

BOROUGH OF AVALON
CAPE MAY COUNTY
NEW JERSEY

ORDINANCE NO. 664-2012

AN ORDINANCE AMENDING CHAPTER 22 (LICENSING AND REGULATION OF RENTAL PROPERTIES) OF THE CODE OF REVISED GENERAL ORDINANCES, 2000 REGARDING LICENSING AND REGULATION OF RENTAL PROPERTIES

WHEREAS, Chapter 22, entitled "Licensing and Regulation of Rental Properties" of the Code of Revised General Ordinances of the Borough of Avalon establishes procedures for the licensing of rental properties in the Borough of Avalon; and

WHEREAS, Borough Council desires to amend certain provisions of Chapter 22 as set forth herein.

BE IT ORDAINED by the Borough Council, in the Borough of Avalon, County of Cape May and State of New Jersey, as follows:

SECTION 1: Chapter 22-1.3, entitled "Policy Statement" is amended to read as follows:

22-1.3 POLICY STATEMENT

It is the stated policy of the Borough that every property containing rental unit(s) within the Borough shall be required to register, submit to inspection and be licensed in order to rent or lease the same. It is the opinion of the Borough Council, the legislative body of the Borough, that such licensing is necessary for the protection of the public; to establish the location of all such rental units in order to protect and promote the enforcement of Land Use Ordinances, such as zoning, site plan, subdivision, and other similar ordinances of the Borough; to provide emergency response teams with adequate knowledge of the location of such units within the Borough in order to assist in timely, efficient and appropriate response in event of an emergency affecting such property or the occupants thereof; for the purpose of assisting in the periodic review and updating of the Municipal Master Plan; in order to assist the Borough in providing adequate facilities involving sewer, water, fire protection, solid waste disposal and related services; and otherwise to promote the public health, safety and welfare. Moreover, as recognized by the New Jersey State Legislature in enacting N.J.S.A. 40:48-2.12n many sure communities in this State, and the residents thereof, have experienced disturbances, damages and public expense resulting from carelessly granted and inadequately supervised rentals to irresponsible tenants by inept or indifferent landlords. Therefore, to preserve the peace and tranquility of such communities, including Avalon, for permanent residents, and to maintain viability as vacation spots for citizens of New Jersey as well as other States and Counties the Legislature has determined that it is necessary for municipal governing bodies to be able to take effective action to assure that excesses, when they occur, shall not be repeated, and that landlords offering rentals be held to sufficient standards of responsibility.

SECTION 2: Chapter 22-1.8, entitled "Conditions for Obtaining License" is amended to read as follows:

22-1.8 CONDITIONS FOR OBTAINING LICENSE

In order to qualify for a rental license, the following requirements shall be met:

- a. The rental unit shall be inspected and shall receive a satisfactory rating.
- b. All municipal taxes, water and sewer charges and other municipal assessments must be paid on a current basis.

Any property owner who rents property in violation of this section shall be subject to a fine in an amount not less than \$100.00 and not to exceed \$1,250.00. Each day that a tenant occupies a rental unit for which a rental license has not been issued shall constitute a separate violation of this ordinance by the owner of the rental unit.

SECTION 3: Chapter 22-1.8, entitled "Registration and License Fees" is amended to read

as follows:

22-1.15 b Registration and License Fees

At the time of filing the registration form the owner shall pay a fee in accordance with the following:

- \$150.00 Registration and License Fee
- \$ 50.00 Fire Inspection Fee - First Unit
- \$ 15.00 Fire Inspection Fee - Each Additional Unit

The Registration and license fees shall not be prorated for any partial license term.

SECTION 4: Chapter 22-1.12, entitled "Limitations on Occupancy, Area Requirements" is

amended to read as follows:

22-1.12 LIMITATIONS ON OCCUPANCY; AREA REQUIREMENTS

Each licensee granted a licensee pursuant to this section shall be permitted to lease or rent the rental unit to a number of tenants and occupants, 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 (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) person shall contain at least fifty (50) square feet of floor space for each occupant thereof except that any such room in any building or structure which is in existence and for which a certification of occupancy has been issued as of March 31, 1998 shall be deemed to accommodate two (2) people notwithstanding the fact that such room does not have a minimum of one hundred (100) square feet as required by this section.
- b. Rental units shall not be occupied by more occupants than permitted by the Minimum Occupancy Area Requirements of the table hereinafter set forth.
- c. Combined living room and dining room spaces shall comply with the requirements of the table hereinafter set forth if the total area is equal to that required for separate rooms and if the space is so located that it functions as a combination living room/dining room.
- d. Prohibited occupancy: Kitchens, nonhabitable spaces and interior public areas shall not be occupied for sleeping purposes.

MINIMUM OCCUPANCY AREA REQUIREMENTS

Minimum occupancy area in square feet (square meters)

<u>SPACE</u>	<u>1-2 OCCUPANTS</u>	<u>3-5 OCCUPANTS</u>	<u>6 OR MORE OCCUPANTS</u>
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Living Space	No requirements	120 (11.16)	150 (13.95)
Dining Room	No Requirements	80 (7.44)	100 (9.30)
Kitchen	50 (4.65)	50 (4.65)	60 (5.58)

SECTION 5: Chapter 22-2.1, entitled "Grounds for Revocation, Suspension or Probation" is amended to read as follows:

22-2.1 GROUNDS FOR REVOCATION, SUSPENSION OR PROBATION

In addition to any other penalty prescribed herein, an owner may, in accordance with the provisions of N.J.S.A. 40:52-2 and N.J.S.A. 40:48-2, be subject to revocation or suspension of a rental license or having such license placed in probationary status or other appropriate disciplinary action upon the happening of one or more of the following:

- a. Conviction of a violation of this chapter in the municipal court or any other court of competent jurisdiction.
- b. Following a determination by the Borough after a hearing that a violation of this chapter has occurred.
- c. A pattern of renting the unit(s) to one or more individuals or groups of individuals who during any one twelve (12) month period (is) (are) convicted of two (2) violations of the Borough Noise Ordinance or a violation of any other Borough Ordinance dealing with disorderly, indecent, tumultuous or riotous conduct which convictions are 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). In order to support disciplinary action under this section it need not be shown that convictions are of the same individual(s). It shall be sufficient to demonstrate that such convictions involved conduct occurring on two (2) separate occasions over any one twelve (12) month period.
- d. A patter of permitting the rental unit(s) to be occupied by more than the maximum number of occupants as defined herein.
- e. 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.
- f. A false, misleading, or fraudulent statement made in connection with the registration, licensing or inspection of a rental unit or units, under this chapter.
- g. A pattern of conduct which results in creating, maintaining, permitting or suffering this existence of any of the following conditions at or about the rental unit:
 1. A nuisance as that term is defined by N.J.S.A. 2C:33-12 provided, however, that a conviction of such person or persons under that statute shall not be required in order for the Borough to take action relating to the rental license under this section;
 2. The failure to comply with any directive of the Borough concerning the abatement of conduct prohibited by paragraph 1, above.

- h. If the licensee, who is an owner of the property affected by the license or upon which the licensed business or activity is conducted, has failed to pay the taxes due on the property for at least three consecutive quarters.

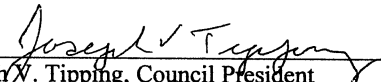
It shall be a defense to any proceeding for the revocation or suspension of a rental license to demonstrate that the owner has taken appropriate action and has made a good faith effort to abate the conditions or circumstances giving rise to the revocation or suspension proceeding including but not limited to the institution of legal action against the tenant(s), occupant(s) or guests for recovery of the premises; eviction of the tenant(s) or otherwise. Evidence of such actions on the part of the owner or managing agent, however, shall not preclude the Borough from placing the rental license in probationary status as provided in this chapter, nor shall it preclude the Borough from instituting action pursuant to Article 4 of this chapter.

SECTION 6: REPEALER: All Ordinances or parts of Ordinances which are in conflict or inconsistent herewith are hereby repealed to the extent of such inconsistency or conflict only.

SECTION 7: SEVERABILITY: If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

SECTION 8: EFFECTIVE DATE: This Ordinance shall take effect immediately upon final adoption and publication and in the manner prescribed by law.

Motion: Council Vice President
Ellenberg

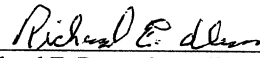

Joseph W. Tipping, Council President

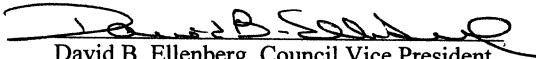
Seconded: Councilman Dean

ABSENT
Charles P. Covington, Councilman

Dated: October 24, 2012


Amy W. Kleuskens
Borough Clerk


Richard E. Dean, Councilman


David B. Ellenberg, Council Vice President

ABSENT
Nancy M. Hudanich, Councilwoman

ROLL CALL VOTE:

- AYES----- Dean, Ellenberg, Tipping
- NAYES----- None
- ABSTAINING----- None
- ABSENT----- Covington, Hudanich

NOTICE OF PENDING ORDINANCE

The Ordinance published herewith was introduced and passed on first reading of the Municipal Council of the Borough of Avalon on October 10, 2012, 2012. It will be further considered for second reading, public hearing and final adoption at a meeting of said Council to be held on the 24th day of October, 2012 in the Meeting Room of the Municipal Building, Avalon, New Jersey at 7:15 p.m. and during the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's Office in said Municipal Building to the members of the general public who shall request the same.

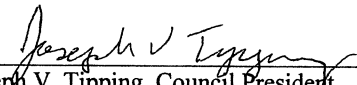
AMY W. KLEUSKENS
Borough Clerk

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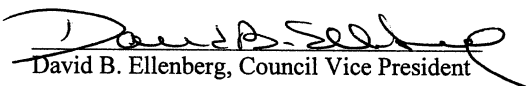
Seconded: Councilman Dean

Dated: October 24, 2012

ABSENT
Charles P. Covington, Councilman


Amy W. Kleuskens
Borough Clerk


Richard E. Dean, Councilman


David B. Ellenberg, Council Vice President

ABSENT
Nancy M. Hudanich, Councilwoman

ROLL CALL VOTE:

AYES----- Dean, Ellenberg, Tipping
NAYES----- None
ABSTAINING----- None
ABSENT----- Covington, Hudanich

NOTICE OF ADOPTION

The aforementioned ordinance was duly passed by the Borough Council of the Borough of Avalon, Avalon, New Jersey, on first reading at a meeting of said Council held on the 10th of October, 2012 and was taken up for second reading, final passage and was adopted at a meeting of said Council held on the 24th day of October, 2012 in the Meeting Room of the Municipal Building, Avalon, New Jersey at 7:15 p.m. Said ordinance was approved by the Mayor on October 24, 2012.

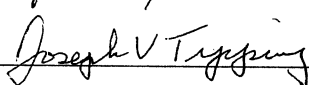
AMY W. KLEUSKENS
Borough Clerk

ORDINANCE NO. 664-2012

Passed by Council of the Borough of Avalon, New Jersey

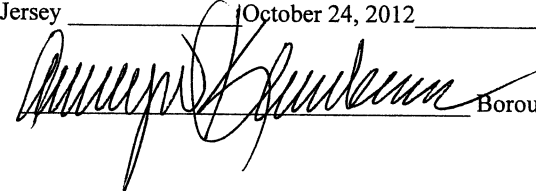
October 24, 2012

Attest:  Borough Clerk

Attest:  President of Council

Presented by me to the Mayor of the Borough of Avalon,

New Jersey October 24, 2012

 Borough Clerk

Approved and signed by me October 24, 2012

 Mayor
