

HONESDALE BOROUGH ORDINANCE NO.616

An Ordinance to amend the Code of the Borough of Honesdale, Wayne County, Pennsylvania, to add a new Chapter 163, to be entitled Rental Property, which chapter provides for the regulation of residential rental units.

1. PURPOSE.

It is the purpose of this Ordinance and the policy of the Council of the Borough of Honesdale, in order to protect and promote the public health, safety and welfare of its citizens to establish rights and obligations of owners and occupants relating to residential rental units in the Borough of Honesdale and to encourage owners and occupants to maintain and improve the quality of rental housing within the community. It is also the policy of the Borough that owners, managers and occupants share responsibilities to obey the various codes adopted to protect and promote the public health, safety and welfare. As a means to those ends, this Ordinance provides for a system of residential rental registration and licenses and sets penalties for violations. This Ordinance shall be liberally construed and applied to promote its purposes and policies.

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

- A. The Borough has experienced more problems with the maintenance of residential rental properties.
- B. There is a greater incidence of disturbances which adversely affect the peace and quiet of the neighborhood at residential rental properties than at owner occupied residential properties.
- C. The health, safety and welfare of occupants 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.

2. APPOINTMENT AND DUTIES OF CODE ENFORCEMENT OFFICER.

The Borough 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.

3. DEFINITIONS.

3.1. **General.** As used in this Chapter, 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 Honesdale, Wayne County, Pennsylvania

Code: Any Code or Ordinance adopted or in effect in and for the Borough of Honesdale, as amended from time to time.

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

Residential Rental Unit: The residential unit occupied by a person other than the owner.

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

Residential Unit: Any structurally enclosed area including or intending to include sleeping facilities.

Disruptive Conduct: Any form of conduct action, incident or behavior perpetrated, caused or permitted by any occupant or

visitor of a residential rental unit that is so loud, offensive, riotous or that otherwise disturbs other persons or of reasonable sensibility in their peaceful enjoyment of their premises or causes damage to said premises such that a report is made to a police officer complaining of such conduct, action, incident or behavior. It is not necessary that such conduct, action, incident or behavior constitute a criminal offense, nor that criminal charges be filed against any person in order for said person to have perpetrated, caused or permitted the commission of disruptive conduct as defined herein. Provided, however, that no disruptive conduct shall be deemed to have occurred unless a public officer or a police officer shall investigate and make a determination that such did occur. The tenant, the owner and the responsible agent shall be notified of any such occurrences in writing.

Residential Rental Registration and License: A document issued every year for a fee by the Borough of Honesdale to the owner or responsible agent of a residential rental unit evidencing the existence of said residential rental unit upon completed application by owner or agent to the Borough of Honesdale.

3. OWNER(S)' DUTIES

It shall be the duty of every owner to keep and maintain all regulated rental units and premises in compliance with all 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. As provided in this Chapter, every owner shall be responsible for regulating the proper and lawful use of said property.

3.1 RENTAL REGISTRATION AND LICENSE.

3.2 **License Requirement.** It shall be unlawful for any person, firm or business entity to conduct or operate or cause to be rented either as owner, agent or manager within the Borough any residential unit without having first obtained a license to do so as hereafter provided.

3.3 **Application.** Within ninety (90) days after the effective date of this Ordinance and annually thereafter, the owner of each residential rental unit existing on the effective date of this Ordinance shall make written application to the Code Enforcement Officer for a license for such use on a form to be supplied by the Code Enforcement Officer and containing such information as necessary to administer and enforce and to insure compliance with the provisions of this Ordinance and the Borough Building Codes.

3.3(a) **Designation of Agent.** Every owner who is not a full time resident of the Borough of Honesdale or elsewhere in an area that is not within a twenty (20) mile radius of the Borough of Honesdale, shall designate an agent who shall reside in the Borough of Honesdale or in an area that is within a twenty (20) mile radius of the Borough of Honesdale. 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 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. The identity, address and telephone number of the person who is designated as agent shall be provided by owner or agent to the Borough and such information shall be kept current and updated as it changes.

3.4 **Issuance of License.** Upon the receipt of a fully completed application, including the list of tenants' names and the appropriate license fee and provided that the owner is not in violation of the requirements of this Chapter or any ordinance or code of the Borough, the Code Enforcement Officer shall issue a license for the property.

3.5 **Renewal of License.** Each license shall expire on the date set on the license and shall be renewed upon reapplication by owner as long as owner is not in violation of the requirements of this Chapter or any ordinance or code of the Borough.

3.6 **Transfer of License/Change of Ownership.** License issued is transferable to any person or entity who has acquired ownership of the licensed residential rental unit for the unexpired portion of the licensed term for which it was issued or re-issued, provided that the application to transfer such license is filed with the Code Enforcement Officer at least (10) days prior to any change in ownership and the licensed residential rental unit is in compliance with all of the Borough codes and ordinances.

4. **MAINTENANCE OF PREMISES.**

The owner shall maintain the premises in compliance with the applicable codes of the Borough and shall regularly perform all routine maintenance and shall promptly make any necessary repairs to fulfill this obligation.

4.1 **Inspections by Code Enforcement Officer.** The owner 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 the tenant's approval at any reasonable time.

5. **TENANT'S DUTIES.**

Tenant shall comply with all applicable codes and ordinances of the Borough of Honesdale.

5.1 **Inspection of Premises.** The tenant 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.

5.2 **Disruptive Conduct.** The occupant shall not engage in nor tolerate nor permit others on the premises to engage in disruptive conduct or other violations of this Ordinance.

5.2a When police investigate an alleged incident of disruptive conduct, he or she shall complete a disruptive conduct report upon a finding that the reported incident did in his or her judgment constitute disruptive conduct as defined herein. The information filed on said report shall include, if possible, the identity or identities of the alleged perpetrator of the disruptive conduct and all other obtainable information including the factual basis for the disruptive conduct requested on the prescribed form. Where the police make such investigations, said police officer shall then submit the completed disruptive conduct report to the Code Enforcement Officer. In all cases, notice of the disruptive conduct shall be mailed to the owner or agent within three (3) working days of the occurrence of the alleged disruptive conduct.

5.2b After three (3) disruptive conduct incidents in any twelve (12) month period by an occupant, the owner or agent shall have ten (10) working days from the date of receiving the notice to begin eviction proceedings against the occupants. Failure to take such action will result in the immediate revocation of the Residential Rental License. This paragraph is not intended to limit the owner or agent from initiating eviction actions prior to the third disruptive incident.

6. **GROUND FOR NON-RENEWAL, SUSPENSION OR REVOCATION OF LICENSE**

GENERAL – The Code Enforcement Officer may suspend a license upon a finding that one or more of the requirements of the Borough Codes or Borough Zoning Ordinance has been violated. The Code Enforcement Officer shall give written notice to the owner and agent if applicable of the violations of the Borough Codes or Zoning Ordinance. Upon failure of the licensed holder to correct the violation stated in the notice of violation within thirty (30) days, the license may be revoked. The suspended license may be reinstated upon meeting the requirements of the Code.

6.1 **Non-Renewal.** Non-renewal is the determination by the Code Enforcement Officer that an owner's application for a license should not be granted or renewed because the owner is in violation of a provision or provisions of any Borough Code. The Code Enforcement Officer will accept application for renewal of a license but will not approve or disapprove the same until all prior violations of this Code have been corrected.

6.2 **Failure to File an Application for Residential Rental License.** In the event that an owner fails to file an application for a residential rental license as required by this Chapter, the Code Enforcement Officer shall provide written notice to the owner that unless owner files said application within ten (10) business days of the date of the letter, the Code Enforcement Officer may deny license renewal after the expiration of the present license and/or file charges for the violation.

6.3 **Discontinuation of Occupancy.** When a license has been denied, expired, suspended or revoked, no further rental or occupancy of such rental units shall be permitted until a license has been issued.

7. **VIOLATIONS AND PENALTIES.**

It shall be unlawful for any person as either owner or agent of a regulated rental unit for which a license is required to operate without a valid current license issued by the Borough authorizing such operation. It shall be unlawful for any owner or occupant to violate this Ordinance.

7.1 Any owner found to be operating a residential rental unit without an effective rental license 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 license issued from the Borough of Honesdale.

7.2 Any person violating any of the other provisions of this Ordinance shall be subject to a fine of fifty dollars (\$50.00) for a first offense, one hundred dollars (\$100.00) for second offense and one hundred and fifty dollars (\$150.00) for each offense thereafter.

8. **FEE.**

The fee for a Residential Rental License shall be set by Borough Council upon enactment of this Ordinance and may be amended by Borough Council from time to time.

9. **NOTICES.**

All mailings under this Ordinance shall be made by the Borough of Honesdale via United States mail, postage prepaid, certified mail, return receipt requested.

10. **EFFECTIVE DATE.**

This Ordinance shall be deemed effective on the 18th day of May, 2006.

Enacted this 18th Day of May 2006.

Honesdale Borough Council

Walter T. Klein, Council President

SEAL

Patricia A. Seipp, Borough Secretary/Treasurer

ATTEST:

Jonathan Fritz, Mayor of Honesdale

Raymond L. Hamill, Borough Solicitor