

**12-12**  
**ORDINANCE OF THE BOROUGH OF MERCHANTVILLE,  
COUNTY OF CAMDEN, STATE OF NEW JERSEY  
AMENDING CHAPTER 66, RENTAL PROPERTIES, IN THE  
CODE OF THE BOROUGH OF MERCHANTVILLE**

**BE IT ORDAINED** by the Mayor and Borough Council of the Borough of Merchantville, County of Camden, and State of New Jersey that Chapter 66, Rental Properties, is hereby added to the Code of the Borough of Merchantville, as follows:

**Article I.**

**Registration and Licensing; Inspections; Property and Occupancy Standards**

**ARTICLE I.            ARTICLE I.            SECTION 66-1.            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 chapter. 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/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.

**DWELLING UNIT** - Any room or rooms or suite or apartment, including room or rooms in a rooming/boarding house, 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 improvements connected with use or occupancy thereof.

**LICENSE** - The license issued by the Borough Clerk or designee attesting that the rental unit has been properly registered in accordance with this chapter.

**LICENSEE** - The person to whom the license is issued pursuant to this chapter. 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 that 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 portion thereof consisting of up to one or more units which is kept, used, maintained, advertised or held out to be a place where residential or commercial accommodations, whether furnished or unfurnished, are supplied for pay or other consideration, to one or more persons.

**RENTAL UNIT** - A unit which is available, whether residential or commercial, for lease or rental purposes. A rental unit shall not include that portion of a rental facility occupied by the owner. A garage or garages, in any zone, used by a person or entity who is not the owner of the property in which the garage is, or garages are, situate, shall be considered a rental unit under this definition.

**ARTICLE II.            ARTICLE I.            SECTION 66-2.            Registration.**

All rental units within a rental facility hereinabove defined shall be registered with the Borough Clerk or designee of the Borough of Merchantville, or such other person as designated by the Mayor and 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 as provided hereinafter.

**ARTICLE III.            ARTICLE I.            SECTION 66-3.            Registration and licensing;  
term; initial registration  
provisions.**

Each rental unit within a rental facility hereinabove described shall be registered for a period of one year or with each change of occupancy, whichever shall occur first. Any license which has been granted prior to the adoption of the revisions to this chapter shall not be affected, but the rental facility must nevertheless be registered, inspected and licensed in accordance with this chapter. No rental facility, or portion thereof, shall hereafter be rented unless the rental facility and units therein are registered and licensed in accordance with this chapter.

**ARTICLE IV.            ARTICLE I.            SECTION 66-4.            Registration forms; filing;  
contents.**

Without in any way intending to infringe upon the requirements of N.J.S.A. 46:8-28, all rental facilities shall be registered and licensed as provided herein. Every owner shall file with the Borough Clerk or designee of the Borough of Merchantville, or such other person as designated by the Mayor and 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 in Merchantville or in Camden County, the name and address of a person who resides in Camden 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 or the owner, if domiciled in Camden County, who may be reached or contacted at any time in the event of an emergency affecting the rental facility 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 rental facility 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 Borough Clerk or designee.

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

**ARTICLE V.            ARTICLE I.            SECTION 66-5.            Registration form; indexing and filing; public inspection; fee.**

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 chapter. The owners shall post the certificate of inspection or license.

**ARTICLE VI.            ARTICLE I.            SECTION 66-6.            Registration form; amendments; filing.**

Every person required to file a registration form pursuant to this chapter 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.

**ARTICLE VII.            ARTICLE I.            SECTION 66-7.            Periodic inspections.**

A.        Each rental unit within the rental facility shall be inspected at least once every thirty six (36) months.

B.        Such inspections shall be performed by such person, persons or agency duly authorized and appointed by the Borough of Merchantville, and inspections made by persons or an agency other than the duly authorized and appointed person, persons or agency of the Borough of Merchantville 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 Uniform Fire Safety Act.

D. Unsatisfactory inspection. In the event that the inspection(s) of a rental unit within the rental facility are deemed unsatisfactory, 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 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 30 days, and, if not made within that time period, the owner shall be deemed in violation of this chapter, and, every day that the violation continues shall constitute a separate and distinct violation, subject to the penalty provisions of Section 66-18 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 chapter, for good cause shown.

**ARTICLE VIII.      ARTICLE I.      SECTION 66-8.      Access to the premises for inspections and/or 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 to promote the purposes of this chapter.

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 chapter 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 conduct an inspection as hereinbefore provided.

**ARTICLE IX. ARTICLE I. SECTION 66-9. 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 Merchantville, which is not registered and licensed in accordance with this chapter.

**ARTICLE X. ARTICLE I. SECTION 66-10. License.**

A. Upon the filing of a completed registration form, payment of the prescribed fee and a satisfactory inspection, the owner shall be entitled to the issuance of a license commencing of the date of issuance, valid for a period of one year. As hereinbefore stated, should a change of occupancy occur within the registration period, the license shall be void and, upon the filing of a completed registration form, payment of the prescribed fee and a satisfactory inspection, the owner shall be entitled to the issuance of a new license commencing on the date of issuance, valid for a period of one year.

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

**ARTICLE XI. ARTICLE I. SECTION 66-11. Fees.**

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:

- A. A registration fee of Fifty Dollars (\$50.00) per rental unit.
- B. If the owner of the property is a senior citizen who resides in a unit of the rental facility and rents out the remaining unit(s), and would otherwise qualify under the State of New Jersey property tax deduction under N.J.S.A. 54:4-8.4 1, there shall be no fee.
- C. An inspection fee of Fifty Dollars (\$50.00) per rental unit shall be charged pursuant to property registrations required under this article. Fees for the re-inspection of rental units shall be charged pursuant to property inspections performed under this article as follows:
  - (1) For the first re-inspection, there shall be no fee.
  - (2) For the second re-inspection, there shall be a fee of Twenty Dollars (\$20.00).
  - (3) For the third and each subsequent re-inspection, there shall be a fee of Thirty Dollars (\$30.00).
- D. If any fee is not paid within 30 days of its due date, a late fee surcharge of Twenty Dollars (\$20.00) shall be assessed in addition any fees outstanding.

**ARTICLE XII.      ARTICLE I.      SECTION 66-12.      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 chapter. This particular 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 unit(s).

**ARTICLE XIII.      ARTICLE I.      SECTION 66-13.      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 Section 66-18 of this chapter.

B. Only those occupants whose names are on file with the Borough of Merchantville, as required in this chapter, 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 Section 66-18 of this chapter.

**ARTICLE XIV.      ARTICLE I.      SECTION 66-14.      Taxes and other municipal charges; precondition of payment for registration and license.**

No rental unit may be registered and no license shall issue for any property containing a rental unit unless all municipal taxes and any other municipal assessments of the property have been paid by the owner of the property and are current on the date of the application.

**ARTICLE XV.      ARTICLE I.      SECTION 66-15.      Other rental unit standards.**

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

**ARTICLE XVI.      ARTICLE I.      SECTION 66-16.      Occupant(s) standards.**

A. Occupants. Only those occupants whose names are on file with the Borough Clerk, as provided in this chapter, may reside in the licensed premises. It shall be unlawful for any other



(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 the person or property.

B. Procedure; written complaint; notice; hearing.

(1) A complaint seeking the revocation or suspension of a license may be filed by any one or more of the following: Director of the Office of Code Enforcement, Chief of Police, Construction Code Official, Code Enforcement Officer, Fire Inspector or any other persons or officers 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 Borough Clerk or designee shall immediately inform the Mayor and Borough Council, and a date for a hearing shall be scheduled, which shall not be sooner than 15 nor more than 30 days thereafter. The Borough Clerk or designee shall forward a copy of the complaint and a notice as to the date of the hearing to the licensee 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 Mayor and Borough Council unless, in its discretion, the Mayor and Borough Council determines that the matter should be heard by a hearing officer, who shall be appointed by the Mayor and Borough Council. If the matter is referred to a hearing officer, such officer shall transmit his findings of fact and conclusions of law to the Mayor and Borough Council within 30 days of the conclusion of the hearing. The Mayor and Borough 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 Mayor and Borough Council, then the Mayor and Borough Council 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 or determining that the license shall not be renewed or reissued for one or more subsequent license 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 Borough Solicitor 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 tenant(s), occupant(s) or guests for recovery of the premises, eviction of the tenant(s) or otherwise.

**ARTICLE XVIII. ARTICLE I. SECTION 66-18. Violations and penalties.**

A. Any person, firm or corporation who or which shall violate any of the provisions of this Chapter shall, upon conviction thereof, be liable for the fines and penalties as set forth in Section 1-14 of the Code of the Borough of Merchantville.

B. The continuation of such violation for each successive day shall constitute a separate offense, and the person, firm or corporation allowing a continuation of the violation may be punished, as provided above, for each as a separate offense.

**Article II.**

**Vacancies**

**ARTICLE XIX. ARTICLE II. SECTION 66-19. Applicability; exemptions.**

A. The owners of any dwelling units 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 Section 66-20A 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 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 Section 66-20B 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.

**ARTICLE XX.      ARTICLE II.      SECTION 66-20.      Time limit for filling  
vacancies; exception.**

A. All such units that have been rental units shall be rented and occupied by a new tenant within two 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 Planning Board under the provisions of Section 66-23 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 two months after the property becomes vacant, except where this requirement has

been waived by the Planning Board under the provisions of Section 66-23 below, in which event the unit shall be occupied within the time period specified in the waiver.

**ARTICLE XXI.      ARTICLE II.      SECTION 66-21.      Notification of vacancy.**

A.      The owner of any rental unit which is still vacant 30 days 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; or

(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:

(1)      The address of the unit and its location within the building;

(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 30 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 and which is vacant for more than 30 days shall notify the Zoning Officer within five days, in writing, of such vacancy. Such notification shall include the name, address and telephone number of the owner and any other relevant information, such as identification of an attorney, estate or relatives with knowledge of the status of ownership.

**ARTICLE XXII. ARTICLE II. SECTION 66-22. Notification of occupancy.**

A. Within 30 days after submission of the report required under Section 66-21 above, the landlord (in those cases involving rental units) shall notify the Zoning Officer that the unit has been rented and occupied, with the name or names of the new tenant or tenants and the terms of the tenancy. Failure to have the unit rented and occupied within 60 days after the end of the preceding tenancy, except where a waiver has been granted by the Planning Board, shall be considered a violation of this article and shall be subject to the penalties set forth in Section 1-14 of the Code.

B. Within 30 days after submission of the report required under Section 66-21 above, the owner (in those cases involving rental units) shall notify the Zoning Officer that the unit has been occupied, with the name or names of the new occupant or occupants. Failure to have the unit occupied within 60 days from the time that the unit became vacant, except where a waiver has been granted by the Planning Board, shall be considered a violation of this article and shall be subject to the penalties set forth in Section 1-14 of the Code.

**ARTICLE XXIII. ARTICLE II. SECTION 66-23. Waivers of requirements.**

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 Planning 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.

C. 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.

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

E. The following circumstances shall constitute grounds for the granting of a waiver by the Planning Board:

(1) An 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.

F. 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 Planning 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.

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

**ARTICLE XXIV. ARTICLE II. SECTION 66-24. 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, and any civic organization and any appropriate municipal agency, may file a complaint of violation of this article with the Merchantville Municipal Court.

**ARTICLE XXV. ARTICLE II. SECTION 66-25. Vacancies upon effective date of regulations.**

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 article, shall be required to file the notification required under Section 66-21 of this article within 15 days of the effective date of this article.

**ARTICLE XXVI.**

All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent that they are inconsistent herewith.

**ARTICLE XXVII.**

This Ordinance shall take effect upon passage and publication according to law.

**THE BOROUGH OF MERCHANTVILLE**

**BY:** \_\_\_\_\_  
**FRANK M. NORTH, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**DENISE BROUSE, BOROUGH CLERK**

The foregoing ordinance was introduced by Mayor and Council at a meeting held on October 15, 2012. This Ordinance will be considered for adoption on final reading and public hearing to be held on November 5, 2012 at 7:30 p.m. in the Council Meeting Room, Merchantville Borough Hall, 1 West Maple Avenue, Merchantville, New Jersey.

The purpose of this Ordinance is the regulation of rental properties in the Borough of Merchantville. A copy of this Ordinance is available at no charge to the general public between the hours of 8:30 AM to 4:30 PM, Monday through Friday (Legal Holidays excluded), at the Office of the Borough Clerk, Merchantville Borough Hall, 1 West Maple Avenue, Merchantville, New Jersey.