

Zoning

FILE OF THE COUNCIL NO. 105

2007

AN ORDINANCE
(AS AMENDED)

ESTABLISHING A REGISTRATION PROGRAM FOR RESIDENTIAL RENTAL PROPERTIES; REQUIRING ALL OWNERS OF RESIDENTIAL RENTAL PROPERTIES TO DESIGNATE AN AGENT FOR SERVICE OF PROCESS; AND PRESCRIBING DUTIES OF OWNERS, AGENTS AND OCCUPANTS; DIRECTING THE DESIGNATION OF AGENTS; ESTABLISHING FEES FOR THE COSTS ASSOCIATED WITH THE REGISTRATION OF RENTAL PROPERTY; AND PRESCRIBING PENALTIES FOR VIOLATIONS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SCRANTON and it is hereby ordained by and with the authority of the same as follows:

SECTION 1. DEFINITIONS AND INTERPRETATION. The following words, when used in this ordinance, 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.

- a. AGENT - individual of legal majority who has been designated under the provisions of this ordinance by the owner.
- b. BOCA - BOCA National Property Maintenance Code as adopted by the City of Scranton (see also City Code)
- b. CITY - City of Scranton
- c. CITY CODE - the building code (Property Maintenance Code of 1996 as amended and the Uniform Construction Code as amended) officially adopted by the governing body of the City, or other such codes officially designated by the governing body of the City for the regulation of construction, alteration, addition, repair removal, demolition, location, occupancy and maintenance of buildings and structures.
- d. ZONING ORDINANCE - Zoning ordinance as officially adopted by the City of Scranton File of Council #74, 1993 (as amended).
- e. DEPARTMENT - the Department of Community Development (also known as License, Inspections and Permits) for the City of Scranton, and/or the Department of Public Safety.

Introduced in Council on above date and referred to Committee on July 19, 2007
Community Development
Neil Coleman
ASST. City Clerk

Scranton, Pa. July 26, 2007
Committee on Community Development reports favorable on the within ordinance.
Sherry L. Hagan
Chairman

Fifth Order:
July 26, 2007

CERTIFIED TRUE
Neil Coleman
ASST.
City Clerk

- f. **DISRUPTIVE CONDUCT**- means 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, 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. A copy of such report shall be submitted to the Department of Public Safety. Notice that a report has been issued shall be forwarded to the owner or agent of the property from which the report was generated.
- g. **DISRUPTIVE CONDUCT REPORT**- means a written report from the Police Department to the Director of the Department of Public Safety or his/her designee. Disruptive Conduct reports shall be maintained by the Department of Public Safety.
- h. **DWELLING UNIT** - means 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.
- i. **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 (1) lease among the occupants. A family shall not include more than four (4) persons who are not related to each other.
- j. **INSPECTOR** - means 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 City of Scranton. An Inspector also includes any one authorized by the Department of Community Development Director or the Department of Public Safety Director.
- k. **FIRE DEPARTMENT** - means the Fire Department of the City of Scranton or any member thereof, includes Fire Prevention Officer and Fire Inspectors, and the Superintendent of Fire or his designee.
- l. **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.
- m. **OCCUPANT** - means a person who resides at a premises, such as a tenant, or any other individual that is allowed on premise by such resident or tenant.
- n. **OPERATOR** - any person who has charge, care or control of a rental property.
- o. **OWNER** - means one or more persons, jointly or separately, in who 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 Ordinance also includes a **LANDLORD**.

- p. **OWNER - OCCUPANT** - means an owner who resides in a dwelling unit on a regular permanent basis.
- q. **PERSON** - any natural person, partnership, firm, association, corporation, or municipal authority.
- r. **POLICE DEPARTMENT** - means the Police Department of the City of Scranton or any member thereof sworn to enforce laws and ordinances in the City, includes the Superintendent of Police or his designee.
- s. **PREMISES** - means any parcel or real property in the City, including the land and all buildings an apartment structures or apartment elements on which one or more rental units are located.
- t. **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.
- u. **REGISTRATION CERTIFICATE** - A Certificate issued by the Department indicating that the owner of rental property has paid the annual registration fee.
- v. **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.
- w. **RENTAL UNIT** - means a dwelling unit occupied by one or more tenants. Does not include, for purposes of this Ordinance a Dormitory Room occupied by one or more students.
- x. **TENANT** - any person who occupies a rental unit within a rental property regardless of whether such person has executed a lease for said premises.

SECTION 2. APPOINTMENT OF AN AGENT

Each property owner who is not an owner-occupant, or who does not reside in the City of Scranton shall appoint an agent who shall live either in the City or within a twenty (20) mile radius of the City.

SECTION 3. DUTIES OF THE OWNER OR AGENT

- a. The duties of an owner or agent shall be to receive notices and correspondence, including service of process, from the City of Scranton: to arrange for the inspection of the rental units: 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 Zoning Code in effect in the City of Scranton, 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 Department in writing upon registering the rental units.
 - 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, 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 ordinance. In the event that access is refused, the City of Scranton 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 or other City 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 Zoning Code of the City of Scranton. 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 Agent, upon the receipt of Disruptive Conduct Reports from the City of Scranton, to contact the occupants, and to remind them of their responsibility for their conduct, and that under this Ordinance, 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 produce a lease upon request from the Department whenever it is deemed necessary by the Department to enforce the City ordinances and Zoning Codes.
 - h. If a rental unit is closed due to three (3) disruptive conduct reports, it shall be the responsibility of the occupant to find housing at their own expense. See section (6) herein relating to the grounds for closure of a rental unit.
 - i. If a rental unit is condemned or otherwise closed due to the act or omission of the Owner or Agent, it shall be the responsibility of the Owner to find housing for the occupants at the Owner's expense.

SECTION 4. DUTY OF THE 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 ordinance at any time shall not exceed the requirements of the Zoning Ordinance

and the BOCA Property National Maintenance Code.

- c. It shall be the duty of Occupants to engage in recycling materials in accordance with the Recycling Ordinance of the City of Scranton.
- d. 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.

SECTION 5. REGISTRATION

The Department, as designated by the Mayor, shall have the responsibility for administering the registration of all rental properties within the City.

- a. Any person who owns Rental Units in the City shall be required to have the Rental Units registered with the Department. For purposes of this requirement, Rental Units in a Premises in which the Owner maintains a bona fide domicile and in which there are no more than four (4) Rental Units, shall not count or be subject to registration.
- 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. The Owner shall also provide the Department with the insurance information required in Section 9 of this Ordinance.
- c. Any Owner who owns rental units in the City and resides in the City shall provide the Department with the name, address and telephone number of another person residing within the City or within a twenty (20) mile radius of the city, 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 City at the time of service of process or the property owner can not be located by the Department 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 Department each year and/or upon the change of any agency in order to update the City 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 City and does not reside in the City shall provide the Department with the name, address and telephone number of the Agent, identified in sections 2 and 3 above, residing within a twenty (20) mile radius of the city, 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 Department each year and/or upon the change of any agency or ownership in order to update the City 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 Department 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 Section 10.

- e. Said Registration Certificate must be conspicuously displayed inside the rental property within three (3) feet of the principal means of ingress and egress to the property. In addition to the issuance of the Registration Certificate, each owner of rental property may be issued a decal, which, if issued, shall be permanently affixed to the door through which access is gained to the rental property, or in a window in the rental property, in such a way that the decal is visible from the exterior of the premises in which the rental property is located. The failure to affix and maintain the decal, if issued, as required by this Ordinance shall constitute a violation hereof.
- f. The maximum number of Occupants shall be posted in each dwelling unit. It shall be unlawful for any person, including a tenant, to allow a greater number of persons than the posted maximum number of occupants to sleep in or occupy overnight the dwelling unit. Any person violating this provision shall be subject to the penalty provisions provided herein.
- g. Any property owner who owns rental units in the City shall notify the Department within thirty (30) days of any change in ownership of the property..
- h. Failure to register the rental units with the Department within ninety (90) days from the date of the passage of this ordinance or within thirty (30) days following the purchase or legal conversion of a structure to a rental property shall constitute a violation of this ordinance.
- 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 ordinance if different from the Agent.
- j. No registration certificate shall be issued to an Owner if the Premises has delinquent property tax, garbage or sewer fees as defined by each agency.(proof that said fees are paid in full is required at time of registration).

SECTION 6. CLOSURES OF RENTAL UNITS

- a. The Department may close a rental unit pursuant to this Ordinance when one (1) or more of the following events occurs (please note certain notice provisions contained in Section 7 herein may apply):
 - 1. A riot as defined in Title 18 of the Pennsylvania Statutes occurs on the premises.
 - 2. Three (3) or more violations of this Ordinance have occurred on the premises within any sixth (6) month period.
 - 3. Three (3) or more Disruptive Conduct Reports or Police Reports are generated

- from activity on the Premises in any six (6) 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, common areas or the Premises is condemned by the Department or the Fire Department or City Engineer 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 Section 5(c) and (d) to respond to and receive Notices from the City of Scranton.
 7. The Owner has failed to comply with the BOCA Codes, Building Codes and/or Zoning Code of the City of Scranton if violations thereof are found; the Owner has failed to pay the fine or rectify the underlying problem which generated a citation from the Department 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 Department may state.

Any person found in violation of events numbered 1 through 7 shall be ordered to be closed by the City for a period of time which will be the lesser of the time needed to cure the violating event or 6 months. Each re-opening without having cured the violating event shall be considered a new violation subject to a new closure order.

Any Person aggrieved by an order by the City for closure of a rental unit issued under this ordinance relating to housing, building, health or disruptive conduct may appeal such order within twenty (20) days from the date thereof, to the Housing Appeals Board, by filing an appeal and paying a one hundred fifty (\$150.00) dollar appeal fee.

SECTION 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 (5) 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.
- 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

Director or Superintendent.

SECTION 11. VIOLATION 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 \$200.00 and not more than **\$1,000**, plus costs. Every day that a violation of this Ordinance continues shall constitute a separate offense.

SECTION 12 EXEMPTIONS TO THE ORDINANCE

The following Rental Units are exempt from the terms of this ordinance:

- a. Rental Units owned by Public Authorities as defined under The Municipal Authorities Act.
- b. Elderly Multi Dwelling Units where 75% or more of the occupants are persons over the age of sixty-five (65).
- c. Multi-dwelling units that operate under Internal Revenue Service Code Section 42 concerning entities that operate with an elderly component.
- d. Hotels or dormitories.
- e. Properties in which the Owner maintains a bona fide domicile and in which there are no more than four Rental Units.

SECTION 13. SAVING CLAUSE.

This ordinance shall not affect violations of any other ordinance, code or regulation existing prior to the effective date hereof, except as explicitly contrary hereto, and any such violations shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

SECTION 14. SEVERABILITY.

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 legally enforceable minus the invalid portion. The City reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

SECTION 15. EFFECTIVE DATE

This Ordinance shall become effective immediately upon approval.

SECTION 16. This Ordinance is enacted by the Council of the City of Scranton under the authority of the Act of the Legislature, April 13, 1972, Act No. 62, known as the Home Rule Charter and Optional Plans Law, and any other applicable law arising under the laws of the State of Pennsylvania.

Passed by The Council

July 26, 2007

receiving the affirmative votes of Council Persons

Evans, Fanucci, McGoff, Courtright, Gatelli

Negative None

Judy Gatelli

President

Approved 8-1-07
[Signature] Mayor
[Signature] ASST. City Clerk
Certified Copy