

*****ADOPTED NOVEMBER 14, 2016*****

DELANCO TOWNSHIP

ORDINANCE 2016 – 11

**AMENDING CHAPTER 234 OF THE CODE OF THE
TOWNSHIP OF DELANCO, GOVERNING RENTAL PROPERTY**

WHEREAS, the Township of Delanco regulates rental properties and requires inspection under its existing Chapter 234; and

WHEREAS, based upon recent developments in the regulation of single and duplex units, the Township desires to amend its regulations in accord with same, and in particular the decision in State v. Mill Village Apartments, A-0522-14T1 (App. Div. 2016) (holding municipalities have the authority to regulate, register and inspect rental units under N.J.S.A. 40:48-2.12(a), (m)).

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Mayor and Committee of the Township of Delanco that Chapter 234, Rental Property, of the Code of the Township of Delanco is hereby amended to read as follows:

Section One:

Chapter 234 of the Code of the Township of Delanco is hereby amended and supplemented as follows:

Article I: Registration and Licensing

§ 234-1. Definitions.

Unless the context clearly indicates a different meaning, the following words or phrases, when used in this article, 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 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 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 be designed for residence, for office or the operation of any industry or business or for any other type of independent use.

LARGE RENTAL FACILITY

A rental facility, as that term is defined herein, that consists of 20 or more rental units.

LICENSE

~~The license issued by the Township 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 "licensee" 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.

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.~~

REGISTRATION

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

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, office space is provided or space is provided for the operation of any industry or business or for storing equipment, supplies or personal items, whether furnished or unfurnished, for pay or other consideration, to one or more individuals and is meant to include apartments, apartment complexes, garages, offices or office complexes.

RENTAL UNIT

A unit which is available for lease or rental purposes and is meant to include individual apartments located within apartment complexes and individual offices or garages located within complexes.

§ 234-2. Registration.

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

§ 234-3. Registration and licensing; term; initial registration provisions.

Each rental unit shall be registered. The ~~license~~ registration term shall commence on April 1 and shall be valid until March 31 of the following calendar year, at which time it shall expire and a new registration shall be required. No rental unit shall hereafter be rented unless the rental unit is registered in accordance with this article.

§ 234-4. Registration forms; filing; contents.

~~Without in any way intending to infringe upon the requirements of N.J.S.A. 46:8-28, a~~All rental units shall be registered ~~and licensed~~ as provided herein. Every owner shall file with the Township Clerk or designee of the Township of Delanco or such other person as designated by the Township Committee 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 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 corporation, the names and addresses of the registered agent and corporate officers of said corporation, together with the telephone numbers for each of such individuals indicating where such individual may be reached both during the day and evening hours.

B.

If the address of any record owner is not located in Delanco Township or in Burlington County, the name and address of a person who resides in Burlington County and who is authorized to accept notices from a tenant and to issue receipts therefor 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 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 future 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. 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 Township Clerk or designee. As to each rental unit a list of the tenant(s) named on the lease, all adults residing under the lease, and the total number of individuals occupying the unit under the lease. Names of children of tenants occupying the premises need not be provided. Names of tenants are required in order to monitor changes in tenancy under this article.

I.

Such other information as may be prescribed by the Township.

J.

Notwithstanding the above, a large rental facility shall submit one master application with the following information attached:

(1)

Floor plan of building attached;

(2)

List of individual unit numbers with corresponding tenant information.

§ 234-5. Registration form; indexing and filing; public inspection fee.

The Township Clerk or designee shall index and file the registration forms. In doing so, the Township Clerk or designee shall follow the mandates of N.J.S.A. ~~46:8-28-140:48-2.12m~~, as amended and supplemented, so that the filing of the registration form will simultaneously satisfy the registration requirements of ~~N.J.S.A. 46:8-28-40:48-12m~~, to the extent that it applies to the property being registered and will also satisfy the registration requirements of this article.

§ 234-6. Registration form; amendments; filing.

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. With regard to large rental facilities, they shall file a biannual report reflecting any changes in tenancy, and no fee shall be required unless there is a change in ownership.

§ 234-7. Periodic inspections.

A.

Each rental unit shall be inspected at least once every twelve-month period, or upon change of occupancy, including by way of sublease, whichever occurs first.

B.

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

C.

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 Property Maintenance Code, Uniform Construction Code, BOCA Maintenance Code, Housing Code and/or Building Code and/or Uniform Fire Safety Act.

D.

Unsatisfactory inspection. In the event that the inspection(s) of a rental unit indicates the need for maintenance and repairs, such property shall not thereafter be registered ~~nor shall a license issue~~, 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 maintenance, repairs and corrections have been made so as to bring the property and rental unit into compliance with applicable code(s) and the property is thereafter subsequently reinspected, approved and registered ~~and licensed~~. In the event that the property is occupied when such conditions are discovered, all such corrections shall be made, and all required reinspections scheduled, 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 § 234-18 of this article. The inspector may approve the submission of a "completion of ordered repairs certification" in lieu of an on-site reinspection for minor repairs at the discretion of the inspector. Said "completion of ordered repairs certification" shall be submitted to the Municipal Clerk's office within two weeks of the failed inspection. Failure to submit said certification within two weeks shall require an on-site reinspection and payment of the appropriate reinspection fee.

E.

Notwithstanding the above, any rental unit that is covered by a state inspection pursuant to the New Jersey Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq., shall be permitted to submit proof of that inspection and approval issued by the State Department of Community Affairs. Such inspection and approval shall satisfy the requirements of this article for the purposes of that year and no fee shall be charged and no inspection shall be required by the Township during that calendar year. An annual registration form shall still be submitted to Township, in accord with § 234-4 of this article, with clear indication of reliance on the state inspection and that no municipal inspection or fee is required.

§ 234-8. 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/boardinghouses 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/boardinghouses 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/boardinghouses at all reasonable times. The owner and occupant of every rental facility, rental unit and rooming/boardinghouse shall individually and collectively be responsible to give the inspecting officer free access to the rental facility, rental unit and rooming/boardinghouse 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 article, an inspecting officer shall conduct an inspection as hereinbefore provided.

§ 234-9. Prohibitions on occupancy.

No person shall hereafter occupy any rental unit nor shall the owner permit occupancy of any rental unit within the Township of Delanco which is not registered ~~and licensed~~ in accordance with this article.

§ 234-10. Registration.

Upon the filing of a completed registration application form and payment of the prescribed fee and a satisfactory inspection, the owner shall be entitled to the issuance of a ~~license~~ registration. A

registration form shall be required for each rental unit, and a ~~license registration~~ shall be issued to the owner for each rental unit even if more than one rental unit is contained in the property.

§ 234-11. Fees.

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

A.

An annual registration fee of \$100 for each unit.

B.

A first reinspection fee of \$20 per rental unit; a second reinspection fee of \$40 per rental unit; a third and subsequent reinspection fee of \$100 per rental unit.

C.

If the owner of the property is a senior citizen who resides in a unit of the property and rents out the remaining unit 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 by the due date, a late fee surcharge of \$30 per unit per month will be assessed.

E.

Notwithstanding the above, a large rental facility shall pay an annual registration fee of \$50 for each unit.

§ 234-12. 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 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).

§ 234-13. Maximum number of occupants; posting.

A.

The maximum number of occupants shall be posted inside and outside each rental unit. It shall be unlawful for any such person, including the owner, agent, tenant or registered tenant, to allow a greater number of persons than the posted 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 in violation of this section shall be subject to the penalty provisions of § **234-18** of this article. Each rental unit shall place a placard at the general entry to the first floor front door, and if there are separate entrances to units within the building or separate entrances from outside the building to other units, at each such entrance, indicating the maximum number of occupants for the applicable

unit based upon the information on file with the Township as required in Subsection **B** below. Such placards must be at least 8 1/4 inches by 11 inches, with the number of occupants displayed at least four inches in height.

B.

Only those occupants whose names are on file with the Township as required in this article may reside in the ~~licensed~~ 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 shall be subject to the penalty provisions of § 234-18 of this article.

§ 234-14. Taxes and other municipal charges; payment precondition for registration ~~and license.~~

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 any other municipal assessments are paid on a current basis.

§ 234-15. Other rental unit standards.

All dwelling units shall be maintained in accordance with the Uniform Construction Code and the BOCA National Property Maintenance Code.

§ 234-16. Occupant(s) standards.

A.

Occupants. Only those occupants whose names are on file with the Township Clerk as provided in the Ordinance may reside in the ~~licensed~~ 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, sublessee or other person residing in said premises.

B.

Nuisance prohibited. No rental facility shall be conducted in any 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 Township of Delanco.

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 Township of Delanco 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 § 234-198 of this article.

§ 234-17. Revocation of license registration; procedure.

A.

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

(1)

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

(2)

Determination of a violation of this article at a hearing held pursuant to § **234-17B** herein.

(3)

Continuously renting the unit or units to a tenant or tenants who are convicted of a violation of the Noise Ordinance of the Township.

(4)

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

(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.

B.

Procedure; written complaint; notice; hearing.

(1)

A complaint seeking the revocation or suspension of a license registration may be filed by any one or more of the following: Director of Public Safety, Chief of Police, Construction Code Official, Housing Inspector, the Zoning Enforcement Officer or any other persons or office authorized to file such complaint. Such complaint shall be in writing and filed with the Township Clerk or designee. The complaint shall be specific and shall be sufficient to apprise the licensee registrant of the charges so as to permit the licensee registrant 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 Township Clerk or designee shall immediately inform the Township Committee, and a date for a hearing shall be scheduled which shall not be sooner than 10 nor more than 30 days thereafter. The Township Clerk or designee shall forward a copy of the complaint and a notice as to the date of the hearing to the licensee registrant and the agent, if any, at the address indicated on the registration form. Service upon the agent shall be sufficient.

(3)

The hearing required by this section shall be held before the Township Committee unless, in its discretion, the Township Committee determines that the matter should be heard by a hearing officer who shall be appointed by the Township Committee. If the matter is referred to a hearing officer, such officer shall transmit his findings of fact and conclusions of law to the Township Committee within 30 days of the conclusion of the hearing. The Township Committee 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 Township Committee, then the Township Committee shall render a decision within 30 days of the conclusion of the hearing. Following the hearing, a decision shall be rendered dismissing the complaint, revoking or suspending the ~~license~~ registration or determining that the ~~license~~ registration shall not be renewed or reissued for one or more subsequent ~~license~~ registration years.

(4)

A stenographic transcript 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.

(5)

The Township Solicitor or his designee shall appear and prosecute on behalf of the complainant in all hearings conducted pursuant to this section.

C.

Defenses.

(1)

It shall be a defense to any proceeding for the revocation, suspension or other disciplinary action involving a rental ~~license~~ registration by demonstrating that the owner has taken appropriate action and had made a good faith effort to abate the conditions or circumstances giving rise to the revocation proceedings, including but not limited to the institution of legal action against the tenant(s), occupant(s) or guests for recovery for the premises, eviction of the tenant(s) or otherwise.

§ 234-18. Violations and penalties.

A violation of this article shall be punishable as provided in Chapter 1, General Provisions, Article II, General Penalty.

Section Two: All Ordinances and provisions thereof inconsistent with the provisions of this Ordinance shall be and are hereby repealed to the extent of such inconsistency.

Section Three: If any section, paragraph, subdivision, clause or provision 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.

Section Four: This ordinance shall take effect immediately upon final passage and publication according to law.