ORDINANCE 12 - 2011
AN ORDINANCE TO ESTABLISH REGISTRATION, INSPECTION AND LICENSING OF RESIDENTIAL RENTAL PROPERTIES FOR THE PURPOSE OF SAFEGUARDING THE HEALTH, SAFETY AND WELFARE OF TENANTS

WHEREAS, the Borough of Woodbury Heights has determined a need to provide for the registration, inspection and licensing of residential properties used for lease, in whole or in part, to persons or entities in order that the health, safety and welfare of the occupants of such rental properties may be protected and advanced.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Woodbury Heights, Gloucester County, New Jersey that Chapter 64B of the Woodbury Heights Code is hereby established and titled "Registration, Inspection and Licensing of Residential Rental Properties", as follows:

§64B-1 **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

The individual or individuals designated by the owner as the person(s) authorized by the owner to perform any duty imposed upon the owner by this article. The terms 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 is designate by the owner as his agent is so licensed.

APARTMENT COMPLEX

Two or more buildings, each containing two or more apartments, which are located within close proximity of each other and are owned by the same owner.

APARTMENT OR DWELLING

Any apartment, cottage, bungalow, any room or rooms in a rooming/boarding house 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 shall be designed for residence, for office or the operation of any industry or business or for any other type of independent use.

LICENSE

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

LICENSEE

The person to whom the license is issued pursuant to this article. The term "license" 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.

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 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 excepting out owner occupied duplexes.

RENTAL UNIT

A dwelling unit, excepting out owner-occupied duplexes, which is available for lease or rental purposes and is meant to include individual apartments located within apartment complexes. A rental unit shall not include any unit that is used solely and exclusively for office, business or commercial purposes.

§64B-2 **Registration Required.**

All rental units shall hereafter be registered with the Clerk or designee of the Borough of Woodbury Heights 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 Clerk or designee. It shall be required that such registration take place every two years as provided herein.

§64B-3 **Registration and Licensing at change of occupancy; term; initial registration.**

The initial registration shall occur no sooner than 60 days following the adoption of this article. Initial registrations must be made upon 45 days' written notice to the owner. Notice shall be made by regular mail to the last known address as on record with the Borough Tax Collector. 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

licensed in accordance with this article. No rental unit shall hereafter be rented unless the rental unit is registered and licensed in accordance with this article.

§64B-4 **Filing and contents of 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 Clerk or designee of the Borough or such other person as designated by the Administrator 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 names and addresses of all general partners shall be provided, together with the telephone numbers of each of such individuals indicating where such individual may be reached both during the day and evening hours. 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 numbers for each of such individuals indicating where such individual may be reached both during the day and evening hours. If the record owner is a Limited Liability Company, the name, address and telephone numbers of each Member shall be provided.

B.
If the address of any record owner is not located in the Borough or in Gloucester County, the name and address of a person who resides in Gloucester County and who is authorized to accept notices from a tenant and to issue receipts therefore and to accept service of process on behalf of the record owner shall be provided.

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 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;

E.
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 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 Clerk or designee.

I.
Such other information as may be prescribed by the Borough.

§64B-5 **Indexing and filing of forms.**

The Clerk or designee shall index and file the registration forms. In doing so, the Clerk or designee shall follow the mandates of N.J.S.A. 46:8-28.1, as amended, 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.

§64B-6 **Filing of the amended form.**

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 upon which a fee of $50.00 shall be paid.

§64B-7 **Inspection.**

A.
Each rental unit shall be inspected in accordance with the Borough of Woodbury Heights Code and pursuant to Chapter 64, Housing Standards. Additional inspections shall occur upon the filing of a complaint with a duly authorized agent of the Borough.

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

C.
Such inspection shall be for the purpose of determining Woodbury Heights Code compliance and compliance with Chapter 64, Housing Standards , and, to the extent that the inspection(s) of a rental unit does not result in a satisfactory inspection, such property shall not thereafter be licensed, nor shall any tenant attempt to 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, registered and licensed. In the event that the property is occupied when such conditions are discovered, all such corrections shall be made within 60 days, 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 this article.

§64B-8 **Access for inspections and repairs.**

A.
The inspection officers 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 chapter to safeguard the health, safety and 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 inspecting officers are 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 inspecting officer 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 article or any lawful order issued pursuant thereto.

C.
Complaints. Within 10 days of receipt of a complaint alleging a reported violation of this Chapter, an inspecting officer shall initiate an inspection as provided for herein.

§64B-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 Woodbury Heights which is not registered and licensed in accordance with this chapter.

§64B-10 **License.**

Upon the filing of a completed registration form, payment of the prescribed fee and inspection, the owner shall be entitled to the issuance of a license commencing on the date of issuance and expiring on the same date 12 months later if the inspection determines compliance with this chapter. A registration form shall be required for each rental unit and a license shall issue to the owner for each rental unit, even if more than one rental unit is contained in the property/

§64B-11 **Fees.**

A.

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

1

A license fee of $100.00, which shall be paid every year thereafter on the renewal date of the license.

B.

If any fee is not paid within 30 days of its due date, a late fee surcharge of $30.00 will be assessed for every 30 days or portion thereof. This shall be in addition to any other fines, penalties, assessments or revocations.

§64B-12 **Providing registration form 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 provision shall not apply to any hotel, motel or guest house 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 units.

§64B-13 **Maximum number of occupants; posting.**

A.

The maximum number of occupants as determined by the landlord and in compliance with all applicable laws and ordinances shall be posted in each rental unit at a location to be determined by the landlord. If 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 in the rental unit for a period exceeding 29 days. Any person violating this provision shall be subject to the penalty provisions of this Chapter.

B.
Only those occupants whose names are registered and on file with the landlord may reside in the licensed 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 this chapter.

§64B-14 **Payment of taxes and other municipal charges required.**

No rental unit may be registered and no license shall be issued or renewed 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.

§64B-15 **Other rental unit standards.**

All dwelling units shall be maintained in accordance with the New Jersey Housing Code and all applicable Ordinances of the Borough of Woodbury Heights and, in the case of an apartment with three or more dwelling units, the State of New Jersey Maintenance of Hotels and Multiple Dwelling Regulations. The licensing, inspection and compliance with this chapter is not intended to preempt, replace or modify any state or federal law, rule or regulation.

§64B-16 **Occupant standards.**

A.
Occupants. Only those occupants whose names are on file with the landlord as provided in the chapter may reside in the 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 Woodbury Heights or N.J.S.A. 2C:33-12.

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 and full compliance with all applicable ordinances of the Borough of Woodbury Heights 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 this Chapter.

§64B-17 **Revocation of license.**

A.
Grounds. In addition to any other penalty prescribed herein, an owner may be subject to the revocation or suspension of the license issued hereunder upon the happening of one 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 §64B-17(B) herein.

(3)
Knowingly, continuously renting the unit or units to a tenant or tenants who are convicted of a violation of federal law, New Jersey statute, or Borough ordinances, , as they may related to the unit's or units' habitability, use, peaceful and quiet enjoyment of the premises or those premises within the same building, complex or rental facility.

(4)
Knowingly, continuously permitting the rental unit to be occupied by more than the maximum number of occupants as defined in this chapter.

(5)
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 or in violation of the Borough Housing Standards Code or other rental unit standards as provided by §64B-15.

(6)
A false, misleading or fraudulent statement made in connection with the registration, licensing or inspection of a rental unit or units under this chapter.

(7)
A pattern of conduct which results in creating, maintaining, permitted or suffering the existence of any of the following conditions at or about the rental unit:

(a)

A nuisance as that term is defined by N.J.S.A. 2C:33-12. A conviction of such person or persons under that statute shall be required in order for the Borough to take action relating to the rental license under this section.

(b)

The failure to comply with any directive of the Borough concerning the abatement of conduct prohibited by this Chapter;

(8)

Whenever a law enforcement agency shall have made an arrest of, or issued a summons to a tenant, occupant or guest or owner resulting in a conviction or finding of guilt on two or more occasions during the term of the license for an offense related to or arising out of the use and occupancy of the rental unit(s) or attributable to acts upon or in proximity to the rental unit(s), the same shall be prima facie evidence of a violation of this chapter with regard to rental licensing, provided that the owner and/or managing agent shall have had notice of the existence of such circumstances and conditions.

B.

Procedure: written complaint; notice and hearing.

(1)

A complaint seeking the revocation or suspension of a license may be filed by any one or more of the following: Chief of Police, Construction Code Official, Property Code Officer, the Zoning Officer or any other persons or office authorized to file such complaint. Such complaint shall be in writing and 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. The individual(s) filing the complaint may do so on the basis of information and belief and need not rely on personal information.

(2)

Upon the filing of such written complaint, the Clerk or designee shall immediately inform the Borough Council and a date for a hearing shall be scheduled which shall not be sooner than 10 or more than 45 days thereafter. The Clerk or designee shall forward a copy of the complaint and a notice as to the date of hearing to the licensee and the agent, if any, at the address indicated on the license application. Service upon the agent shall be sufficient.

(3)

The hearing required by this section shall be held before Borough Council unless, in its discretion, the Council determines that the matter should be heard by a hearing officer, who shall be appointed by the Council. If the matter is referred to a hearing officer, such officer shall transmit his findings of fact and conclusions of law to the Council within 30 days of the conclusion of the hearing. The Council shall then review the matter and may accept, reject or modify the recommendations of the hearing officer based on the record before such hearing officer. In the event that the matter is not referred to a hearing

officer and is heard by the Council, then the Council shall render a decision within 45 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 or more subsequent license years.

(4)

A record of the hearing shall be made by audio tape. A transcript shall be available upon payment of a deposit as may be required by the stenographer. 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 control administrative hearings.

(5)

The municipal Prosecutor or his 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 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 tenants), occupant(s), or guests for recovery of the premises, eviction of the tenant(s), or otherwise.

§64B-18 **Violations and penalties.**

Any person who violates any provision of this chapter shall, upon conviction in the Municipal Court or such other court having jurisdiction, be liable to a fine not exceeding $1,000.00 or imprisonment for a term not exceeding 30 days, or both. Each day that a violation occurs shall be deemed separate and distinct violations subject to the penalty provisions of this article. This remedy shall be separate and distinct from any revocation proceeding pursuant to this article.

§64B-19 **Severability.**

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

§64B-20 **Preemption.**

Nothing in this chapter is intended to preempt any state or federal law, statute, code, rule or regulation or lessen, change or alter any requirements imposed therein.

BE IT FURTHER ORDAINED as follows:

A. All Ordinances of the Borough of Woodbury Heights inconsistent with the provisions of this Ordinance be and are hereby repealed to the extent of any such inconsistency;

B. All Ordinances not inconsistent with the provisions of this Ordinance are hereby saved from repeal. Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional, unlawful or unenforceable by a Court of competent jurisdiction, all other parts or provisions of this Ordinance shall be severable and deemed lawful and enforceable;

C. This Ordinance shall take effect immediately upon passage, publication and as otherwise provided by law.

BOROUGH OF WOODBURY HEIGHTS

BY: _____
HARRY W. ELTON, JR., MAYOR

ATTEST:

_____
JANET PIZZI, CLERK/ADMINISTRATOR

NOTICE

The foregoing Ordinance was introduced at a meeting of the Mayor and Borough Council of the Borough of Woodbury Heights conducted on March 16, 2011, and will be considered for final hearing and adoption at a meeting to be held on the 20th day of April, 2011, at 7:30 P.M., at which time any objections hereto may be heard.

_____
JANET PIZZI, CLERK/ADMINISTRATOR

BOROUGH OF WOODBURY HEIGHTS
PUBLIC NOTICE

ORDINANCE 12-2011

AN ORDINANCE TO ESTABLISH REGISTRATION, INSPECTION AND LICENSING OF RESIDENTIAL RENTAL PROPERTIES FOR THE PURPOSE OF SAFEGUARDING THE HEALTH, SAFETY AND WELFARE OF TENANTS

I, Janet Pizzi, Clerk of the Borough of Woodbury Heights, hereby certify that the above Ordinance was duly adopted by the Borough Council of the Borough of Woodbury Heights at the Regular Meeting of Mayor and Borough Council held on the 20th day of April, 2011.

JANET PIZZI, BOROUGH CLERK