

TOWNSHIP OF ABINGTON

(Lackawanna County, Pennsylvania)

ORDINANCE NO. 130 YEAR 2008

**AN ORDINANCE TO ESTABLISH REGISTRATION OF
RESIDENTIAL RENTAL PROPERTY IN THE TOWNSHIP**

Registration of Residential Rental Property

§ 1. Definitions and interpretation.

The following words, when used in this article, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; words in the singular shall include the plural; and words in the masculine shall include the feminine and the neuter.

AGENT — Individual of legal majority who has been designated under the provisions of this article by the owner.

BOCA — BOCA National Property Maintenance Code as adopted by the Township of Abington.

TOWNSHIP — Township of Abington.

CODE — The Building Code (Property Maintenance Code of 1996, as amended, and the Uniform Construction Code, as amended) officially adopted by the Township or other such codes officially designated by the Township for the regulation of construction, alteration, addition, repair, removal, demolition, location, occupancy and maintenance of buildings and structures.

DISRUPTIVE CONDUCT — Any form of conduct, action, incident or behavior perpetrated, caused or permitted by any occupant or visitor of a rental unit that is so loud, offensive or riotous or that otherwise disturbs other persons of ordinary sensibility in their peaceful enjoyment of their premises such that a report is made to the Police Department 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, occupant or visitor in order for a person, occupant or visitor to have perpetrated, caused or permitted the commission of the disruptive conduct, as defined herein; provided, however, that no disruptive conduct shall be deemed to have occurred unless the Police Department shall have investigated

and made a determination that such did occur, and keep written record, including a Disruptive Conduct Report or Police Report, of such occurrence. Notice that a report has been issued shall be forwarded to the owner or agent of the property From which the report was generated.

DISRUPTIVE CONDUCT REPORT — A written report from the Police Department to the Township Manager.

DWELLING UNIT — A single habitable living unit, having its own toilet, bath or shower, sink, sleeping and cooking facilities and separate access to the outside at ground level. There may be more than one dwelling unit on a premises only if permitted under the Township's Zoning Ordinance.

FAMILY — One or more persons living in a single dwelling unit and functioning as a common household unit sharing household expenses and sharing joint use of the entire dwelling unit. If a dwelling is rented, in order to qualify as a family, there shall not be more than one lease among the occupants. A family shall not include more than four persons who are not related to each other.

FIRE DEPARTMENT — The Fire Departments of Clarks Summit and Dalton.

INSPECTOR — Any person authorized by law or ordinance to inspect buildings or systems, e.g., zoning, housing, plumbing, electrical systems, heating systems, mechanical systems and health, necessary to operate or use buildings within the Township.

LET FOR OCCUPANCY — To permit possession or occupancy of a building or dwelling unit by a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease.

OCCUPANT — A person who resides at a premises, such as a tenant, or any other individual that is allowed on premises by such resident or tenant.

OPERATOR — Any person who has charge, care or control of a rental property.

OWNER — One or more persons, jointly or separately, in whom is vested all or part of the legal title to the premises, or all or part of the beneficial ownership and right to present use and enjoyment of the premises, including a mortgage holder in possession of a rental unit. For purposes of this article, also includes a "landlord."

OWNER-OCCUPANT — An owner who resides in a dwelling unit on a regular, permanent basis.

PERSON — Any natural person, partnership, firm, association, corporation, or municipal authority.

POLICE DEPARTMENT — The Police Department of the Township or any member thereof sworn to enforce laws and ordinances in the Township.

PREMISES — Any parcel or real property in the Township, including the land and all buildings.

PROPERTY OWNER — Any person, agent, or operator having a legal or equitable interest in the property or recorded in the official records of the state, county, or municipality as holding title to the property or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court of competent jurisdiction.

REGISTRATION CERTIFICATE — A certificate issued by the Township indicating that the owner of rental property has paid the annual registration fee.

RELATED or RELATIVE — Persons who are related by blood, marriage, adoption or formal foster relationship to result in one of the following relationships: brother, sister, parent, child, grandparent, grandchild, great grandchild, uncle, aunt, nephew, niece, sister-in-law, brother-in-law, father-in-law, mother-in-law, or first cousin. This definition shall not include relationships such as second, third and fourth cousins.

RENTAL UNIT — A dwelling unit occupied by one or more tenants.

TENANT — Any person who occupies a rental unit within a rental property regardless of whether such person has executed a lease for said premises.

ZONING ORDINANCE — The Zoning ordinance as officially adopted by the Township.

§ 2. Appointment of agent.

Each property owner who is not an owner-occupant or who does not reside in the Township shall appoint an agent who shall live either in the Township or within a twenty-mile radius of the Township.

§ 3. Duties of owner or agent.

- A. The duties of an owner or agent shall be to receive notices and correspondence, including service of process, from the Township; to arrange for the inspection of the rental units; to do or arrange for the performance of maintenance, cleaning, repair, pest control, snow and ice removal, and ensure continued compliance of the premises with the BOCA Codes, Building Codes and the Zoning Code in effect in the Township; as well as arrange for garbage removal.
- B. The name, address and telephone number of an owner and an agent, if applicable, shall be reported to the Township in writing upon registering the rental unit(s).
- C. It shall be the duty of the owner or agent to permit inspection of the premises and any

rental unit therein by inspectors at reasonable times as may be necessary to ensure health, safety and welfare of the tenants, to respond after disruptive conduct, maintain peace and order, compliance with current BOCA Codes, Building Codes, the Zoning Code and health regulations. Furthermore, it is the duty of the agent to permit inspection at any interval as may be mandated by this article. In the event that access is refused, the Township is authorized to obtain a warrant from a judicial officer and may cite in support of the request a disruptive conduct report, any alleged violation of this article or other ordinances, or any facts suggesting any threat to the public health or safety.

- D. The owner has the duty to maintain the premises in good repair, clean and sanitary condition, and to maintain the premises in compliance with the current BOCA Codes, Building Codes and the Zoning Code of the Township. He or she may delegate implementation of these responsibilities to the agent.
- E. It shall be the duty of the owner and agent to discourage and prevent, as may be possible, disruptive conduct, which may result in damage to the premises, breach of the peace, and any disturbance of the community.
- F. It shall be the duty of the owner or the agent, upon the receipt of disruptive conduct reports from the Township, to contact the occupants and to remind them of their responsibility for their conduct and that under this article, occupancy of the rental unit can be closed as a result of the occupant's conduct.
- G. It shall be the duty of the owner or agent to report the name and mailing address of any and all tenants, as they change from time to time, within thirty (30) days of the commencement of their occupancy.

§ 4. Duties of occupants.

- A. It is the duty of occupants to maintain their rental unit in good sanitary condition; to report necessary repairs; to properly dispose of garbage; and to avoid disruptive conduct which may damage the premises, be a breach of the peace and disturb the community.
- B. Occupancy limit. The maximum number of persons permitted in any rental unit subject to this article at any time shall not exceed the requirements of the Zoning Ordinances and the BOCA National Property Maintenance Code.
- C. An occupant shall not intentionally cause, nor permit, nor tolerate others to damage the rental unit, common areas, or the premises.
- E. An occupant shall not intentionally cause, nor permit, nor tolerate others committing disruptive conduct in the rental unit, in the common areas, and on the premises.

§ 5. Registration.

The Township Manager shall have the responsibility for administering the registration of all rental properties within the Township.

- A. Any person who owns rental units in the Township shall be required to have the rental units registered with the Township.
- B. The registration form shall include, but not be limited to, the name, address and telephone number of the owner, the location of the rental property, the number of rental units and the number of occupants per unit at that particular location and their identity, in accordance with §3. The owner shall also provide the Township with the insurance information required in §8 of this Ordinance.
- C. Any owner who owns rental units in the Township and resides in the Township shall provide the Township with the name, address and telephone number of another person residing within the Township, or within a twenty-mile radius of the Township, who is authorized to accept service of process on behalf of the owner of said rental property if the owner is neither present in the Township at the time of service of process or the property owner cannot be located by the Township for service of process. Said authorization shall be signed by the person so designated to accept service, and the owner shall be required to contact the Township each year and/or upon the change of any agency in order to update the Township records with regard to the name, address and telephone number of the locally designated agent. Failure to provide this information may result in the closure of the property.
- D. Any owner who owns rental units in the Township and does not reside in the Township shall provide the Township with the name, address and telephone number of the agent, identified in §2 and 3 above, residing within a twenty-mile radius of the Township, who is authorized to accept service of process on behalf of the owner or of said rental property. Said authorization shall be signed by the agent and the owner. The owner or agent shall be required to contact the Township each year and/or upon the change of any agency or ownership in order to update the Township records with regard to the name, address and telephone number of the locally designated agent. Failure to provide this information may result in the closure of the property. The Township shall issue a registration certificate to any person who is required to register a rental property after said person has complied with the aforementioned standards and said person has paid the annual rental registration as provided in §9.
- G. Any property owner who owns rental units in the Township shall notify the Township within 30 days of any change in ownership of the property.
- H. Failure to register the rental units with the Township within 90 days from the date of the passage of this article or within 30 days following the purchase or legal conversion of a structure to a rental property shall constitute a violation of this article.

- I. At the time of registration, the owner must supply the name, address and telephone number of the agent of the rental units, if applicable, and of any agent for service of notice under this article if different from the agent.
- J. No registration certificate shall be issued to an owner if the premises has delinquent property tax or sewer fees. (Proof that said fees are paid in full is required at time of registration.)

§6. Closure of rental units.

- A. The Township may close a rental unit pursuant to this article when one or more of the following events occurs (please note certain notice provisions contained in §7 herein may apply):
 - (1) A riot as defined in Title 18 of the Pennsylvania Statutes occurs on the premises.
 - (2) Three or more violations of this article have occurred on the premises within any six-month period.
 - (3) Three or more disruptive conduct reports or police reports are generated from activity on the premises in any six-month period.
 - (4) An occupant or owner has implied or actual knowledge of drug activity, or is convicted in a court of competent jurisdiction of selling or distributing narcotics or controlled substances as these terms are defined in the Pennsylvania Statutes, in the rental unit, common areas or on the premises. Said knowledge may be imputed to the occupant or owner based on police knowledge and experience of drug activity on the premises.
 - (5) The rental unit or the premises is condemned by the Township or the Fire Department as unsafe for human occupancy or structurally unsafe.
 - (6) The owner has failed to appoint an agent, or an agent as a secondary contact, pursuant to §5C and D to respond to and receive notices from the Township.
 - (7) The owner has failed to comply with the BOCA Codes, Building Codes and/or Zoning Code of the Township if violations thereof are found; the owner has failed to pay the fine or rectify the underlying problem which generated a citation from the Township regarding the condition of the premises; and an owner, after written notice of violations, has failed to come into compliance with the code ordinance or law which the owner violated within such time as the Township may state.
- B. Any rental unit found in violation of events numbered A1 through 7 above shall be ordered to be closed by the Township for a period of time which will be the lesser of the time needed to cure the violating event or six months. Each reopening without having

cured the violating event shall be considered a new violation subject to a new closure order.

- C. Any person aggrieved by an order by the Township for closure of a rental unit issued under this article relating to housing, building, health or disruptive conduct may appeal such order within 20 days from the date thereof, to the Housing Appeals Board, by filing an appeal and paying an appeal fee of \$150.

§ 7. Notices.

- A. All notices shall be sent to the owner or agent, if applicable, by regular mail at the address stated for service on the most current registration application for the premises in question. If no such registration exists, notice shall be sent to the address of the record owner of the premises according to the deed. If such notice is not returned by the postal authorities within five days of its deposit in the United States 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.
- B. In the event that the notice is returned by the postal authorities, for whatever reason, then the notice may be effected by posting of the notice in a conspicuous place on the premises or by personal service if possible.
- C. For purposes of this article, any notice required hereunder to be given to the agent shall be deemed as notice given to the owner.
- D. 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 has been given in accordance with the provisions of this article.

§ 8. Casualty and fire legal liability insurance.

In order to protect the health, safety and welfare of the residents of the Township, it is hereby declared that the Township shall require casualty and fire legal liability insurance for all property owners letting property for occupancy in the Township.

- A. Minimum coverage; use of insurance proceeds. All property owners owning property in the Township shall be required to obtain a minimum of \$50,000 in fire legal liability insurance, and casualty insurance in an amount sufficient to either restore or remove the building. Further, in the event of any fire or loss covered by such insurance, it shall be the obligation of the property owner to use such insurance proceeds to cause the restoration or demolition or other repair of the property in adherence to all applicable ordinances.

- B. All property owners shall be required to place their insurance company name, policy number and policy expiration date on their rental property registration form on, in the alternative, to provide the Township with a copy of their actual casualty and fire legal liability insurance policies. A registration certificate shall not be issued to any person unless the aforementioned information has been provided to the Township. The Township shall be informed of any change in policies for a rental property or cancellation of a policy for said property within 10 days of said change or cancellation.

§ 9. Fees.

Fees for the administration of the rental registration program shall be assessed against owners and shall be \$15.00.

§ 10. Violations and penalties.

Any person, corporation, partnership or entity who shall violate any provision of the ordinance shall, upon conviction thereof, be sentenced to pay a fine of not less than \$200 and not more than \$1,000 plus costs. Every day that a violation of this article continues shall constitute a separate offense.

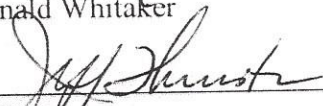
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Adopted this 8TH day of DECEMBER, 2008.

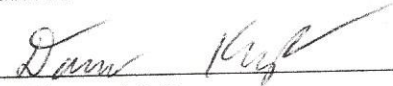
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