

ORDINANCE 2010-13

AN ORDINANCE ESTABLISHING A RESIDENTIAL HOUSING REGISTRATION
AND MAINTENANCE CODE BY REPLACING CHAPTER 39 AND REPEALING
CHAPTER 57A OF THE RARITAN BOROUGH CODE

BE IT ORDAINED by the Borough Council of the Borough of Raritan in
the County of Somerset that the Code of the Borough of Raritan of 1966
and heretofore amended be further amended as follows:

SECTION ONE:

Chapter 39, which chapter is entitled "Housing Code", is hereby amended in its entirety
to read as follows:

39-1 Title, Policy and Purposes

A. Title. This Chapter shall be known as the Residential Property
Code

B. Findings and Declarations of Policy. It is hereby found and
declared that there exist in the Borough of Raritan structures used for
residential uses which are, or may become in the future, substandard with
respect to structure, equipment and maintenance, or further that such
conditions including but not limited to structural deteriorations, lack of
maintenance and appearance of exterior premises, infestation, lack of
essential heating, plumbing, storage, lack of maintenance or upkeep of
essential utilities and facilities, existence of fire hazards, inadequate
provisions for light and air, or unsanitary conditions and overcrowding,
constitute a menace to the health, safety, welfare and reasonable comfort of
the citizens and inhabitants of the Borough or Raritan. It is further found
and declared that by reason of lack of maintenance and progressive
deterioration, certain properties have the effect of creating blighting
conditions and that if the same are not curtailed or removed, the aforesaid
conditions will grow and spread and will necessitate in time the
expenditure of large amounts of public funds to correct and eliminate the
same, and that by reasons of timely regulations and restrictions as herein
contained, blight may be prevented, and the neighborhood and property
values thereby maintained, the desirability and amenities of residential uses
and neighborhoods enhanced and the public health, safety and welfare
protected and fostered.

C. Purpose. The purpose of this Chapter is to protect the public
health, safety and welfare by establishing minimum standards governing
the maintenance, appearance, condition and occupancy of residential

property; to fix certain responsibilities and duties upon owners and occupants; to authorize and establish procedures for the inspection of residential property; to establish procedures for implementing the requirements of this Chapter; and to fix penalties for the violations of this Chapter.

39-2 Applicability

A. Every residential or mixed occupancy building and property, used or intended to be used for residential use, except buildings and property occupied solely by the owner or owners, shall comply with the provisions of this Chapter, whether or not constructed, altered or repaired before or after the enactment of this Chapter, and irrespective of any permits or licenses which shall have been issued for use or occupancy, for construction or repair, or for the installation or repair of facilities prior to the effective date of this Chapter.

B. If the provisions of this Chapter impose a higher standard than other ordinances or State law, then the standards of this Chapter shall prevail; but if the provisions of this Chapter impose a lower standard than other ordinances or State law, then the higher standards of such other ordinances or State law shall prevail.

C. No license, permit or certification of compliance with this Chapter shall constitute a defense against any violation of any other ordinance or law, nor shall any provision of this Chapter relieve any Person from complying with such other ordinance or law.

39-3 Definitions

As used in this Chapter, unless a different meaning is evident:

"Implement" means to have a rule, form or checklist approved by the Borough Council. A rule, form or checklist shall be effective immediately upon approval by the Borough Council. A rule, form or checklist that has not been either approved or rejected by the Borough Council 45 days after delivery to the Borough Clerk shall be deemed to be approved, effective on the 46th day after delivery.

"Person" means the same as defined in N.J.S. 1:1-2.

"Premises" means the building in which and the property on which any Residential Dwelling Unit is located.

"Property Maintenance Officer" means the person or persons designated by the Borough Council to enforce this Chapter.

"Residential Dwelling Unit" or "Unit" means any room or group of rooms located within a building and forming a single habitable unit with facilities which are used, or designed to be used, for living, sleeping, cooking, and eating.

39-4 Responsibilities of Owners and Occupants

A. Owners shall have all the duties and responsibilities prescribed in this Chapter, and no owner shall be relieved of such duties and responsibilities nor be entitled to defend against any charge or violation because a tenant or occupant is also responsible therefore.

B. Tenants and occupants shall have all the duties and responsibilities prescribed in this Chapter, and no tenant or occupant shall be relieved of such duties or responsibilities nor be entitled to defend against any charge or violation because an owner is also responsible therefore.

C. The duties and responsibilities imposed on owners, tenants and occupants by this Chapter shall not be altered or affected by any agreements or contracts between any owners, tenants or occupants.

39-5 New Jersey State Housing Code Adopted

A. The New Jersey State Housing Code, N.J.A.C. 5:28-1.1 *et seq.*, is hereby adopted by the Borough.

B. The State Housing Code adopted by reference above is supplemented with the following provisions:

(1) N.J.A.C. 5:28-1.5, entitled "Garbage and Rubbish Storage" is supplemented with the following new paragraphs (d) and (e):

(d) No tenant or occupant of any Residential Dwelling Unit shall place, cause to be placed or permit to remain on the curbside, berm or any portion of the street or sidewalk or any part or portion of the front yard of the Premises, any garbage, trash or recycling or any garbage, trash or recycling receptacle earlier than 4:00 p.m. of the day preceding the time scheduled for the collection of garbage, trash or recyclables or allow or permit any empty garbage, trash or recycling receptacle to remain on the curbside, berm or any portion of the street or sidewalk or any part or portion of the front yard of the Premises after midnight of the day of collection.

(e) No owner of any Residential Dwelling Unit shall place, cause to be placed or permit to remain on the curbside, berm or any portion of the street or sidewalk or any part or portion of the front yard of the Premises,

any garbage, trash or recycling or any garbage, trash or recycling receptacle earlier than 4:00 p.m. of the day preceding the time scheduled for the collection of garbage, trash or recyclables or allow or permit any empty garbage, trash or recycling receptacle to remain on the curbside, berm or any portion of the street or sidewalk or any part or portion of the front yard of the Premises after midnight of the day of collection.

39-6 Landlord Registration and Information Requirements

A. Rental Property Owner Registration Requirements.

(1) Every owner of a Residential Dwelling Unit shall, within sixty days of the effective date of this Chapter, and annually thereafter, file with the Property Maintenance Officer a Landlord Registration Statement.

(2) The initial registration for each Unit, and the initial registration after any change in floor plan or square footage, shall include a floor plan and the square footage for each Unit to be used by the Borough in establishing occupancy limits.

(3) If there is any change in any registration information, an amended Landlord Registration Statement shall be filed, posted and distributed to tenants within five business days after the change.

(4) If a Unit is registered with the New Jersey Bureau of Housing Inspection, and if that Unit has been physically inspected by the Bureau of Housing Inspection within 180 days preceding registration, there shall be no registration fee, and the Landlord Registration Statement shall be a copy of the certificate of registration issued by the New Jersey Bureau of Housing Inspection and the floor plan and the square footage for the Unit.

(5) If a Unit is not registered with the New Jersey Bureau of Housing Inspection, or if the Unit has not been physically inspected by the Bureau of Housing Inspection within 180 days preceding registration, there shall be a registration fee of \$50, and the Landlord Registration Statement shall be the floor plan and the square footage for each Unit and the following information on a form Implemented by and available from the Property Maintenance Officer:

(a) The name and physical address(es) of the owner or owners of the Premises and the owner or owners of the rental business if not the same.

(b) The name, physical address and telephone number of an individual representative of the owner who may be contacted at any time if there is an emergency affecting the Premises, including such emergencies as failure of any essential service or system, and who is authorized by the owner to

make emergency decisions concerning repairs and expenditures for the Premises. The owner may designate one or two alternate individual representatives with the same authority by providing for them the same information.

(c) The number of Units by unit type (i.e., number of 2 bedroom units, 3 bedroom units, etc.).

(d) Such other information as may be required by the form.

B. The Property Maintenance Officer shall retain Landlord Registration Statements and make them available for public inspection.

C. Information to be Provided to Tenants. The following information shall be provided to each tenant at the time of initial occupancy:

(1) A copy of the current edition of the New Jersey Truth-in-Renting Guide prepared by the Department of Community Affairs in accordance with the Truth-in-Renting Act, N.J.S. 46:8-43 *et seq.*

(2) A copy of the most recent Landlord Registration Statement filed with the Property Maintenance Officer.

39-7 Certificate of Inspection for Residential Rental Units

A. Certificate of Rental Housing Compliance Required

(1) No Person shall let or sublet any Residential Dwelling Unit to an initial or new tenant without having obtained from the Property Maintenance Officer one of the following:

(a) A Certificate of Rental Housing Compliance stating that the Unit complies with the standards of this Chapter and meets all other Borough and State code requirements; or

(b) A Conditional Certificate of Rental Housing Compliance stating that the Unit is conditionally approved for occupancy in accordance with the provisions of paragraph B(4)(b) below.

(2) Every certificate of rental housing compliance shall be renewed not later than the second anniversary date of the issuance of the most recent certificate.

B. Procedures for Inspections and Issuance of Certificates of Rental Housing Compliance.

(1) The Property Maintenance Officer shall Implement and make available an application form and checklist.

(2) The applicant shall submit a completed application form and checklist to the Property Maintenance Officer. Inspections shall be scheduled in the order that completed applications are received unless an additional fee for late request is paid.

(3) Following receipt of a completed application, the Property Maintenance Officer shall inspect the Unit and Premises for compliance with this Chapter and a determination of the permitted occupancy.

(4) Following inspection, the Property Maintenance Officer shall issue a Certificate of Rental Housing Compliance, a Conditional Certificate of Rental Housing Compliance, or a denial of rental housing compliance. The standards for certificates are:

(a) If the Unit and Premises comply with this Chapter and all other Borough and State code requirements, a Certificate of Rental Housing Compliance shall be issued indicating the lawful occupancy.

(b) If the Unit or Premises fails to comply with this Chapter or other Borough or State code requirements, but none of the violations jeopardizes the health, safety or welfare of the intended occupants, a Conditional Certificate of Rental Housing Compliance indicating the lawful occupancy shall be issued for a period not to exceed thirty days.

(c) If the Unit or Premises fails to comply with this Chapter or other Borough or State code requirements and such violations may jeopardize the health, safety or welfare of the intended occupants, a denial of rental housing compliance shall be issued.

(5) If a Conditional Certificate of Rental Housing Compliance or denial of rental housing compliance is issued, the applicant shall perform the required work prior to reinspection.

(6) The current Certificate of Rental Housing Compliance, Conditional Certificate of Rental Housing Compliance or denial of rental housing compliance shall be posted in a conspicuous place in each Unit at all times.

C. Fees. The following fees shall be paid prior to the inspection being performed:

(1) Initial inspection or reinspection after denial of certificate: \$50.00 dollars per Unit.

- (2) Reinspection fee after Conditional Certificate: \$20.00 per Unit.
- (3) Reinspection if a prior Certificate was issued more than 23 but less than 25 months before the request for inspection: no fee.
- (4) Reinspection if a prior Certificate was issued less than 23 months before the request for inspection: \$50.00 per Unit.
- (5) Reinspection if the prior Certificate was issued more than 25 months before the request for inspection: \$100.00 per Unit.
- (6) Additional fee for late request: If inspection is requested within one business day of proposed occupancy, additional \$100.00 per Unit.
- (7) Additional fee for failure to provide access to inspector: If access for a previous inspection was not provided to the inspector at the scheduled time, additional \$75.00 per Unit.

39-8 Enforcement

A. The Property Maintenance Officer is hereby authorized and directed to exercise the powers prescribed by this Chapter, to enforce this Chapter and the State Housing Code, and to make inspections to determine the condition of the Residential Dwelling Units in the Borough.

B. Every member of the Police Department and every employee of the Property Maintenance Office and Public Works Department is hereby authorized to issue a summons or violation notice upon his belief that probable cause exists for such issuance.

C. Every occupant shall give the owner thereof, or his agent or employee, access 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, all other Borough and State code requirements, and any rule Implemented pursuant to this Chapter.

D. Whenever the Property Maintenance Officer believes that there may be in any Premises a violation of any provisions of this Chapter, of any other Borough or State code requirements, or of any rule Implemented pursuant to this Chapter, he may inspect the Premises, and every owner and every occupant shall give the Property Inspection Officer access on request during daylight hours.

E. Whenever the Property Maintenance Officer determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Chapter, of any other Borough or State code

requirements, or of any rule Implemented pursuant to this Chapter, he shall give notice of the alleged violation to the Person or Persons responsible therefore as follows:

(1) Notice shall be in writing; include a statement of the reasons why it is being issued; and allow a minimum of five business days for the correction of the violation(s). Thereafter, if the violation(s) has (have) not been corrected, the Property Maintenance Officer is authorized, at his option, to file a complaint with the Municipal Court or seek injunctive relief from the Superior Court.

(2) Notice may contain an outline of the remedial action which, if taken, will effect compliance.

(3) Notice shall be served upon the owner, or any owner's agent as filed with the Property Maintenance Officer or Borough Clerk, and on any occupant. Notice shall be deemed to be properly served upon an owner, owner's agent or occupant if a copy thereof is served personally or sent to the Person's last known address by regular mail or is posted in a conspicuous place in or on the Premises affected by the notice.

F. No Person shall permit the occupancy of a Residential Dwelling Unit by more persons than the occupancy designated on a certificate of rental housing compliance or conditional certificate of rental housing compliance or, if there is no certificate of rental housing compliance or conditional certificate of rental housing compliance, the number of persons permitted by law.

G. No Person shall rent or permit the use of any Residential Dwelling Unit by another for the purpose of living therein that does not conform to the provisions of the New Jersey State Housing Code, N.J.A.C. 5:28-1.1 *et seq.*, established hereby as the standard to be used in determining whether a dwelling is safe, sanitary and fit for human habitation.

H. The Property Maintenance Officer is hereby authorized and empowered to Implement written rules to implement or enforce the provisions of this Chapter.

39-9 Violations and Penalties

A. Any Person who violates any of the provisions of this Chapter, or the State Housing code, or any rule Implemented pursuant to this Chapter, shall, upon conviction thereof, be penalized by one or more of the following: a fine of not less than \$100 and not more than \$2000; imprisonment in the county jail for not more than 90 days; community service for not more than 90 days.

B. Each twenty-four hour period during which a violation exists shall constitute a separate and distinct offense.

C. Any Person who is convicted of violating the provisions of this Chapter, or the State Housing Code, or any rule Implemented pursuant to this Chapter, within one year of the date of a previous violation of the same provision or rule, and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine for a repeated offense shall not be less than \$100 and not more than \$2000, but shall be calculated separately from the fine imposed for the new violation.

D. In addition to the above penalties, any owner who is convicted of a second or subsequent violation of this Chapter, where an illegal tenancy shall have resulted in a student or students attending the Bridgewater-Raritan public schools, and who has been afforded the opportunity for a hearing on the matter, may be assessed a penalty equal to the annual tuition cost for each student, prorated to the time of the student's ineligible attendance at such public school. The fine shall be recovered in a civil action by a summary proceeding in the name of the Borough pursuant to the New Jersey "Penalty Enforcement Law", N.J.S. 2A:58-10 *et seq.* The Municipal Court and/or the Superior Court shall have jurisdiction of the proceedings for the enforcement of the penalty provided by this paragraph. The tuition cost shall be calculated in the manner prescribed for nonresidential pupils in N.J.S. 18A:38-19. Payment of the fine shall be remitted to the Bridgewater-Raritan Board of Education. For the purposes of this paragraph, the term "owner" shall exclude mortgagees in possession through foreclosure. For the purposes of this section, a "second or subsequent violation" resulting in an illegal occupancy shall be limited to those violations that are new and are the result of distinct and separate zoning or code enforcement activities, and shall not include any continuing violations for which citations are issued during the time period required for summary disposition proceedings to conclude if the owner has initiated eviction proceedings in a court of proper jurisdiction.

E. In accordance with the provisions of N.J.S. 2A:18-16.1g, any tenant who receives a notice of eviction pursuant to N.J.S. 2A:18-61.2 that results from an occupancy in violation of this Chapter shall be considered a displaced person and shall be entitled to relocation assistance in amount equal to three times the monthly rental paid by the displaced person or persons. The owner of the Unit shall be liable for the payment of relocation assistance pursuant to this paragraph. In addition, after being required to pay reimbursement for relocation assistance, an additional fine shall be paid by the owner of the Unit for each illegal occupancy, up to an

amount equal to three times the monthly rental paid by the displaced person or persons.

SECTION TWO:

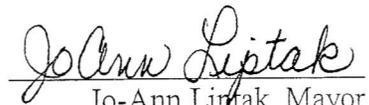
Chapter 57A, which chapter is entitled "Rental Properties", is hereby repealed in its entirety.

SECTION THREE:

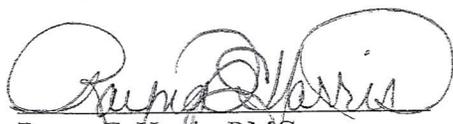
This Ordinance shall take effect on April 1, 2011.

INTRODUCED: October 12, 2010

HEARING AND ADOPTION: November 9, 2010


Jo-Ann Liptak, Mayor

ATTEST:


Rayna E. Harris, RMC
Borough Clerk