

The Ordinance published herewith was introduced and passed on first reading at a regular meeting of the Mayor and Borough Council of the Borough of Spring Lake on March 12, 2019 and will be further considered for final passage after public hearing at a meeting of said Mayor and Borough Council to be held at the Borough of Spring Lake, 423 Warren Avenue, Spring Lake, New Jersey on Tuesday, March 26, 2019 beginning at 7:00 P.M. During the week prior to and including the date of such further consideration, copies will be made available at the Municipal Clerk's Office in said Municipal Building to member of the General Public who shall request such copies.

**Dina M. Zahorsky, Borough Clerk**

**ORDINANCE NO. 2019-005-AN ORDINANCE AMENDING AND  
SUPPLEMENTING CHAPTER 292,  
RENTAL PROPERTY**

**WHEREAS**, Chapter 292 of the Borough Code governs the establishment of Rental Property in the Borough of Spring Lake; and

**WHEREAS**, the Mayor and Council have determined it is in the Borough's best interest to further regulate rental activities and specific short-term rentals activities to minimize any potential deleterious effects on other properties in the surrounding neighborhoods in which they are located; and

**WHEREAS**, the Mayor and Council have recommended that the following sections of Chapter 292 is amended and supplemented as it is in the best interest of the Borough; and

**WHEREAS**, Chapter 292 is amended and supplemented with deletions reflected in ~~strikethrough~~ and additions reflected in underline; and

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Borough Council of the Borough of Spring Lake in the County of Monmouth and State of New Jersey as follows:

**CHAPTER 292. RENTAL PROPERTY**

**ARTICLE I. Occupancy Restrictions**

**§ 292-1. Findings.**

- A. ~~The use and the occupancy of dwelling units by others than a "family" as defined herein, has caused and resulted in acts of rowdiness, excessive noise, intoxication, vice, immorality, breach of public peace and order, and similar acts disturbing the peace and quiet of the neighborhood. This article is adopted in order to prevent such disturbances and disorderly assemblages from adversely affecting the peace and quiet of citizens of the Borough.~~
- B. ~~Such use and occupancy has caused an overcrowding of dwelling units and increased traffic congestion in the streets.~~
- C. ~~Such use and occupancy has greatly increased the need for police protection and surveillance.~~
- D. ~~Such occupancy tends to depreciate property values to the detriment of citizens of the Borough.~~
- E. ~~Such use and occupancy adversely affects the general welfare of the community.~~
- F. ~~Therefore, the Mayor and Council hereby adopt the following regulations.~~

**§ 292-2. Authority.**

~~Under and by virtue of the authority granted under N.J.S.A. 40:48-1(6) and 40:48-2, the rental, use and occupancy of any dwelling unit, as herein defined, by any person or persons other than a family, as herein defined, are hereby prohibited.~~

§ 292-3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

**DWELLING UNIT**

Any room or group of rooms or any part thereof located within a building and forming a single habitable unit with facilities which are used or designed to be used for living, sleeping, cooking or eating.

**FAMILY**

A. One or more persons related by blood or marriage, occupying a dwelling unit and living as a single nonprofit housekeeping unit.

B. A collective number of individuals living together in one house under one head, whose relationship is of a permanent and distinct domestic character and cooking as a single housekeeping unit. The definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie or organization which is not a recognized religious order, nor shall it include a group of individuals whose association is temporary and resort seasonal in character or nature.

§ 292-4. Occupancy restricted to a family; exceptions.

No house, dwelling, building, structure or enclosure, or any part of a house, dwelling, building, structure or enclosure, shall be used or be permitted to be used, or be rented for use, as living quarters or sleeping quarters or for living purposes or sleeping purposes, by or to any society, club, fraternity, sorority, association, lodge, combine, federation, group coterie or organization, or to any person or member on behalf of the same, or to any group or collection of persons who are unmarried or who do not qualify as a family as defined in this article. This article shall not apply to rooming houses, hotels or other places of public accommodation in the Borough, which places are duly licensed as such by the Borough, or to recognized religious orders, convents, rectories, or parish houses or manses utilized in conjunction with any church or synagogue or similar house of worship.

§ 292-5. Violations and penalties.

A. Any person, firm or persons, corporation or group, who aids, abets, counsels, commands, induces or procures another to violate the provisions of the within section shall suffer for each and every violation thereof, the penalties provided in herein.

B. Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be liable to the penalty stated in Chapter 1, Article II, General Penalty.

C. Each and every day that a violation exists shall be deemed to constitute a separate and distinct violation.

## **ARTICLE I. RENTAL CERTIFICATE OF OCCUPANCY**

### **§ 292-1. Required.**

**The owner of any residential rental structure or unit or his agent, as defined herein who intends(s) to rent or lease all or any part of thereof as a residential unit shall make application to the Code Enforcement Officer for the issuance of a rental certificate of occupancy on such form and provide such information as may be required by the Code Enforcement Officer. The application shall be filed with the Code Enforcement Officer not later than ten (10) days after the date on which the owner of any residential rental unit shall execute the lease or enter into a binding agreement to least the rental until.**

**The application shall include proof that property taxes, assessments against the property, municipal water and sewer charges, and any other municipal charges or assessment pursuant to N.J.S.A. 40:52-1.2 are current. A statement that the applicant acknowledges the maximum permitted occupancy of the structure or unit understands the restrictions set forth in N.J.S.A. 40:48-2.12, et seq. and Article II herein.**

### **§ 292-2. Inspection.**

**The Code Enforcement Officer and/or his duly authorized agents shall conduct an inspection of the rental residential unit within ten (10) days after the filing of the application. Any reinspection(s) as provided herein shall be made within ten (10) days from the date the Code Enforcement Officer is notified in writing by the applicant that the violations cited have been abated.**

**§ 292-3. Fees.**

**The minimum application fee for each residential unit shall be fifty dollars (\$50.00) and fees of varying amounts shall be assessed depending on the size of the structure and other variables consistent with Section 211-13 (6).**

**§ 292-4. Notice of Violation.**

**Notice of any violations as a result of the aforesaid inspection(s) shall be provided in accordance with Chapter 286 (Property Maintenance) and Chapter 211 (Housing Standards) as applicable. Upon correction of the violations, the applicant shall notify the Code Enforcement Officer in writing of same, and reinspection shall be made upon payment of the appropriate fee.**

**§ 292-5. Issuance; Term of Certificate; Change of Occupancy.**

**Upon the complete of satisfactory inspection, the Code Enforcement Officer shall forthwith issue a rental certificate of occupancy which shall be valid for a minimum of one (1) year. If, at any time of application for the certificate of occupancy, the landlord and the proposed tenant have entered into a lease agreement in excess of one (1) year, the Code Enforcement Officer may issue a certificate of occupancy for the entire term of the lease, or until there be a change in tenant occupancy, whichever is sooner.**

**In the event that a change in tenant occupancy occurs, at any time, the landlord shall be required to comply with the filing requirements in Section one (1) herein.**

**If at any time, a landlord shall enter into a lease agreement, which by its terms will extend beyond the termination date of the last certificate of occupancy, the landlord, prior to the commencement of the tenant's occupancy shall apply for and have issued a rental certificate of occupancy as provided herein.**

**§ 292-6. Posting of Certificate and Regulations Required.**

**During the rental period:**

- A. A true copy of the rental certificate of occupancy shall be posted within the rental unit in a location approved by the issuing officer.**
- B. An abstract of this section and its penalty provisions shall be posted in each rental unit in a location approved by the issuing office.**

**§ 292-7. Violations.**

**If subsequent to the issuance of a rental certificate of occupancy, the Code Enforcement Officer or his duly authorized agents have cause to believe a violation of the Code exists, an inspection shall be made of the subject premises. If violations are found to exist the provisions of Chapter 286 (Property Maintenance) and Chapter 211 (Housing Standards) shall apply. In addition, thereof, if cited violations are not abated with ten (10) days from the service of notice, the rental certificate of**

**occupancy shall be revoked by the Code Enforcement Officer by mailing a notice of revocation by certified mail to the owner and to the tenants of the premises. Thereafter, the premises shall be immediately vacated, provide, however that the Code Enforcement Officer shall have the discretion to allow a longer period of time for the correction of violations if warranted and reasonable under the circumstances.**

**§ 292-8. Rental Defined.**

**A rental residential structure or unit is defined as any dwelling, dwelling unit, rooming unit, building or structure permitted to be possessed or occupied by a person who shall be the legal owner, equitable owner or party in actual control of the unit, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land for all or any part of any given year.**

ARTICLE II. Disorderly Conduct in Seasonal Rentals

**§ 292-9. Legislative findings.**

The Mayor and Council of the Borough of Spring Lake finds, determines and declares that:

- A. Spring Lake is a residential community and its citizens have experienced disturbances, damage and public expense resulting from carelessly granted and inadequately supervised seasonal rentals to irresponsible vacationers by inept or indifferent landlords.
- B. This article is enacted to preserve the peace and tranquility of the community for its permanent residents, and to maintain the municipality as a viable vacation resort for all persons and families availing themselves of the facilities in the community.
- C. The enactment of this article is necessary and desirable to provide a means to curb and discourage those occasional excesses arising from irresponsible seasonal rentals.
- D. The Legislature of the State of New Jersey enacted N.J.S.A. 40:48-2.12n et seq. to enable certain communities to take effective action to assure that excesses, when they occur, shall not be repeated, and that landlords offering seasonal rentals be held to sufficient standards of responsibility.

**§ 292-10. Definitions.**

For the purpose of this article, the following meanings shall apply:

**HEARING OFFICER**

A licensed attorney of the State of New Jersey appointed by the Mayor, subject to the advice and consent of the Borough Council.

**LANDLORD**

The person or persons who own or purport to own any building in which there is rented or offered for rent housing space for living or dwelling under either a written or oral lease, including but not limited to any building subject to the Hotel and Multiple Dwelling Law, P.L. 1967, c. 76 (N.J.S.A. 55:13A-1 et seq.), and owner-occupied two-unit premises. In the case of a mobile home park, "landlord" means the owner of an individual dwelling unit within the mobile home park.

**SEASONAL RENTAL**

Any rental of residential accommodations for a term of less than one year and including any part of the period extending from May 15 to September 15.

**SUBSTANTIATED COMPLAINT**

An act of disorderly, indecent, tumultuous, noise or riotous conduct upon or in proximity to any seasonal rental premises, and attributable to the acts or incitements of any of the

tenants of those premises which have been substantiated by prosecution and conviction in any court of competent jurisdiction of disorderly persons or Borough ordinances.

**§ 292-11. Hearing; penalty.**

A. If in any twelve-month period, two complaints on separate occasions of disorderly, indecent, tumultuous, noise or riotous conduct upon or in any seasonal rental premises, and attributable to the acts or incitements of any of the tenants of those premises, have been substantiated by prosecution and conviction in any court of competent jurisdiction, the Mayor and Council or any officer or employee of the Borough of Spring Lake, so designated by the Mayor and Council for this purpose, may institute proceedings to require the landlord of the seasonal rental premises to post a bond against the consequences of future incidents of the same character.

B. The Mayor and Council or any officer or employee of the municipality designated by the Mayor and Council shall cause to be served upon the landlord, in person or by registered mail, to the address appearing on the tax records of the municipality, notice advising of the institution of such proceedings, together with particulars of the substantiated complaint upon which those proceedings are based, and of the time and place at which the hearing will be held on the matter, which shall be in the Municipal Building, Municipal Court or such other public place as designated by the Mayor and Council, and which shall be no sooner than 30 days from the date upon which the notice is served or mailed.

C. At the hearing convened pursuant to Subsection B above, the hearing officer shall give full hearing to both the complaint of the municipality and to any evidence in contradiction or mitigation that the landlord, if present or represented and offering such evidence, may present. At the conclusion of the hearing, the hearing officer shall determine whether the landlord shall be required to post a bond in accordance with the terms of this article.

D. Any bond required to be posted shall be in accordance with the judgment of the hearing officer, in light of the nature and extent of the offenses indicated in the substantiated complaints upon which the proceedings are based, to be adequate in the case of subsequent offenses to reparation for:

(1) Damages likely to be caused to public or private property and damages consequent upon disruption of affected residents' rights of fair use and quiet enjoyment of their premises; and

(2) Securing the payment of fines and penalties likely to be levied for such offenses; and

(3) Compensating the municipality for the costs of repressing and prosecuting such incidents of disorderly behavior; provided, however, that no such bond shall be in an amount less than \$500 nor more than \$5,000. The municipality may enforce a bond thus required by action in the Superior Court, and shall be entitled to an injunction prohibiting the landlord from making or renewing any lease of the affected premises for residential purposes until that bond or equivalent security, in satisfactory form and amount, has been deposited with the municipality.

E. Any bond or other security deposited in compliance with Subsection D above shall remain in force for a period of four years. Upon the lapse of the four-year period, the landlord shall be entitled to the discharge of the bonds, unless prior thereto further proceedings leading to a forfeiture or partial forfeiture of the bond or other security shall have been had under § 292-9 below, in which case the security shall be renewed in an amount and for a period that shall be specified by the hearing officer. A transfer of ownership or control of the property shall not void a requirement for security imposed under this article. The person or persons to whom ownership or control is transferred shall maintain that security, and shall be subject to injunctive proceedings as authorized by Subsection D above in the same manner as the landlord upon which the requirement was originally imposed; provided, however, that the Mayor and Council may by resolution shorten the period for which security is required to not less than one year from the date of the transfer of ownership or control, if during that year no substantiated complaints are recorded with respect to the property in question.

**§ 292-12. Bond forfeiture; extension.**

A. If during the period for which a landlord is required to give security pursuant to § 292-8 above, a substantiated complaint is recorded against the property in question, the Mayor and Council or its designee may institute proceedings against the landlord for the forfeiture or partial forfeiture of the security, for an extension as provided in § 292-8E above, of the period for which the security is required, or for increase in the amount of security required, or for any or all of those purposes.

B. Any forfeiture or partial forfeiture of security shall be determined by the hearing officer solely in accordance with the amount deemed necessary to provide for the compensatory purposes set forth in § 292-8D above. Any decision by the hearing officer to increase the amount or extend the period of the required security shall be determined in light of the same factors set forth in § 292-8D above, and shall be taken only to the extent that the nature of the substantiated complaint or complaints out of which proceedings arise under this article indicates the appropriateness of such change in order to effectually carry out the purposes of this article. The decision of the hearing officer in such circumstances shall be enforceable in the same manner as provided in § 292-8D above.

**§ 292-13. Hearing officer; qualifications.**

The hearing officer shall be a person or person appointed by the Mayor subject to the advice and consent of the Mayor and Council. A hearing officer shall not own or lease any real property within the Borough of Spring Lake, nor hold any interest in the assets of or profits arising from the ownership or lease of such property.

**ARTICLE III. OCCUPANCY AND ACTIVITY REGULATIONS**

**§ 292-14. Prohibited Occupancy and Activities.**

- a. **The following activities are prohibited:**
  1. **It shall be unlawful for any person, including but not limited to, an owner, lessor, sublessor with any possessory interest in any dwelling to receive compensation of any kind for the use, occupancy, or rental of any dwelling for a period of six (6) days or less.**
  2. **Kitchens, uninhabitable spaces and interior public areas shall not be occupied for sleeping purposes.**
  3. **No vehicles shall be parked on lawns.**
  4. **No locks shall be placed on the outside of any bedroom doors.**
  5. **It shall be unlawful for the number of occupants in a rental premises to exceed the maximum permitted occupancy as calculated by the Code Official. All tenants of a dwelling unit shall be issued a summons for any such violation.**
  6. **No barbecues shall be located upon any front porch or within any front yard area.**
  7. **No person shall sleep on a front porch between the hours of 11:00 p.m. to 9:00 a.m.**
- b. **Penalty. Any violation of this subsection shall be punishable by a fine of no less than two hundred fifty (\$250.00) dollars together with court costs. (Ord No. 19-2012§8)**

**§ 292-15. Fire Prevention Regulations.**

- a. **No bedroom door in any dwelling unit shall be equipped with a padlock, combination, or keyed lock that is designated or intended to be locked from the outside of the bedroom.**
- b. **The smoke detectors in every dwelling unit shall be in working order at all times.**
- c. **Each structure that contains one (1) or more dwelling units having a combined maximum permitted occupancy of eight (8) persons or more, shall meet or exceed the following requirements:**

1. Every interior common area in the structure shall be equipped with an approved smoke detection system as per current code.
  2. Every structure containing sleeping rooms on a third floor or higher, which floor is located more than sixteen (16) feet above ground must have an approved fire escape in addition to an approved means of egress;
  3. All doors in the structure opening onto a passageway at grade or exit stair shall be self-closing or automatic closing;
  4. No curtains, sheets, cardboard or any other material of any kind shall be used to erect temporary partitions between beds or sleeping areas in any rental licensed dwelling unit.
- d. Violations. In the event of a violation of any of the provisions of paragraphs a. or b. above, the owner(s) of the property shall be subject to a fine of not less than two hundred fifty (\$250) dollars plus court costs. In the event of a violation of paragraph c. of this subsection, the owner(s) of the property shall be subject to a fine of not less than one thousand (\$1000.00) dollars each, plus community service. In additions to the foregoing, the Code Enforcement officer shall immediately, upon discovering any violation of paragraphs a., b., or c. of this subsection or any other condition or hazard that creates a health or fire hazard to the occupants of the property, order that the dwelling unit be vacated, and shall placard the same, and shall prohibit re-occupancy of the premises until such time as the unsafe condition has been corrected and the Borough Fire Inspector and/or Borough Code Enforcement Officer have re-inspected the property and determined that the unsafe condition has been corrected and that the property is otherwise safe from fire and other hazard. (Ord. No. 19-2012§9)

#### § 292-16. Outdoor Cooking Equipment and Storage of Fuel.

- a. No cooking equipment, including but not limited to barbeque grills, charcoal grills, hibachi grills, propane and other gas fueled grills shall be used on any porch, balcony, deck, or other similar portion of a building or under any building overhang.
- b. No outdoor cooking equipment, including those specifically listed above, shall be used within any room or space of a building, or if outside of a building within five (5) feet of any combustible exterior wall, or within five (5) feet vertically or horizontally of an opening in any wall.
- c. There shall be no storage of propane or any other fuel on any porch, balcony, deck or other similar portion of a building, within any room or space of a building, or if outside of a building within five (5) feet vertically or horizontally of an opening in any wall.

Violations; Penalties. Any violation of this subsection upon conviction thereof, shall be punishable by a fine of one hundred (\$100.00) dollars for the first offense and two hundred (\$200.00) dollars for the second offense. Third and subsequent offenses shall require Court appearance and may result in a fine up to the maximum limits of the Court, and in addition to a fine, imprisonment for a term not to exceed ninety (90) days, both in the discretion of the Court. (Ord No. 19-2012§10)

#### § 292-17. Enforcement.

The provisions of this section shall be enforced by the Borough Code Enforcement Officer or Borough Police (Ord No. 19-2012§12)

This Ordinance shall take effect on upon passage and publication in accordance with applicable law.