

BOROUGH OF BLAKELY ORDINANCE NO 4 OF 2016

**AN ORDINANCE GOVERNING AND REGULATING
RESIDENTIAL RENTAL PROPERTIES WITHIN
THE BOROUGH OF BLAKELY**

Section 1. PURPOSE

It is the purpose of this Ordinance, and the policy of the Council of the Borough of Blakely, in order to protect and promote the public health, safety and welfare of its citizens and to establish rights and obligations of owners and occupants relating to residential rental units in the Borough of Blakely 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 of Blakely that owners, managers and occupants 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 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 Ordinance, the Council of the Borough of Blakely makes the following findings:

A. The Borough has experienced 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 the residents and property owners of the Borough of Blakely, as well as of occupants of rental units within the Borough, would be enhanced by a system of residential rental unit licensing, insuring compliance with the Codes governing the maintenance of existing structures.

Section 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. For purposes of this Ordinance, the Borough Code Enforcement Officer shall be that individual or firm appointed by the Borough of Blakely to be responsible for enforcing

the Borough of Blakely's Uniform Construction Code as adopted by the Borough of Blakely.

Section 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:

3.2 Definitions.

(a) **Agent:** An individual of legal majority age designated by the owner of a residential rental unit as a responsible local agent.

(b) **Borough:** The Borough of Blakely, Lackawanna County, Pennsylvania and/or any duly authorized agent or representative of the Borough of Blakely.

(c) **Code Enforcement Officer:** Any code or Ordinance adopted or in effect in and for the Borough of Blakely, as amended from time to time including but not limited to Blakely Borough Residential Property Maintenance Ordinance, the International Property Maintenance Code of 2000, as amended, the Blakely Borough Zoning Ordinance as well as any and all other applicable Ordinances or Resolutions adopted by the Borough of Blakely.

(d) **Code Enforcement Officer:** The individual or firm appointed by the Borough of Blakely who is also responsible for enforcing the Uniform Construction Code as adopted by the Borough of Blakely. The term "Code Enforcement Officer" means, in addition, any duly authorized representative of said Code Enforcement Officer.

(e) **Disruptive Conduct:** Any form of conduct, action, incident or behavior perpetrated, caused or permitted by any owner, occupant or visitor of a residential rental unit that is so loud, offensive, riotous or that otherwise disturbs other persons 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. This specifically excludes any instances involving domestic violence. The Borough and its Police Force specifically works to combat domestic violence and encourages reporting of the same. 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 office 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 by the Code Enforcement Officer.

(f) **Disruptive Conduct Report:** Means a written report issued by the police department to the Code Enforcement Officer and his/her designee. Disruptive Conduct Report shall be maintained by the Code Enforcement Officer in the Blakely Borough Municipal Offices located at 1439 Main Street, Peckville, Pennsylvania 18452.

(g) **Dwelling Unit:** Means a single habitable living unit, having its own toilet, bath or shower, sink, sleeping or cooking facilities and separate access to and from the outside. A property may have more than one dwelling unit on a premise subject to other applicable Ordinances and regulations.

(h) **Owner:** The legal or beneficial holder of title to a residential unit or property situated within the geographic confines of the Borough of Blakely.

(i) **Person:** Means any natural person, firm, corporation, partnership, association or other entity and specifically includes but is not limited to an Owner, Agent and Tenant as defined herein.

(k) **Premises:** Means any parcel of real property within the Borough of Blakely, including the land and all buildings thereon upon which one or more residential rental units are situate.

(k) **Residential Unit:** Any structurally enclosed area including or intending to include sleeping facilities and/or intended to be used as a dwelling unit occupied by one or more tenants.

(l) **Residential Rental Unit:** The residential unit occupied, leased, let or rented by a person other than the owner.

(m) **Tenant:** Any person, corporation, partnership or other entity who occupies a rental unit within a rental property regardless of whether such person, corporation, partnership or other entity has executed a lease for said premises.

Section 4. OWNER(S)' DUTIES AND AGENT(S)' DUTIES

4.1 It shall be the duty of every Owner *and/or* every Agent designated by an Owner to ensure full compliance with this Ordinance as well as to keep and maintain all regulated residential 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 and

Agent shall be responsible for regulating the proper and lawful use of said property.

4.2 RENTAL REGISTRATION AND LICENSE

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

4.2(b) **Application.** Within thirty (30) days after the effective date of this Ordinance and annually thereafter, the owner of each residential rental unit existing on or after 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, the Borough of Blakely Building Codes and all other applicable Ordinances and regulations.

4.2(c) **Designation of Agent.** Every Owner of a residential rental unit within the Borough of Blakely who is not a full time resident of the Borough of Blakely or who does not reside in an area that is within a ten (10) mile radius of the Borough of Blakely, shall designate an Agent who shall reside in the Borough of Blakely or in an area that is within a ten (10) mile radius of the Borough of Blakely. If the Owner is a business or other entity, an Agent shall be required if an officer of the entity 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 all of the obligations of the Owner under this Ordinance. The identity, address and telephone number of the person who is designated as an Agent shall be provided by Owner or the Agent to the Borough and such information shall be kept current and updated as it changes.

4.2(d) **Issuance of License.** Upon the receipt of a fully completed application, including the list of tenants' names, the designation of an Agent, if applicable and the payment, in full, of the appropriate license fee, and provided further that the Owner is not in violation of the requirements of this Ordinance or any other ordinance or code of the Borough, the Code Enforcement Officer shall issue a license for the residential rental unit.

After the effective date of this Ordinance, each and every landlord of residential dwelling units within the Borough of Blakely shall report to the Borough Manager on a report form to be supplied by the Borough Manager, any change in the use or occupancy of any dwelling unit by such landlord. The reported change shall include the name or names of new tenants of such dwelling unit, the date when such change was effected and the forwarding address of the old tenant or tenants if known. A landlord of a hotel, inn or boarding house shall not be required to

report a person as a tenant until that person has resided in such landlord's establishment for a period exceeding thirty (30) days. All reports required by this section shall be made within ten (10) days after a landlord has knowledge that such a unit has had a change in occupancy.

4.2(e) **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 the Owner is not in violation of the requirements of this Ordinance or any ordinance, code or regulation of the Borough of Blakely. No license shall be in effect for more than three (3) years.

4.2(f) **Transfer of License/Change of Ownership.** Any 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 provided, further, that the licensed residential rental unit is in compliance with all of the Borough codes and ordinances as determined after inspection by the Code Enforcement Officer

Section 5. MAINTENANCE OF PREMISES.

5.1 The Owner or Agent shall maintain the premises in compliance with the terms of this Ordinance as well as compliance with all other applicable codes of the Borough and shall regularly perform all routine maintenance and shall promptly make any necessary repairs to fulfill this obligation.

5.2 **Inspections by Code Enforcement Officer.** The Owner or Agent 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.

Section 6. TENANT'S DUTIES.

6.1 Every Tenant shall comply with the terms of this Ordinance and shall also comply with all applicable codes, ordinances and regulations of the Borough of Blakely.

6.2 **Inspection of Premises.** Every 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 or with an Agent's approval at any reasonable time.

6.3 **Disruptive Conduct.** The occupant or tenant shall not engage in, nor tolerate nor permit others on the premises to engage in, disruptive conduct or other violations of this or any Ordinance of the Borough of Blakely.

6.3(a) Whenever the police investigate an alleged incident of disruptive conduct, the police shall complete a disruptive conduct report upon a finding that the report incident did in the judgment of the police officer constitute disruptive conduct as defined herein. This type of report will not be issued when issues of domestic violence are involved. These issues shall be handled in accordance with the existing domestic violence law. The Borough of Blakely and its Police Force work to combat domestic violence, and it encourages all reporting of the same. Residents will never be charged under this ordinance for reporting allegations of domestic violence.

The information filed on a disruptive conduct report shall include, whenever 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. 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.

6.3(b) After three (3) disruptive conduct incidents in any twelve (12) month period by an occupant, tenant or visitor the Owner or Agent shall have ten (10) working days from the date of receiving the notice to begin eviction proceedings against the tenant 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.

Section 7. GROUNDS FOR NON-RENEWAL, SUSPENSION OR REVOCATION OF LICENSE REQUIRED BY SECTION 4.2(a)

7.1 **General.** The license required by Section 4.2(a) 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 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 this Ordinance or of the Borough Codes or Zoning Ordinance. Upon failure of the Owner or Agent to correct the violation stated in the notice of violation within thirty (30) days, the license may be refused, not renewed, suspended or revoked as appropriate and as determined by the Code Enforcement Officer. The suspended license may be granted, renewed or reinstated upon meeting the requirements of the Code.

7.2 **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 this Ordinance or any Borough Ordinance. The Code Enforcement Officer will accept applications for renewal of a license but will not approve or disapprove the same until all prior violations of this Code have been corrected.

7.3 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 and obtain said license as required by this Ordinance, 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 refuse to grant the license, may deny license renewal after the expiration of the present license and/or file charges for the violation.

7.4 Discontinuation of Occupancy. When a license has been denied, expires, is suspended or revoked, no further rental or occupancy of such rental units shall be permitted until a new license has been applied for and issued.

Section 8. VIOLATIONS AND PENALTIES.

8.1 It shall be unlawful for any person as Owner, Agent or Tenant of a residential rental unit for which a license is required to operate lease, let or occupy a residential rental unit without a valid current license issued by the Borough authorizing such operation, lease, letting or occupation of a residential rental unit. It shall be unlawful for any Owner, Agent, Tenant or occupant of a residential rental unit to violate this Ordinance.

8.2 Any Owner or Agent 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 or to have been operating the residential rental unit without a license issued from the Borough of Blakely pursuant to the terms of this Ordinance.

8.3 Any person violating any other provisions of this Ordinance shall be subject to a fine of One Hundred Dollars (\$100.00) for a first offense. Two Hundred Dollars (\$200.00) for each offence thereafter.

8.4 Each day that a violation of this Ordinance occurs shall constitute a separate offense.

Section 9. FEE

The fee for a Residential Rental License shall be set by Borough Council at its discretion. Initially, the Blakely Borough Council sets the sum of Thirty Dollars (\$30.00) for a new application for a residential Property rental License; Thirty Dollars (\$30.00) for a renewal of a Residential Property Rental License Application and Thirty Dollars (\$30.00) for the transfer of a residential Property Rental License Application. The Blakely Borough Council is empowered to change these fees by motion passed by a majority of members of the Blakely Borough Council.

Section 10. NOTICES

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

Section 11. ADDITIONAL PROVISIONS

11.1. For the purpose of enforcing this ordinance, the Code Enforcement Officer, or his designee, may seek to obtain a search warrant issued by a competent authority for the purpose of compelling an inspection of a Residential Rental Unit Property, if necessary.

11.2. A violation of this ordinance occurs where the Owner, Agent or Tenant fails to permit access to conduct a legal inspection, i.e., either where there is no voluntary consent to the inspection or where an administrative warrant is required to either be sought or obtained.

11.3. performing an inspection of the residential rental unit, the Code Enforcement Officer, or his designee, is subject to constitutional restrictions and the Code Enforcement Officer, or his designee, may seek a warrant, where appropriate, to search a property or unit to determine whether there are any specific violations of this ordinance, the International Property Maintenance Code of 2000, as amended, or any other Ordinance or regulation of the Borough of Blakely. If entry is refused by the Owner, Agent or Tenant, or if entry is not obtained, the Code Enforcement Officer, or his designee, is authorized to pursue recourse as provided by law.

11.4. Any person affected by a decision of the Code Enforcement Officer, or a notice, order or action taken pursuant to this ordinance, shall have the right to appeal to the Blakely Borough Zoning Board, provided that a written application for appeal is filed within twenty (20) days after the date of the decision, notice or action taken. An application for appeal shall be based on the claim that the true intent of this ordinance or

the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this ordinance do not full apply, or the requirements of this ordinance are adequately satisfied by other means. In addition, nothing in this ordinance shall affect the applicability of the Pennsylvania Local Agency law, 2 Pa. C.S.A. §752 pertaining to any person aggrieved by an adjudication of the Borough of Blakely, or its Code Enforcement Officer.

Section 12. SEVERABILITY AND AMENDMENT

If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any 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.

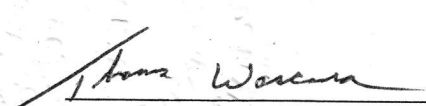
Section 14. EFFECTIVE DATE

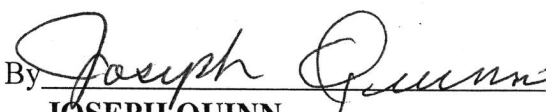
This Ordinance shall be deemed effective on the 19TH day of SEPTEMBER, 2016.

ENACTED AND ORDAINED THIS DAY OF 19TH day of SEPTEMBER, 2016.

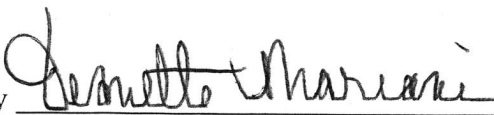
ATTEST:

BOROUGH COUNCIL OF THE BOROUGH
OF BLAKELY


THOMAS WASCURA
Secretary Borough of Blakely

By 
JOSEPH QUINN
President of Blakely Borough

EXAMINED AND APPROVED this 19TH day of SEPTEMBER, 2016.

By 
Jeanette Mariani
Mayor of Borough of Blakely