine of not less than \$100 nor more than \$500. Each day during which an owner is in violation of §272-17, or the conditions upon which a waiver has been granted, shall constitute a separate violation hereunder.

BE IT FURTHER ORDAINED That if any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.

Introduced: March 14, 2016

BOROUGH OF WESTVILLE

Russell W. Welsh, Jr.

MAYOR

ATTEST:

Christine A. Helder

CMC/MUNICIPAL CLERK