

**BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY**

**ORDINANCE 2019-15**

**AN ORDINANCE TO AMEND CHAPTER 365, ENTITLED  
“RENTAL PROPERTY,” OF THE REVISED GENERAL  
ORDINANCES OF THE BOROUGH OF BRADLEY BEACH**

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**WHEREAS**, Chapter 365 of the Revised General Ordinances of the Borough of Bradley Beach regulates the summer rental of properties in the Borough; and

**WHEREAS**, Chapter 365-16 requires that owners of properties rented during the summer months to persons having permanent places of residence elsewhere obtain summer rental licenses; and

**WHEREAS**, Section 365-16(E) establishes a special summer rental license for short-term rentals to different tenants that eliminates the need to obtain a new summer rental license each time there is a change in the tenants in a summer rental property; and

**WHEREAS**, Section 160-10 of the Revised General Ordinances requires owners of residential rental units in the Borough to obtain certificates of occupancy upon a change in tenants; and

**WHEREAS**, Section 160-4 provides a fee of \$50 for issuance of a certificate of occupancy issued in reference to the rental or change of occupancy of residential rental units; and

**WHEREAS**, Section 160-13 requires an inspection by the Code Enforcement Officer to determine compliance with municipal ordinances, rules and regulations affecting the use and occupancy of the property prior to the issuance of a certificate of occupancy; and

**WHEREAS**, the inspection of residential rental properties in conjunction with an application for a certificate of occupancy serves to safeguard the health and safety of the occupants and the general public by ensuring the units are code compliant and safe for occupancy; and

**WHEREAS**, the special summer rental license established in Section 365-16(E) conflicts with the certificate of occupancy requirements for residential rental units set forth in Section 160-13, and could be construed to negate the need to secure a certificate of occupancy each time the occupants of a summer rental property change; and

**WHEREAS**, Section 365-24 protects school-age children from being displaced from rental properties during the summer rental season, leading chronic tardiness, absenteeism and to some children not finishing the school year; and

**WHEREAS**, the protections afforded school-age children in Section 365-24 do not conflict in any way with the provisions of Section 160-13 and are important to protection of school-age children living in Bradley Beach; and

**WHEREAS**, Section 365-25 contains fire prevention regulations ~~applicable-specific~~ to summer rental premises which ~~are important public protections~~ safeguard the renters and the general public that should be maintained;

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Bradley Beach that Chapter 364, entitled “Rental Property,” of the Revised General Ordinances of the Borough of Bradley Beach, County of Monmouth and State of New Jersey be and is hereby amended to read as follows:

~~§ 365-14 Legislative findings.~~

~~—It is determined that the public health, safety and welfare of all of the residents of the Borough of Bradley Beach will be advanced by the adoption of ordinances regulating the use of summer rental properties in the Borough.~~

~~§ 365-14.1 Definitions.~~

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

~~FAMILY—A reasonable number of persons (in relation to available sleeping and bathroom facilities) occupying a dwelling unit and living as a bona fide single, nonprofit housekeeping unit, living and cooking together, and constituting a stable and permanent living unit of a distinct domestic character, being a traditional family unit or the functional equivalent thereof, using certain rooms and housekeeping facilities in common.~~

~~A.—This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie or organization which is not a recognized religious order.~~

~~B.—For the purposes of this definition, there shall be a presumption that a collective group of persons related by kinship, adoption, blood or marriage living together under the same roof and maintaining a common household or distinct relationship on a permanent basis or for an indefinite period of time, including domestic servants, does constitute a “family” within the meaning of this definition.~~

~~ROOMING HOUSE—A building arranged or used for individual nontransient residency by persons living independently of one another, regardless of whether the residents share the use of common facilities, such as kitchen or bathing facilities; and where no meals or personal or financial services are provided to the residents.~~

~~§ 365-15 Inspections; certificates of occupancy; violations and penalties.~~

~~A. Authority.~~

~~(1) Procedure. The Code Official may perform an inspection to determine the conditions of buildings, dwellings, dwelling units, rooming and boarding units and houses, and premises located within the Borough so that their duty of safeguarding the health and safety of the occupants of the buildings or dwellings and of the general public is performed. For the purpose of making such inspections, the Code Official is authorized to enter the structure or premises at reasonable times to inspect. Prior to entering into a space not otherwise opened to the general public, the Code Official shall make a reasonable effort to locate the owner or other person having charge or control of the structure or premises, present proper identification and request entry. If the request to enter is refused or not obtained, the Code Official shall pursue recourse as provided by law.~~

~~(2) Duty of owner or occupant. The owner or occupant of every building, dwelling, dwelling unit, or the person in charge thereof, shall give the Code Official free access to all at reasonable times for the purpose of performing an inspection, examination, or survey permitted under the Code to effect compliance with the provisions therein or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions herein.~~

~~(3) Search warrant. The Code Official may, upon affidavit, apply to the Municipal Court for a search warrant setting forth the factual circumstances that provide a reasonable basis for believing that a violation of the Code exists on the premises, and if the Municipal Judge is satisfied as to the matter set forth in the affidavit, he or she shall authorize the issuance of a search warrant permitting access to and inspection of that part of the premises on which the violation allegedly exists.~~

~~B. Regulations. The standards set forth in the Code shall determine whether a particular premises is fit for occupancy. No person shall occupy, as owner-occupant, nor shall any person rent to or sell to another for occupancy any building, dwelling, or dwelling unit for the purpose of living therein which fails to conform to the Code.~~

~~C. Certificates of occupancy.~~

~~(1) The Code Official is required to issue all necessary notices or orders to ensure compliance with the Code prior to the occupancy or use of any premises when:~~

- ~~(a) Any sale or any other transfer of title to the premises has occurred; or~~
- ~~(b) Any lease or rental of the premises to new tenants on a week-to-week, or month-to-month, basis for an indefinite term or for a definite term of 175 days or longer.~~

~~(2) It shall be a violation of this Code for any person to occupy or use any premises if a required certificate of occupancy has not been issued.~~

~~D. Application procedure. Applications for certificates of occupancy shall not be deemed complete by the Code Official unless the applicant:~~

~~(1) Fully completes the form required by the Code Official for such applications;~~

~~(2) Pays the appropriate fee;~~

~~(3) Provides proof of payment of taxes pursuant to N.J.S.A. 40:52-1.2;~~

~~(4) Provides a copy of the lease agreement executed by all adult persons who will occupy the dwelling unit; provided, however, that the rent amount may be redacted. The copy shall be certified by the applicant to be true and correct, and to contain the entire agreement between the landlord and the tenants, except for redacted information.~~

~~(5) An affidavit completed by each of the persons who will occupy the dwelling unit stating the following:~~

~~(a) Whether he or she maintains a residence elsewhere, and providing the full address thereof;~~

~~(b) Providing a true and correct copy of his or her driver's license or other proof of identification;~~

~~(c) Listing the names of all minors who will occupy the dwelling unit, and the ages of each child as of the date of the application; and~~

~~(d) Providing such additional information as the Code Official may reasonably require.~~

~~(6) Provided, however, that the information requested in Subsection D(4) and (5) above shall not be required where the application for a certificate of occupancy is made in connection with a title transfer.~~

~~E. Inspection reports. Upon completion of any inspection, the Code Official shall prepare a report listing and describing all violations of this Code within five working days after the completion of the inspection; and the report shall also describe, where appropriate, any corrective remedies which must be taken for the premises to comply with this Code. The report shall contain the following:~~

~~IT IS ILLEGAL TO OCCUPY OR USE THIS PREMISES UNLESS AND UNTIL A CERTIFICATE OF OCCUPANCY HAS BEEN ISSUED BY THE CODE OFFICIAL. IF ANY VIOLATIONS ARE NOTED, IT IS THE APPLICANT'S RESPONSIBILITY TO MAKE THE NECESSARY CORRECTIONS AND TO APPLY FOR A REINSPECTION.~~

~~F. Filing and service of inspection reports.~~

- ~~(1) The original of any inspection reports shall be filed with the Code Official.~~
- ~~(2) The Code Official shall provide legible copies to:
  - ~~(a) The owners of the premises or their representatives;~~
  - ~~(b) The owner's attorney, if applicable;~~
  - ~~(c) The person who executed the application;~~
  - ~~(d) The transferor(s) or their representatives, if applicable;~~
  - ~~(e) The tenant or assignee, if applicable.~~~~

~~G. Unconditional and conditional certificates of occupancy.~~

- ~~(1) An unconditional certificate of occupancy will be issued when the premises complies with the provisions of this Code as of the date appearing on the inspection report. The certificate shall be either mailed or otherwise delivered to the applicant.~~
- ~~(2) A conditional certificate of occupancy is issued when there are violations noted on the inspection report, unless the inspector notes on the face of the report that any particular violations constitute an imminent hazard to the life or safety of occupants, in which event the Code Official may refuse to issue any certificate of occupancy until the noted violations are corrected or abated. A conditional certificate of occupancy shall be valid for a specific period of time not to exceed 90 days from the date appearing on the inspection report. The conditional certificate of occupancy shall expire after 90 days, and it shall be the obligation of the applicant to reapply. Failure to do so will render the conditional certificate null and void. In the event that a reinspection shows no violations, an unconditional certificate of occupancy shall be issued as prescribed herein. If the reinspection report shows remaining violations, no inspection certificate shall be issued.~~
- ~~(3) No certificate of occupancy shall be issued for residential premises leased for a period of less than 175 days where it reasonably appears to the Code Official, either on the basis of the affidavit submitted by the applicant pursuant to this article or on the basis of other available information, that any of the persons who will occupy the dwelling unit maintain a permanent residence elsewhere except in conformity with this article.~~

~~H. Violations and penalties. The penalty for violation of any provision of this article where no other penalty of fine or imprisonment is provided shall be as provided in Chapter~~

~~1, Article II, General Penalty, of this Borough Code. This penalty shall be in addition to any different type of penalty or sanction provided in this article.~~

~~§ 365-16 Summer rental licenses; inspections.~~

~~A. Summer rental licenses; definition. The rental of property within the Borough of Bradley Beach during any portion of the year from May 15 to September 15 is subject to a summer rental license as set forth under §§ 365-15 and 365-16.~~

~~B. When summer rental licenses required.~~

~~(1) A summer rental license issued by the Code Official shall be required prior to the occupancy of any real property rented for a term of less than 175 consecutive days for residential purposes by a person having a permanent place of residence elsewhere. Subject to the provisions of Subsection E regarding special licenses, a new license shall be required whenever there is a change in the identity of any of the tenants or occupants of the premises.~~

~~(2) It shall be a violation of this Code for any person to occupy or use any premises if a required license has not been issued.~~

~~C. Applicability of Chapter 303, Mercantile Licenses. Summer rental licenses are similar to mercantile licenses. The provision of Chapter 303, Mercantile Licenses, shall apply to summer rental licenses as enforced hereunder by the Code Official, provided that, in the event of any inconsistency or conflict between the provisions of this article and the provisions of Chapter 303, Mercantile Licenses, the provisions of this article shall be controlling.~~

~~D. Number of licenses required. Every individual dwelling unit meeting the requirements of Subsection B shall require a separate summer rental license.~~

~~E. Term of license. Summer rental licenses shall be valid for a stated and specific period of time that coincides with the term of the lease or rental not to exceed 174 days; provided, however, that applicants who intend to use premises for short-term rentals to different tenants during a given period of time of less than 175 days may request a special license that is valid for the entire period of time, in which event a new license will not be required upon a change in the identity of the tenants or occupants during that period of time, provided that the applicant supplies the Code Official, at the time the application is made, with the dates when new tenants will occupy the premises and the identities of the new tenants.~~

~~F. Application for summer rental license.~~

~~(1) Applications for summer rental licenses shall be made in writing, on forms prescribed by the Code Official, and signed by the owner of the premises or the owner's authorized agent. The Code Official may require proof of agency. Applications for summer rental licenses shall not be deemed complete by the Code Official unless the applicant:~~

~~(a) Fully completes the form required by the Code Official for such applications, which shall include, at a minimum, the following information:~~

~~[1] The street address and the tax map lot and block numbers of the premises.~~

~~[2] The names and mailing addresses and numbers of all owners of the premises.~~

~~[3] The name, mailing address, and daytime telephone number of the person signing the application.~~

~~[4] The names and mailing addresses of all tenants and of all adult persons who are expected to occupy the dwelling unit whether or not they are tenants. The applicant shall also provide the dates when there will be any change in the identity of the tenants or occupants. For summer rental licensed dwelling units containing five or more occupants, one tenant shall be designated for the purpose of receiving all notices as to violations or notices generally applicable to the dwelling unit.~~

~~(b) Pays the appropriate inspection fee prescribed by this article.~~

~~(c) Provides proof of payment of taxes and assessments pursuant to N.J.S.A. 40:52-1.2.[1]~~

~~(d) Provides the information required where applicable under this article and where applicable under Chapter 303, Mercantile Licenses.~~

~~(e) Provides a copy of the lease agreement executed by all adult persons who will occupy the dwelling unit; provided that the rent amount may be redacted. The copy shall be certified by the applicant to be true and correct and to contain the entire agreement between the landlord and the tenants, except as to the redacted financial information.~~

~~(f) Provides an affidavit executed by each of the persons who will occupy the dwelling unit stating whether he or she maintains a residence elsewhere, providing the full address and telephone number thereof, stating whether the other address is his or her permanent address, providing a copy of his or her driver's license or such additional proof of identification and additional information as the Code Official may reasonably require.~~

~~(g) Provides, in connection with the first application for a summer rental license, a floor plan of the dwelling unit proposed to be licensed, in a form satisfactory to the Code Official, accurately depicting the locations of the bedrooms, kitchen, bathrooms and other rooms in the dwelling unit, and all routes of ingress and egress; provided, however, that nothing contained herein shall be construed to require that the floor plan be prepared by an architect or other licensed professional.~~

~~(2) All information and documentation required to be provided pursuant to this section shall be deemed material. Any person who knowingly or grossly negligently misstates any fact therein shall be subject to criminal prosecution. Any summer rental license that is issued on the basis of false information or documentation shall be subject to revocation.~~

~~G. Inspections required. No summer rental license shall be issued by the Code Official unless the dwelling unit or premises, as appropriate, has first been inspected and determined to be in full compliance with the Code and the requirements of this article. No temporary or conditional certificates of occupancy or conditional licenses shall be issued in connection with any summer rental license.~~

~~H. Inspection reports. Upon completion of any inspection, the Code Official, or his designee, shall prepare a report listing and describing all violations of this Code within five~~

working days. The report shall describe, where appropriate, any corrective remedies that must be taken for the premises or dwelling unit to comply with the Code. The report shall contain the following:

~~IT IS ILLEGAL TO OCCUPY OR USE, OR TO PERMIT THE OCCUPANCY OR USE OF, THIS PREMISES UNLESS AND UNTIL A LICENSE HAS BEEN ISSUED BY THE CODE OFFICIAL. IF ANY VIOLATIONS ARE NOTED, IT IS THE APPLICANT'S RESPONSIBILITY TO MAKE THE NECESSARY CORRECTIONS AND TO APPLY FOR A REINSPECTION.~~

~~I. Scheduling of inspections and reinspections; conditions. The Code Official, or his designee, shall inspect the dwelling unit or premises to be licensed according to the following schedule:~~

~~(1) Initial inspections. For completed applications that are filed before May 1, the inspection shall occur within five business days. For completed applications that are filed after May 1, the inspection shall occur within 10 business days. The Code Official shall, to the extent practicable, schedule inspections in the order in which the completed applications are filed.~~

~~(2) Reinspections. When the inspection report required pursuant to Subsection H describes corrective remedies that must be taken for the premises or dwelling unit to comply with the Code, the applicant shall be required to contact the Code Official to schedule a reinspection of the premises or dwelling unit. For requests for reinspection that are made before May 1, the reinspection shall be conducted within three business days. For requests for reinspection that are made on or after May 1, the reinspection shall be conducted within five business days. Each reinspection of a premises or dwelling unit that occurs will be conducted within five business days after the receipt by the Code Official of the reinspection fee.~~

~~(3) Conditions of inspection and reinspection. The Code Official shall not inspect any dwelling unit for purposes of issuing a summer rental license during a period it is occupied by another tenant, regardless of whether the tenant is present at the time of the inspection; provided, however, that notwithstanding this provision, the Code Official shall inspect for purposes of issuing a summer rental license those dwelling units that are subject to the restriction set forth in this section regardless of whether they are occupied by another tenant, and shall reschedule any reinspection for as soon as reasonably practicable following the vacation of the premises by the tenants with school-aged children.~~

~~J. Filing and service of inspection reports. The original of any inspection or reinspection reports shall be filed with the Code Official. The Code Official shall provide legible copies to the person who executed the application. All inspection and reinspection reports shall be available for public inspection.~~

~~§ 365-17 Unlawful acts.~~

~~—It shall be unlawful for any person or entity to erect, construct, alter, extend, repair, remove, demolish, maintain, fail to maintain, provide, fail to provide, occupy, let to another or occupy or permit another person to occupy any structure or any other object regulated herein or cause same to be done, contrary to or in conflict with or in violation of any provisions of this Code, or to fail to obey a lawful order or notice posted under the provisions of this Code.~~

~~§ 365-18 Violations and penalties.~~

~~—In the event that a person or entity fails to comply with this Code by committing an unlawful act, a fine of not less than \$500 but not to exceed the maximum penalty in Chapter 1, Article II, General Penalty, shall be imposed if the violation is not cured or objected to as prescribed under the Code.~~

~~§ 365-19 Failure to comply with Property Maintenance Code; notice; hearing; violations and penalties.~~

~~—Any person or entity which fails to comply with Chapter 262, Housing Standards, shall receive written notice that a violation of Chapter 262, Housing Standards, has occurred. The written notice shall specify the particular violation. The person or entity shall have 10 days from the date of receipt of the notice to cure the violation or file a written objection of the notice with the Borough Clerk. The Borough of Bradley Beach reserves the right to file a complaint in Municipal Court regarding the violation when an objection is received. In such case, a copy of the complaint shall be served upon the appropriate person or entity in accordance with the Court Rules of the State of New Jersey. In the alternative, the Borough of Bradley Beach may appoint a hearing officer to resolve the matter rather than filing a complaint in Municipal Court. The hearing officer shall be a licensed attorney of the State of New Jersey who is appointed by the Mayor, subject to the advice and consent of the Borough Council. The hearing officer shall not own or lease any real property within the Borough of Bradley Beach, nor hold any interest in the assets of or profits arising from the ownership of such property. The hearing officer shall schedule a hearing to resolve the complaint and objection thereto in a public place as designated by the Borough Council at least 30 days from the date upon which the notice is served but not more than 45 days from such date. The hearing officer shall give a full hearing to both the complaint and to any evidence in contradiction or mitigation thereof, provided the objector or a legal representative therefor appears at the hearing. At the conclusion of the hearing, the hearing officer shall make a determination with respect to the violation(s) presented. An appeal may be filed in accordance with the provisions of due process and the applicable ordinance or regulation. In the event that the person or entity fails to cure the violation or to file an objection, a fine, of not less than \$1,000, but not to exceed the maximum penalty in Chapter 1, Article II, General Penalty, shall be imposed.~~

~~§ 365-20 Fees.~~

~~—The Code Official shall charge and collect the following fees:~~

~~A. For applications for summer rental license: \$35.~~

~~B. (Reserved)~~

~~C. (Reserved)~~

~~D. (Reserved)~~

~~E. All fees regarding and relating to any certificate of occupancy shall be assessed and paid in accordance with § 160-4 of the Revised General Ordinances of the Borough of Bradley Beach.~~

~~§ 365-21 Recovery of costs.~~

~~—Notwithstanding any provision of this Code to the contrary, whenever the Code Official must placard and/or secure a structure or abate a public nuisance and/or any exterior property violations of this Code, or take emergency measures under this article, under any notice provisions consistent with due process, all costs thereof shall be recoverable.~~

~~§ 365-22 Enforcement of other laws or ordinances not impaired.~~

~~—The Code standards and regulations shall be in addition to the provisions of any other applicable ordinance, law, rule, or regulation. Nothing in this Code shall be construed to impair or prevent the enforcement of any other ordinance, law, rule or regulation.~~

~~§ 365-23 Findings regarding seasonal rental accommodations.~~

~~—The Borough Council finds, determines and declares that:~~

~~A. The New Jersey Legislature has, pursuant to N.J.S.A. 40:52-1n, effective on January 8, 1998, specifically authorized municipalities to license and regulate the rental of real property for a term of less than 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. Bradley Beach is a resort community 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.~~

~~C. Because of the great demand for seasonal accommodations in Bradley Beach, seasonally rented accommodations are frequently overcrowded by tenants and other occupants who often permit many more occupants in the premises than authorized by this Code.~~

~~D. The overcrowding of seasonal rental accommodations in Bradley Beach frequently results in conditions that are extremely unsafe to the inhabitants of those premises.~~

~~E. Seasonal rental accommodations in Bradley Beach are also frequently detrimental to the health, safety, welfare and quality of life of other nearby residents and visitors. Problems frequently associated with seasonal rental accommodations 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.~~

~~F. Seasonal rental accommodations in Bradley Beach also contribute to significant overcrowding in the community and a shortage of on-street parking spaces. The~~

~~overcrowded parking conditions lead to unlawful parking at intersections and near fire hydrants, which threaten public safety.~~

~~G. Seasonal rental accommodations in Bradley Beach are also detrimental to the school-aged children of families who rent those same premises during the winter season. Because the summer rental season typically runs from May 15 to September 15 of each year, families with school-aged children who inhabit many of these rental properties during the winter months must move out of Bradley Beach at least a month or more before the end of the school year. Some of these children do not finish the school year either in Bradley Beach or at all, while others suffer chronic tardiness or absenteeism during the period after they must move out of Bradley Beach. This has a detrimental effect on both these children and the quality of the education afforded to all the children in the Bradley Beach School District.~~

~~§ 365-24-14 Commencement of summer rental license where licensed premises are occupied by school-aged children.~~

No dwelling unit that is rented for any portion of the period from September 15 until May 15 to tenants with one or more children between the ages of six (6) and seventeen (17), inclusive, shall thereafter be occupied pursuant to a summer rental license until the third day following the last day of the academic year for the Bradley Beach Elementary School as determined by the Superintendent of the Bradley Beach School District.

~~§ 365-25-15 Fire prevention regulations applicable to summer rental licensed premises.~~

A. No bedroom door in any summer rental licensed dwelling unit shall be equipped with a padlock, combination, or keyed lock that is designed or intended to be locked from outside of the bedroom.

B. The smoke detectors in every summer rental licensed dwelling unit shall be in working order at all times.

C. No beds, mattresses, futons, or sleeping bags shall be permitted in any basement, cellar, loft or any other location or room of a summer rental licensed dwelling unit unless the room is specifically designated as a bedroom in the records of the Bradley Beach Housing Department. 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 summer rental licensed dwelling unit.

~~§ 365-26 Sales of shares in summer rental licensed dwelling units.~~

~~—It shall be a violation of this Code for any tenant of a summer rental licensed dwelling unit to sell, lease or otherwise accept payment in exchange for a share or other partial interest in the lease of a summer rental licensed dwelling unit, or for the right to occupy that dwelling unit. The summer rental license of a dwelling unit in which shares have been purchased or sold shall be subject to revocation for the remainder of the season.~~

**BE IT FURTHER ORDAINED**, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall only apply to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

**BE IT FURTHER ORDAINED** that this ordinance shall take effect twenty (20) days after passage by the Mayor and Council and publication according to law.

**SO ORDAINED** as aforesaid.

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KELLY BARRETT  
Municipal Clerk

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GARY ENGELSTAD  
Mayor