

CITY OF ABSECON

ORDINANCE 09-2015

AN ORDINANCE OF THE CITY OF ABSECON CREATING SECTION 251
OF THE CODE OF THE CITY OF ABSECON ENTITLED "RENTAL PROPERTY,
REGISTRATION AND CERTIFICATE OF HABITABILITY"

WHEREAS, uninspected rental units within the City of Absecon can lead to hazardous conditions and can negatively impact the health, safety and welfare of residents of the City of Absecon; and

WHEREAS, by establishing a rental registration ordinance substandard rental properties within the City of Absecon will be required to conform with all appropriate Codes and ordinances in effect within the City; and

WHEREAS, authorizing officials of the City of Absecon to inspect rental properties shall prevent tenants from living in substandard properties.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF ABSECON, NEW JERSEY:

1. **SECTION 251-1** of the Code of the City of Absecon shall read as follows:

Definitions. The following words or phrases when used in this Section shall have the following meanings:

Agent or Manager. An 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 Section. The term does not necessarily mean a licensed real estate broker or sales person of the State of New Jersey however, such term may include a licensed real estate broker or sales person of the State of New Jersey if such a person is designated by the owner as his agent.

Building. Any building or structure or part thereof used for human habitation, use or occupancy, and includes any accessory buildings and appurtenances belonging thereto or usually enjoyed therewith.

Change of Occupancy Inspection. The inspection which is conducted when a change of tenancy has occurred in a dwelling unit.

Dwelling Unit. Any room or rooms, suite or part thereof, 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 other servants, agents or employees. This definition applies only to those dwelling units, including single family residences, which are available for lease or rental purposes.

Habitable Room. A room or enclosed floor space within a dwelling unit used or designed to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments laundries, pantries, foyers or communicating corridors, closets and storage space.

Initial Inspection. The first inspection each year for a specific property to obtain a certificate of habitability or a change of occupancy inspection, whichever occurs first.

Lodging Unit. A room or group of rooms containing no cooking facilities, used for living purposes by a separate family or group of persons living together or by a person living alone, within a building.

Manager. See "agent".

Owner. The person who owns, purports to own or exercises control over any building.

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

Reinspection. The inspection which occurs after a failed initial inspection.

Rental Unit. Includes the terms dwelling, building, dwelling unit, habitable room or lodging unit as defined by this Section. This definition shall not apply to any single family home which is not available for rental purposes.

Secondary Reinspection. Any inspection which occurs after a failed reinspection.

Sleeping Accommodations. The number of individuals who may be properly accommodated in the beds of the sleeping facilities located within a rental unit. A standard single bed shall count as a proper accommodation for one individual and a standard double bed as a proper accommodation for two individuals.

Tenant. The person or persons to whom a rental unit is leased or rented by the owner.

2. **SECTION 251-2** of the Code of the City of Absecon shall read as follows:

Registration Required. All rental units shall hereafter be registered with the Construction Official or his designee on forms which shall be provided for that purpose which shall be obtained from the Construction Official or his designee. Such registration shall occur on an annual basis as provided herein.

3. **SECTION 251-3** of the Code of the City of Absecon shall read as follows:

Term of Registration. Each rental unit shall be registered initially and inspected at least one (1) time annually. Once a rental unit is registered and has passed inspection a certificate of habitability shall issue which is valid for a period of one year. No rental unit shall hereafter be rented unless the rental unit has been registered and inspected in accordance with this section.

4. **SECTION 251-4** of the Code of the City of Absecon shall read as follows:

Inspections.

A. Each rental unit shall be inspected at least once a year. For the initial year of 2015 all rental units must be registered within sixty (60) days of the adoption of this Ordinance. It is specifically the purpose of this Ordinance that any registration is subject to the initial inspection which is to occur during 2015 and said registration can be revoked or not issued without the necessity of a hearing for any rental unit which has registered but failed the initial inspection.

B. Such inspection shall be for the purpose of determining compliance with the Municipal Land Use Article, the Housing Code and/or the UCC Code, the Uniform Fire Code of the State of New Jersey and the BOCA National Property Maintenance Code.

C. The fee for registration shall be \$25.00, the fee for an inspection shall be \$75.00 and the fee for any reinspection shall be \$25.00.

D. In the event that any inspection, reinspection or secondary reinspection of a rental unit does not result in a satisfactory determination, such property shall not thereafter be certified as habitable and any owner of the property or his agent shall not lease or rent such property, nor shall any tenant occupy the property until the necessary repairs have been made to bring the property and rental unit into compliance with the applicable Code and the property thereafter subsequently becomes certified as habitable. When unsatisfactory conditions are discovered, all such repairs shall be made as described by the applicable Codes referred to in Subsection B of this section. In the event that said Codes do not specify a date by which repairs shall be made, then in that event all repairs shall be made within sixty (60) days from the date of notification of a failed inspection, reinspection or secondary reinspection, and if not made within the time period the owner shall be deemed in violation of this article and every day that the violation continues shall constitute a separate offense. If, however, the property is occupied at any time any inspection, reinspection or secondary reinspection takes place, which inspection, reinspection or secondary reinspection results in an unsatisfactory condition being discovered, then in that event the tenants/occupants shall be permitted to remain in the property, with the owner being given the time allowed by Code or a sixty (60) day time period as mentioned above to correct the deficiency. If the deficiency is not corrected within the sixty (60) day period, then in that event, the tenant/occupant shall be required to vacate. If at the time of any inspection, reinspection or secondary reinspection an unsatisfactory condition is found, which unsatisfactory condition is deemed to be a immanent hazard as determined by the Inspector, then in that event the Construction Official shall have a right to cause immediate vacating of the property in order to protect the tenant/occupant from any imminent hazard within the unit as inspected.

E. In addition to the registration, inspection and reinspection fee set forth as required by this article, there shall be an additional fee for each and every secondary reinspection which occurs at any one property during any one calendar year.

5. **SECTION 251-5** of the Code of the City of Absecon shall read as follows:

Certificate of Habitability Required. Subsequent to December 31, 2015 no person shall hereafter occupy any rental unit nor shall the owner permit occupancy of any rental unit within the City of Absecon if said rental unit has not been registered and received a Certificate of Habitability in accordance with this Article.

6. **SECTION 251-6** of the Code of the City of Absecon shall read as follows:

Issuance of Certificate of Habitability. Upon the filing of the completed registration form, successful completion of the necessary inspections and payment of the prescribed fees, an owner shall be entitled to the issuance of a Certificate of Habitability. Each Certificate of Habitability shall specify the number of allowed rental units and the number of occupants allowed in each rental unit. For the purpose of this Article, each condominium unit shall be treated as a separate and distinct rental unit if the same is leased.

7. **SECTION 251-7** of the Code of the City of Absecon shall read as follows:

Fees. At the time of filing the rental registration form, the owner shall pay all necessary fees.

8. **SECTION 251-8** of the Code of the City of Absecon shall read as follows:

Registration Required. Without in any way intending to infringe upon the requirements of N.J.S.A. 46:8-28 or the tenant registration required by this City, all rental units shall be

registered as provided herein. Every owner, either personally or through his agent, shall file with the Construction Official or his designee a registration form for any rental unit located within the City of Absecon. Said registration form shall include the following information:

- A. The name and address of the record owner of the premises and the record owner of the rental premises, if not the same person. In the case of a partnership, the names and addresses of all general partners shall be provided together with the telephone numbers for each individual indicating where such individuals may be reached during both daytime and evening hours.
- B. If the record owner is a corporation, the name and address of the registered agent and the name and address of the person to be contacted for any reason regarding the rental unit, if other than the Registered Agent. All Shareholders owning ten percent (10%) or more of the shares of the corporation shall also be listed.
- C. If the address of any record owner is not located in the City of Absecon the owner shall designate an agent or manager who resides in the City of Absecon, or a real estate agent or broker who is employed at an office located within the City of Absecon, and who is authorized by the owner to perform any duty imposed upon the owner by this article.
- D. The name, address and telephone number of an individual representative of the record owner or manager or agent located in the City of Absecon who may be reached or contacted at any time in the event of an emergency affecting the premises or any rental unit 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 record mortgage on the premises.
- F. If fuel oil is used to heat the building and it is the landlord's responsibility to furnish heat to the building, the name and address of the fuel oil dealer servicing the building and the grade of fuel oil used.
- G. As to each rental unit, specification of the exact number of sleeping rooms contained in the rental unit and the exact number of sleeping accommodations contained in each of the sleeping rooms, identifying each sleeping room specifically by number and location within the rental unit and by the square footage thereof. In order to satisfy the requirements of this provisions, an owner shall submit a floor plan which shall become a part of the registration application and which shall be attached to the registration form when filed with the Fire Official or his designee.
- H. Such other information as may be required from time to time by the City of Absecon.

SECTION 251-9 of the Code of the City of Absecon shall read as follows:

Public Access To Registration Forms. The Construction Official or his designee shall index and file the rental registration form and make it reasonably available for public inspection. In doing so, the Construction Official or his designee shall follow the mandates of N.J.S.A. 46:8-28.1, as amended and supplemented, so that the filing of the rental 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 rental registration requirements of this Article. The Construction Official or his designee shall maintain a Master Index of all such rental registration forms and any person may obtain from the Construction Official or his designee a list of all properly registered rental units upon payment of the appropriate fees.

SECTION 251-10 of the Code of the City of Absecon shall read as follows:

Amended Registration Forms. Every person required to file a rental registration form pursuant to this Article shall file an amended rental registration form within twenty (20) days after any change in the information required to be included thereon.

SECTION 251-11 of the Code of the City of Absecon shall read as follows:

Form To Be Provided To Occupant; Exceptions. 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 guest house registered with the State of New Jersey pursuant to the Hotel/Motel Multiple Dwelling Act. This provision may be complied with by posting a copy of the rental registration form in a conspicuous place within the rental unit.

SECTION 251-12 of the Code of the City of Absecon shall read as follows:

Limitation On Occupancy. Each owner of a unit registered pursuant to this Article shall be permitted to lease or rent said rental unit to a number of registered tenants, which number shall not exceed the number which is computed in accordance with the following:

- A. Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor area for each occupant thereof.
- B. Rental units shall not be occupied by more occupants than permitted by the minimum occupancy area requirements as set forth in this Article or the applicable State or nationwide Code adopted within the City of Absecon. If there is a discrepancy regarding the number of occupants permitted pursuant to this Article and any such Code, the requirements of the Code shall govern.
- C. Combined living room and dining room spaces shall comply with the requirements of this Article.
- D. The maximum allowable number of people on any deck shall be one person per nine square feet.

SECTION 251-13 of the Code of the City of Absecon shall read as follows:

Violation Of Occupancy Requirements; Enforcement.

- A. It shall be unlawful and in violation of this Article for an owner or tenant of a any registered rental unit to allow a number of people greater than the permitted maximum number of occupants to rent or occupy any dwelling unit. It shall also be a violation of this Article to lease a rental unit to a number or group of tenants which exceeds the total number of sleeping accommodations which has been established for said rental unit pursuant to this Article. It shall also be unlawful for any tenant or an owner of a dwelling unit to knowingly permit a number people greater than the maximum number of sleeping accommodations to sleep in or

occupy the dwelling unit overnight. It shall also be unlawful for a tenant or an owner to allow a number of people greater than the maximum number of people permitted to occupy the decks or porches of a rental area to occupy the decks or porches of said rental unit.

- B. Members of the police department or the City of Absecon and officials of the Absecon Construction Office are authorized to issue a summons for a violation of this Article to any owner or tenant that is found to be in violation.

SECTION 251-14 of the Code of the City of Absecon shall read as follows:

Payment Of Taxes And Charges Required. No rental unit shall be issued a Certificate of Habitability unless all municipal taxes, water charges, sewer charges and other municipal assessments or any fees owed pursuant to this Article are paid on a current basis.

SECTION 251-15 of the Code of the City of Absecon shall read as follows:

Revocation of Certificate Of Habitability; Hearing.

- A. Grounds. In addition to any other penalties prescribed herein an owner may be subject to a revocation or suspension of a Certificate of Habitability issued hereunder upon the happening of one or more of the following:
- (1) Conviction of a violation of this Article in the Municipal Court of the City of Absecon or any other Court of competent jurisdiction.
 - (2) Determination of a violation of this Article at a hearing held pursuant to Subsection B herein.
 - (3) A rental unit is permitted to be occupied by more than the maximum number of occupants as permitted under this Article.
 - (4) Maintaining the rental unit or units on the property in which the rental unit is a part in a dangerous condition likely to result in injury to person or property.
- B. Procedures; written complaints; notice.
- (1) A complaint seeking revocation or suspension of the Certificate of Habitability may be filed by any one or more of the following officials of the City of Absecon: Chief of Police, Construction Code Official, Zoning Enforcement Officer or their designees. Such complaint should be in writing filed with the City Administrator or her designee. The complaint should be specific and should be sufficient to apprise the owner or tenant of the charges so as to permit a proper defense. The individual 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 City Administrator shall set a date for a hearing which shall not be sooner than ten (10) nor more than thirty (30) days thereafter. The City Administrator or her designee shall forward a copy of the complaint and a notice as to the date of the hearing to the owner, manager or agent, if any at the address indicated on the registration form. Notice served upon the manager or agent shall be

deemed sufficient for the purposes of this article.

- (3) The hearing required by this article shall be held before the City Administrator unless in her discretion she determines that the matter should be heard by a Hearing Officer who shall be appointed by the City. If the matter is referred to a Hearing Officer such Officer shall transmit his findings of fact and conclusion of law to the City Administrator within thirty (30) days of the conclusion of the hearing. The City Administrator 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 City Administrator, then the City Administrator shall render a decision within thirty (30) days of the conclusion of the hearing. Following the hearing, a decision shall be rendered dismissing the complaint, revoking or suspending the Certificate of Habitability or determining that the Certificate of Habitability shall not be renewed or reissued for one or more subsequent licensed years.
- (4) A tape recording of the hearing shall be kept for a period of forty-five (45) days after said hearing. A transcript of said hearing will be supplied upon request to the City of Absecon and upon payment of an appropriate fee as determined by the length of the hearing. All witnesses shall be sworn prior to testifying. The strict Rules of Evidence shall not apply and evidential rules and burden of proof shall be that which generally control administrative hearings.
- (5) The City Solicitor or his designee shall appear and prosecute on behalf of the complainant in all hearings conducted pursuant to this section.

SECTION 251-16 of the Code of the City of Absecon shall read as follows:

Certificate Of Habitability.

- (A) Every owner or agent shall obtain from the City of Absecon a Certificate of Habitability for each rental unit which is rented in the City of Absecon.
- (B) Every owner or agent of a rental unit shall obtain from the City of Absecon an initial Certificate of Habitability for each rental unit required to obtain the same pursuant to this article. For the initial years of 2015 and 2016, all rental units must receive a Certificate of Habitability on or before January 1, 2016. Every owner or agent of a rental unit which requires a Certificate of Habitability shall obtain said Certificate from the City of Absecon at any time as required by this article, including but not limited to any time a change in one or more tenants occurs or any time the premises are rented or leased.
- (C) Once an application for a Certificate of Habitability has been made to the City of Absecon, the appropriate officials shall conduct an inspection of the rental unit to determine if the same complies with all applicable articles, codes, regulations and statutes. If the determination is made that a rental unit is in compliance with all ordinances, codes, regulations and statutes and it is further determined that the appropriate fee has been paid for a Certificate of Habitability and all municipal taxes, water charges, sewer charges and other municipal assessments are paid in full, said Certificate of Habitability will be issued by the appropriate officials of the City of Absecon.

- (D) By filing an application either personally or through an agent, the owner consents to representatives of the City of Absecon entering the premises for the purpose of conducting an inspection.

SECTION 251-17 of the Code of the City of Absecon shall read as follows:

Violations And Penalties. In addition to the penalties set forth in N.J.S.A. 46:8-35, any person who violates any provision of this article shall, upon conviction in the Municipal Court of the City of Absecon or such other court having jurisdiction, be liable for a fine not exceeding One Thousand Dollars (\$1,000.00) or imprisonment for a term not exceeding ninety (90) days; or by a period of community service not exceeding 90 days, or by any one or more of the above as determined by the Municipal Court Judge. Each day that a violation occurs shall be deemed a separate and distinct violation subject to the penalty provisions of this article.

SEVERABILITY

If any section or part of this Chapter is deemed to be invalid or illegal in any Court of competent jurisdiction then said part is severable from this Chapter as a whole and the remaining sections or parts of this chapter shall remain in full force and effect.

EFFECTIVE DATE

This ordinance shall become effective upon passage and publication pursuant to law.

REPEALER. Any ordinance or section thereof, inconsistent with this ordinance shall be repealed.

DATED: July 16, 2015

SIGNED:


John R. Armstrong, Mayor

ATTEST:


Carie A. Crone, RMC, Municipal Clerk

Passed on first reading at a regular meeting of the Municipal Council held on July 2, 2015.
Laid over and advertised for public hearing and final adoption on July 16, 2015. Notice is
hereby given that the foregoing Ordinance was approved for final adoption by the Municipal
Council of the City of Absecon at a regular meeting held on July 16, 2015.