

**BOROUGH OF CAPE MAY POINT
COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

ORDINANCE NO. 592-11

**AN ORDINANCE OF THE BOROUGH OF CAPE MAY POINT,
COUNTY OF CAPE MAY, STATE OF NEW JERSEY, ENACTING A
COMPREHENSIVE RENTAL REGULATION ORDINANCE
ENTITLED “RENTAL LICENSE ORDINANCE” AND RESCINDING
ORDINANCE §§ 126-1 THROUGH 126-9**

WHEREAS, the Board of Commissioners of the Borough of Cape May Point believes it to be in the best interests of the Borough to establish a comprehensive rental regulation scheme for the reasons set forth with more particularly in the “Legislative Findings’ below,

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Borough of Cape May Point in the County of Cape May and State of New Jersey as follows:

**1. § 126A REGISTRATION, INSPECTION and LICENSING REQUIREMENTS
FOR RENTAL PROPERTIES**

§ 126A-1 SHORT TITLE

This Chapter shall be known as the “Rental License Ordinance” of the Borough.

§ 126A-2 LEGISLATIVE FINDINGS

The Borough Commission finds, determines and declares that:

- a. The New Jersey Legislature has, pursuant to N.J.S.A. 40:52-1(n), effective on January 8, 1998, specifically authorized municipalities to license and regulate the “rental of real property for a term of less than one hundred seventy five (175) consecutive days for residential purposes by a person having a permanent place of residence elsewhere.” This statute was enacted to assist shore-area municipalities in controlling seasonal rentals, and in preserving the quality of life for year-round residents.

- b. Cape May Point is a small resort community with a year-round population of approximately 290 residents, which experiences an enormous influx of visitors each summer, many of whom seek to rent temporary accommodations while continuing to maintain a permanent residence elsewhere. As of the summer of 2010, the Borough of Cape May Point had well over 200 rental units that met the definition set forth in N.J.S.A. 40:52-1(n).
- c. Because of the great demand for seasonal accommodations in Cape May Point, seasonally rented accommodations are frequently overcrowded by tenants and other occupants who, in an effort to reduce the per-occupant cost of renting the premises, often permit many more occupants in the premises than authorized by this Code. Some property owners and/or their agents either conceal occupancy limitations from tenants or tacitly permit overcrowded conditions in order to maximize their rents and commissions.
- d. Seasonal rental accommodations in Cape May Point have been detrimental to the health, safety, welfare and quality of life of other nearby residents and visitors. Problems associated with seasonal rental accommodations in Cape May Point include excessive noise, unruly behavior, littering, parking of vehicles on lawns, poor maintenance of the property and grounds and violation of trash collection ordinances. Many of these problems are exacerbated by excessive occupancy.
- e. Seasonal rental accommodations in Cape May Point also contribute to significant overcrowding in the community and a shortage of on-street parking spaces. As a result of such conditions, residents who attempt to find an on-street parking space often must park several blocks from their homes. In addition, the overcrowded parking conditions lead to unlawful parking at intersections and near fire hydrants, which threaten public safety.

§ 126A-3 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 or
Managing 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 include 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; unless such broker or salesperson shall affirmatively consent to act as such agent or managing

agent.

Apartment
or Dwelling

As used in this chapter, refers to any apartment, cottage, bungalow or other dwelling unit consisting of one (1) or more rooms occupying all or part of a floor or floors in a building of one (1) or more floors or stories, but not the entire building, whether designed with or without house-keeping 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.

Building

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

Dwelling Unit

Any room or rooms, or suite or apartment thereof, whether furnished or unfurnished, which is occupied, or intended, arranged or designed to be occupied, for sleeping or dwelling purposes by one (1) 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 and occupancy thereof. This definition applies only to those dwelling units, including single family residences, which are available for lease or rental purposes or are available to transient guests of retreat lodging facilities.

Landlord

See definition of "Owner."

License

The license issued by the Borough attesting that the rental unit has been properly registered and inspected at required intervals in accordance with this chapter.

Licensing Clerk

Licensing Clerk shall mean the municipal official or employee designated to receive rental license applications and registrations and to issue licenses pursuant to this chapter.

License Year

The license year shall mean June 1st to May 31st of the following

year or any portion thereof.

Licensee	The person to whom the license is issued pursuant to this chapter. The term “licensee” includes within its definition the term “agent” or “managing agent” where applicable.
Managing Agent	See definition of “Agent.”
Owner	The person who owns, purports to own or exercises control over any building.
Person	An individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.
Rental Agent	The person who negotiates for the lease of the rental unit on behalf of the owner. Such person shall be the holder of the required license mandated by the State of New Jersey. The rental agent is not the managing agent under the terms of this chapter unless the rental agent should expressly consent to assume such duties and obligations.
Rental Property	A building or structure which contains one or more rental units.
Rental Unit	Used collectively to include the term apartment or dwelling, building, dwelling unit, as defined by this chapter. This definition shall not apply to any single family home which is not available for rental purposes.
Retreat Lodging Facility	A building or structure, including but not limited to any related structure, accessory building, and land appurtenant thereto, and any part thereof, owned by a nonprofit corporation or association which has tax-exempt charitable status under the federal Internal Revenue Code and which has sleeping facilities used exclusively on a transient basis by persons participating in programs of a religious, cultural or educational nature, conducted under the sole auspices of one or more corporations or associations having tax-exempt charitable status under the federal Internal Revenue Code, which are made available without any mandatory charge to such participants.

Tenant Any person who occupies any rental unit pursuant to the terms of a lease agreement, whether written or oral, or who occupies a rental unit pursuant to permission or license of any kind granted by an owner or owner's agent. The term shall be construed liberally to include not only tenants but guests and occupants. The term shall also include sub-tenants.

§ 126A-4 REQUIREMENTS FOR ALL RENTAL PROPERTIES

All rental property and rental units contained therein and located within the Borough shall be required to be registered, inspected and licensed annually by the Borough. No rental property or rental unit shall be hereafter occupied unless such property complies with the provisions of this chapter.

§ 126A-5 PROHIBITIONS OF OCCUPANCY

§ 126A-5.1

No persons shall hereafter occupy any rental unit, nor shall the owner, managing agent or rental agent permit occupancy of any rental unit within the Borough unless the same has been registered, inspected and licensed in accordance with this Chapter.

§ 126A-5.2

Any landlord who leases a rental unit while such unit is unlicensed and who represents to any tenant and/ or real estate agent, real estate broker, real estate office, attorney or other agent that such unit is properly licensed, shall be deemed in violation of this Chapter and subject to the fines and penalties herein. Each day that a tenant shall remain in occupancy of such unlicensed premises shall be considered a separate and distinct violation of this Chapter.

§ 126A-5.3

Any tenant who knowingly leases and/or occupies an unlicensed unit shall be deemed in violation of this Chapter and subject to the fines and penalties included herein. Each day such tenant shall remain in occupancy of such unlicensed premises shall be considered a separate and distinct violation of this Chapter.

§ 126A-5.4

Any real estate agent, real estate broker, real estate office, attorney or other party who knowingly acts as a representative of the landlord, tenant or both in order to effectuate the leasing and/or occupancy of an unlicensed premises, shall be deemed in violation of this Chapter and subject to the fines and penalties herein provided. The Borough will, on request and without charge, provide to each real estate office a list of all units which have been licensed.

§ 126A-6 REGISTRATION

All rental units shall hereafter be registered with the Licensing Clerk of the Borough on forms which shall be provided for that purpose by the Borough. Such registration shall be required on an annual basis as provided herein. A registration form shall be required for each rental unit and a rental license shall be required for each individual rental unit.

§ 126A-7 PROCEDURE FOR OBTAINING LICENSE

The owner of a rental unit shall submit a registration form and a license application together with the required fee to the Licensing Clerk.

§ 126A-8 CONDITIONS FOR OBTAINING LICENSE

In order for a person to qualify for a rental license, all municipal taxes, water and sewer charges and other municipal assessments on a rental property must be paid on a current basis and said unit must satisfactorily pass a fire inspection.

§ 126A-9 FIRE INSPECTION

§ 126A-9.1

No rental license will be issued to a person unless a rental unit satisfactorily passes a fire inspection each year. Any application submitted without a valid fire inspection certificate will be returned and deemed incomplete.

§ 126A-9.2

All owners of a rental property shall be required to make arrangements for a yearly fire inspection. Each owner is responsible to arrange for a date and time to allow the fire inspector access to the property.

§ 126A-9.3

Fire inspections will include:

- (a) Smoke detectors, in good working order, within ten (10) feet of sleeping quarters;
- (b) CO detectors present when fossil fuel (oil, propane, natural gas, etc.) is used for heating; and
- (c) Presence of a 10lb. fire extinguisher with a minimum rating of 2A:10BC which also must be inspected each year.

§ 126A-10 LIMITATION ON OCCUPANCY

Each licensee granted a license 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 for one (1) occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one (1) person shall contain at least 50 square feet of floor area for each occupant thereof except that any such room in any building or structure which is in existence and for which a certificate of occupancy has been issued as of March 31, 1988 shall be deemed to accommodate two (2) people notwithstanding the fact that such room does not have a minimum of 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.

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.

MINIMUM OCCUPANCY 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>
Living Room	No Requirements	120 (11.16)	150 (13.95)
Dining Room	No Requirements	80 (7.44)	100 (9.3)
Kitchen	50 (4.65)	50 (4.65)	60 (5.58)

§ 126A-11

The maximum number of occupants shall be posted in each rental unit. It shall be unlawful for any person, including a tenant, guest, occupant or invitee to allow a greater number of persons than the maximum number of occupants to sleep in or occupy overnight the rental unit. Any person violating this provision shall be subject to the penalty provision hereof.

§ 126A-12 LICENSE TERM

The license term shall be from June 1st to May 31st.

§ 126A-13 TRANSFERABILITY OF LICENSE

In the event that a property containing one or more licensed rental units is sold, assigned or transferred during the licensed year, the rental license shall be transferable to the new owner.

§ 126A-14 FEES

§ 126A-14.1 RENTAL LICENSE REGISTRATION FEES

(a) Rental Properties:

\$150.00 per unit if license purchased on or before June 1st or \$250.00 thereafter;

(b) Hotels, Motels, Multiple Dwellings and Retreat Lodging Facilities:

\$150.00 for three (3) units in one (1) structure if license purchased on or before June 1st or \$250.00 thereafter and
\$50.00 for each additional unit over three (3) units in one (1) structure.

§ 126A-14.2 FIRE INSPECTION FEES:

(a) Rental Properties:

\$50.00 for one (1) unit in one (1) structure and
\$15.00 for each additional unit;

(b) Hotel, Motel, Multiple Dwelling and Retreat Lodging Facilities:

\$50.00 for three (3) units in one (1) structure and
\$15.00 for each additional unit over three (3) units in one (1) structure.

§ 126A-15 VIOLATIONS AND PENALTIES

§ 126A-15.1

Any person, firm, association or corporation violating any of the provisions of this Chapter shall, upon conviction, be subject to one (1) or more of the following:

- (a) A fine not to exceed the sum of One Thousand Dollars (\$1,000.00) and/or
- (b) A period of community service for a period not exceeding ninety (90) days.

§ 126A-15.2

Any person, firm, association or corporation convicted of violating this Ordinance within one (1) year of the date of a previous violation and who was fined for the previous violation shall be sentenced by the Court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person, firm, association or corporation for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the Ordinance, but shall be calculated separately from the fine imposed for the violation of the Ordinance.

§ 126A-15.3

The foregoing penalties shall be in addition to any other penalty provided in this Chapter and shall be in addition to those penalties set forth in N.J.S.A. 46:8-35.

§ 126A-16 SEVERABILITY.

Should any section, part or provision of this Ordinance be held unconstitutional or invalid by any Court, such holding shall not affect the validity of this Ordinance or any remaining part of this Ordinance as whole or in part, other than the part held unconstitutional or invalid.

2. Ordinance §§ 126-1 through 126-9 pertaining to rental permits are hereby rescinded in its entirety and repealed.
3. This Ordinance shall take effect 20 days after final passage and publication, according to law.

NOTICE OF PENDING ORDINANCE

The foregoing Ordinance was introduced at a Regular Meeting of the Board of Commissioners of the Borough of Cape May Point held on February 10, 2010 when it was read for the first time and then ordered to be published according to law. This Ordinance will be further considered for final passage by the Board of Commissioners of the Borough of Cape May Point at a meeting to be held at Fire

Hall, 412 Yale Avenue, Cape May Point, New Jersey on March 10, 2011 at 7:00 p.m. or as soon thereafter as possible, at which time and place, all persons interested will be given an opportunity to be heard concerning such ordinance.

ATTEST:

Constance A. Mahon