

BOROUGH OF MAYFIELD

An Ordinance Amending and Replacing Ordinance No. 2015-09 Entitled The Regulation of Residential Rental Units Within The Borough of Mayfield

ORDINANCE #:2018-08

SECTION 1. PURPOSE:

It is the purpose of this Ordinance to make Amendments to Ordinance 2015-09. It is the purpose of this Ordinance and the policy of the Council of the Borough of Mayfield, in order to protect and promote the public health, safety and welfare of its citizens to establish rights and obligations of Owners and Tenants relating to residential rental units in the Borough of Mayfield and to encourage Owners and Tenants to maintain and improve the quality of rental housing within the community. It is also the policy of the Borough that Owners, Agents and Tenants share responsibilities to obey the various codes adopted to protect and promote public health, safety and welfare. As a means to those ends, this Ordinance provides for a system of residential rental registration and Permits and sets penalties for violations. This Ordinance shall be liberally construed and applies to promote its purposes and policies.

In considering the adoption of this Chapter, the Borough Council of the Borough of Mayfield makes the following findings:

- A. The Borough has experienced problems with the maintenance, safety and welfare of residential rental properties.
- B. The health, safety and welfare of Tenants of rental units within the Borough would be enhanced by a system of residential rental unit licensing, insuring compliance of the Codes governing the maintenance of existing structures.

SECTION 2. APPOINTMENT AND DUTIES OF CODE ENFORCEMENT OFFICER:

The Borough's Police Department, Code Enforcement Officer or such other individual or firm appointed by the Borough Council shall administer this Ordinance in accordance with its terms and shall be responsible for instituting enforcement proceedings on behalf of the Borough.

SECTION 3. DEFINITIONS:

3.1 General. As used in this Section, the following terms shall have the meaning indicated unless a different meaning clearly appears from the context:

Agent: An adult individual designated by the Owner of a residential rental unit as a responsible local Agent.

Borough: The Borough of Mayfield, Lackawanna County Pennsylvania and/or any duly authorized agent or representative of the Borough of Mayfield.

Code: Any Code or Ordinance adopted or in effect in and for the Borough of Mayfield, as amended from time to time, including, but not limited to, the International Property Maintenance Code of 2003, as amended, the Mayfield Borough Zoning Ordinance, as well as any and all other applicable Ordinances or Resolutions adopted by the Borough of Mayfield.

Code Enforcement Officer: The officer is charged with administration of this Ordinance or any duly authorized representative of said Officer or firm.

Residential Rental Unit: Any residential unit occupied by a person other than the Owner.

Owner: The legal or beneficial holder of title to a residential unit.

Residential Unit: A single habitable living unit, having its own toilet, bath or shower, sink sleeping or cooking facilities and separate access to the outside. There may be more than one residential unit on a premise(s).

Residential Rental Registration and Permit: A document issued for a fee by the Borough of Mayfield to the Owner(s) or responsible Agent(s) of residential unit evidencing the existence of said residential rental unit upon application by Owner or Agent to the Borough of Mayfield.

Tenants: Any person, corporation partnership or other entity who rents or leases a residential rental unit they do not own for more then thirty (30) consecutive days.

SECTION 4. PERMIT REQUIRMENT:

It shall be unlawful for any person, firm or business entity to conduct or operate or cause to be rented either as Owner or Agent within the Borough any Residential Rental Unit without first having obtained a Permit to do so as hereafter provided.

Once a residential rental unit has passed inspection and the owner has been granted a Permit by the Borough of Mayfield for that unit, no further inspections will be required of the residential rental unit until either:

1. A change in the ownership of the residential rental unit takes place; or
2. a change in the tenants of the residential rental unit; or
3. reported or observed code violations are reported to the Borough of Mayfield regarding a residential rental unit.

Nothing in this section shall be interpreted to diminish or restrict any powers of Borough of Mayfield, through its Code Enforcement Officer or other duly appointed person or entity, from inspecting a residential rental unit pursuant to any other duly adopted ordinance.

SECTION 5. CURRENT OWNER(S):

Within thirty (30) days from the effective date of this Ordinance, each Owner of Residential Rental Property shall submit to the Borough Secretary, a fully executed Residential Rental Unit Initial Report and Residential Rental Unit Permit Application for each Residential Rental Unit along with a registration fee of sixty (\$60) dollars per unit. The Residential Rental Unit Permit fee shall be paid to the Borough Secretary in the form of a check made payable to the Borough of Mayfield. Said fees and registration forms may be secured from and returned to the Borough Secretary at the Borough of Mayfield Office or mailed to 739 Penn Avenue, Mayfield, PA 18433.

SECTION 6. NEW OWNER(S):

After the effective date of this Ordinance, any person who becomes an Owner of any parcel of real estate or any improvement on real estate or a building located in the Borough of Mayfield by Agreement of Sale, Deed, or by any other means, shall within thirty (30) days thereafter, submit to the Borough Secretary, a fully executed Residential Rental Unit Registration and Permit for each Residential Rental Unit along with a registration fee of sixty (\$60) dollars per unit. The Residential Rental Unit Permit fee shall be paid to the Borough Secretary in the form of a check made payable to the Borough of Mayfield. Said fees and registration forms may be secured from and returned to the Borough Secretary at the Borough of Mayfield Office or mailed to 739 Penn Avenue, Mayfield, PA 18433.

SECTION 7. CHANGE IN OCCUPANCY:

After the effective date of this Ordinance, where a change in the occupancy of any Residential Rental Unit occurs within the Borough of Mayfield, owner or his Agent shall submit to the Borough Secretary, a fully executed Residential Rental Unit Registration and Permit for each Residential Rental Unit along with a registration fee of sixty (\$60) dollars per unit. The Residential Rental Unit Permit fee shall be paid to the Borough Secretary in the form of a check made payable to the Borough of Mayfield. Said fees and registration forms may be secured from and returned to the Borough Secretary at the Borough of Mayfield Office or mailed to 739 Penn Avenue, Mayfield, PA 18433.

SECTION 8. INSPECTION OF RESIDENTIAL RENTAL UNITS (RRU):

Upon the submission of a RRU Registration application and fee, the Code Enforcement Officer for the Borough of Mayfield along with the Mayfield Fire Marshall, if necessary, shall perform an inspection of said RRU prior to an issuance of a Permit by the Borough. The time and date for said inspection shall be established by the Code Enforcement Officer. The sixty (\$60.00) dollar registration fee will cover the initial inspection and any subsequent inspections for units that fail inspection as result of a code violation.

Upon the receipt of a completed application, including the list of Tenant's names and payment of appropriate Permit fee and provided the Owner is not in violation of the requirements of this

chapter or any ordinance or code of the Borough as determined by the CEO, the Code Enforcement Officer shall issue a Residential Rental Permit for the unit.

SECTION 9. OWNER(S) DUTY TO MAINTAIN:

It shall be the duty of every Owner to keep and maintain all regulated rental units and premises in compliance with applicable codes and provisions of all other applicable laws and regulations and local ordinances and to keep said property in a good and safe condition. Every Owner shall be responsible for regulating the proper and lawful use of said property. All dwelling units for rent must meet the International Property Maintenance and Existing Building Code/2003 as amended. Any code violations shall be remedied within a time period to be set by the Code Enforcement Officer but shall not exceed thirty (30) days from the date of the discovered violation. Should any code violation(s) be a threat to the health and or safety of the Tenant(s) within the Residential Rental Unit or should the structure and/or equipment be condemnable pursuant to International Property Maintenance and Existing Building Code; Section 108.1 through 108.2 the unit shall be declared uninhabitable and the Tenant(s) shall have to evict from said premises until said code violation(s) are corrected and all repairs made. If any code violations not related to the health or safety are not remedied within the time limit give by the Code Enforcement Officer, the Code Enforcement Officer can declare the Residential Rental Unit uninhabitable until the code violations are cured and to remove the Tenant(s) from the Residential Dwelling Unit, however, if the un-remedied code violations were not within the control of the Owner or his Agent, the Code Enforcement Officer may grant an extension to the Owner or Agent allowing him time to rectify violations.

The owner or agent shall Permit inspections of any residential rental unit by the Code Enforcement Officer at reasonable times upon reasonable notice. The CEO may inspect any RRU with the tenant’s approval at any reasonable time.

SECTION 10. GROUNDS FOR NON-RENEWAL, SUSPENSION OR REVOCATION OF PERMIT REQUIRED BY SECTION FOUR:

1. General- The Permit required by section 4 of this ordinance, above, may be refused, not renewed, suspended or revoked upon a finding by the Code Enforcement Officer that one or more of the requirements of this Ordinance or the Borough Codes or Borough Zoning Ordinance has been violated. Written notice shall be given to the Owner and Agent, if applicable, of the violations of this Ordinance or of the Borough Code or the Borough Zoning Ordinance. Upon failure of the Owner or Agent to correct the violation(s) within thirty (30) days after notice, the Permit may be refused, not renewed, suspended or revoked as appropriate as determined by the Code Enforcement Officer. The suspended Permit may be granted, renewed or reinstated upon meeting the requirements of the code.

2. Discontinuation of Occupancy- When a Permit required by section 4 has been denied, is suspended, is revoked or where an Owner or Agent, if appropriate, has not applied for said Permit, no further rental or occupancy of such RRU shall be Permitted until a Permit is applied for and issued.

SECTION 11. DESIGNATION OF AGENT:

It shall be unlawful for any residential property, including all rental properties to be owned or operated by any person residing outside the Borough of Mayfield, Pennsylvania, unless such owner or operator provides to the Code Enforcement Officer - the name, address and twenty-four hour telephone number of a designated responsible agent. Such information shall be kept current and updated as it changes.

Every Owner who is not a full time resident of the Borough of Mayfield or elsewhere in an area that is not within a twenty (20) mile radius of the Borough of Mayfield shall designate an Agent who shall reside in the Borough or in an area that is within a twenty (20) mile radius of the Borough. If the Owner is a business entity, an Agent shall be required if an officer of the business does not reside within the aforesaid area. The owner and/or agent must also provide a written verification as to an address and providing of a post office box will not be sufficient as evidence of residency. Designation of a responsible agent shall authorize the agent to receive and accept notices and communications necessary or deemed appropriate by the Code Enforcement Officer under the terms of all laws of the Borough of Mayfield, including but not limited to each chapter of the Borough Code, the Zoning Code, the Property Maintenance Code and this Ordinance, relative to the property in which said agent is designated. The Agent shall be authorized by the Owner to receive service of process, notices and demands, as well as perform the obligations of the Owner under this Ordinance. Nothing contained herein shall effect the right of the Code Enforcement Officer to submit notices and communications directly to the Owner, rather than to the responsible agent, or to serve process or initial and subsequent pleadings in any manner Permitted by law.

SECTION 12. NOTICES

- 1) All notices shall be sent to the owner and manager, if applicable, by certified mail. In the event that the notice is returned by the postal authorities marked "unclaimed" or "refused", then the Code Enforcement Officer or Police Department shall attempt delivery by personal service on the owner or agent, if applicable. The Code Enforcement Officer shall also post the notice at a conspicuous place on the premises.
- 2) If personal service cannot be accomplished after a reasonable attempt to do so, then the notice may be sent to the owner or agent at the address stated on the most current registration application for the premises in question, by regular first class mail, postage prepaid. If such notice is not returned by the postal authorities within five days of its deposit in the US Mail, then it shall be deemed to have been delivered to and received by the addressee on the fifth day following its deposit in the United States Mail.
- 3) For purposes of this ordinance, any notice required hereunder to be given to the agent shall be deemed as notice given to the owner.
- 4) There shall be a rebuttable presumption that any notice required to be given to the owner under this ordinance shall have been received by such owner if the notice was given to the owner in the manner provided by this ordinance.
- 5) A claimed lack of knowledge by the owner, or agent, if applicable, of any violation hereunder cited shall be no defense to closure of rental units, as long as all notice prerequisite to such proceedings have been given and deemed received in accordance with the provision of this ordinance.

SECTION 13. FAILURE TO COMPLY- RIGHT TO APPEAL:

If an Owner fails to remedy any code violations within the time allotted by the Code Enforcement Officer, a rental Permit shall be denied to said Owner for that particular Residential Rental Unit. Any Owner who has been denied a Permit may within thirty (30) days of said denial appeal the Code Enforcement Officer’s decision to the Codes Enforcement Appeals Board using procedures contained in the International Property Maintenance and Existing Building Code/2003 for their appeal of code violations. Should the Owner not agree with a decision issued by the Code Enforcement Appeals Board, the Owner can appeal said decision to the Lackawanna County Court of Common Pleas.

SECTION 14. TENANT’S DUTIES:

Tenants shall comply with all applicable codes and ordinances of the Borough of Mayfield.

- 1. Inspection of Premises.** The Tenants shall Permit inspections of any premises by the Code Enforcement Officer at reasonable times upon reasonable notice. The Code Enforcement Officer may inspect premises with an Owner’s approval at any reasonable time.
- 2. Maintain Premises.** The Tenants shall maintain their rental unit in good sanitary condition; to report unsafe and/or dangerous conditions of the rental unit, to properly dispose of garbage pursuant to the then garbage ordinance and to engage in the recycling of materials in accordance with the Mayfield Borough Recycling Ordinance.

SECTION 15. FEES:

The fee of a Residential Rental Permit and inspections shall be set by Borough Council at its discretion. Mayfield Borough is empowered to change these fees by resolution passed by a majority of members of the Mayfield Borough Council.

SECTION 16. VIOLATIONS AND PENALTIES

1. It shall be unlawful for any person as either Owner of a regulated rental unit for which a Permit is required to operate without a valid current Permit issued by the Borough authorizing such operation. It shall be unlawful for any Owner or Tenant to violate this Ordinance.
2. If any person shall fail, refuse or neglect to comply with the provisions of this ordinance the Borough may order the closure of the rental unit(s), until such provisions are complied with.
3. Any Owner found to operating a residential rental unit without an effective rental Permit shall be subject to a fine in the amount of one-hundred dollars and no cents (\$100.00) a day for every day the owner is found to be operating the residential rental unit without a Permit issued by the Mayfield Borough. Any violation of the provisions of this ordinance on any day shall be a separate and distinct violation and shall subject the violator to separate and distinct penalties for each day a violation of this ordinance occurs.
4. Any person violating any of the other provisions of this ordinance shall be subject to a fine of fifty dollars and no cents (\$50.00) for a first offense, one hundred dollars and no cents (\$100.00)

for second offense and one hundred fifty dollars and no cents (\$150.00) for each offense thereafter.

5. In addition to the above fines, any person who shall be found guilty of violating any of the provisions of this Ordinance, shall pay, in addition to any fees, costs or penalties ordered by the Court, to the Mayfield Borough any related costs incurred by the Borough, together with the costs of prosecution, including, but not limited to, attorney's fees, filing costs and cost of prosecution.

SECTION 17. SEVERABILITY:

If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by a Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains workable minus the invalid portion.

SECTION 18. EFFECTIVE DATE:

This Ordinance shall take effect immediately upon its enactment and as otherwise provided by law.

Ordained and Enacted this the ____ day of _____, 201_ by the Borough of Mayfield in regular meeting assembled.

President of Council

Attest:

Borough Secretary

Approved:

Mayor