

MOUNT CARMEL BOROUGH
Northumberland County Pennsylvania

ORDINANCE 2 OF 2008

AN ORDINANCE

Establishing a Residential Rental Housing License, Registration, and Inspection Program of all Residential Rental Properties; Requiring all Owners of Residential Rental Properties to Designate an Agent for Service of Process; Prescribing Duties of Owners, Agents and Occupants; and Prescribing Penalties for Violations.

Whereas, The Borough of Mount Carmel has determined that this ordinance is necessary to protect public health, safety, and welfare of its citizens.

Section 1. Definitions and Interpretations. 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 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. **Borough-** Borough of Mount Carmel.
- c. **Borough Code-** the building code (2003 edition of the International Property Maintenance Code, as amended, and the Uniform Construction Code, as amended) officially adopted by the Borough, or other such codes officially designated by the governing body of the Borough for the regulation of construction, alteration, addition, repair removal, demolition, location, occupancy and maintenance of buildings and structures. (See Ordinance 1 – 2008 per adoption of 2003 ICC Property Maintenance Code)
- d. **Department-** the department of code enforcement for the Borough of Mount Carmel.
- e. **Disruptive Conduct-** means any form of conduct, action, or behavior perpetrated, caused or permitted by any occupant, or visitor of a rental unit that is so loud, offensive, riotous or otherwise disturbs other persons of ordinary sensibility in their peaceful enjoyment of their premises such that a report is made to the police department, or code enforcement department complaining of such conduct, action, incident or behavior including any and all Borough ordinance violations. It is not necessary that such conduct, action, incident or behavior constitute a criminal offense, nor that criminal charges or summary 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 or the Code Enforcement Officer 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 Code

Enforcement Officer. Notice that a report has been issued shall be provided to the owner or agent of the property from which the report was generated.

- f. **Disruptive Conduct Report-** means a written report from the Police Department or the Code Enforcement Officer to the Code Enforcement Department. Disruptive Conduct Reports shall be maintained by the Department.
- g. **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 (1) one dwelling unit on a premises.
- h. **Inspector-** means any person authorized 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 Borough of Mount Carmel.
- i. **Let for occupancy-** to permit occupancy of a building or dwelling unit by a person who is not the legal owner of record thereof, pursuant to a written lease.
- j. **Manager-** An adult individual designated by the owner of a regulated rental unit under this act. The manager shall be the agent of the owner for service of process and receiving notices or demands and to perform the obligation of the Owner under this article and under rental agreements with occupants.
- k. **Occupant-** a person who resides at a premise, such as a tenant or any other individual that is allowed on the premises by such resident or tenant.
- l. **Owner-** means one or more persons, jointly or separately, in who are vested all or part of the legal title to the premises, all or part of the beneficial ownership and right to present use and enjoyment of premises, including a mortgage holder in possession of a rental unit. For purposes of this ordinance also includes landlord.
- m. **Owner-occupant-** means an owner who resides in a dwelling unit on a regular permanent basis.
- n. **Person-** any natural person, partnership, firm, association, corporation, or municipal authority.
- o. **Police Department-** means the police department of the Borough of Mount Carmel or any member thereof sworn to enforce laws and ordinances in the Borough.
- p. **Premises-** means any parcel or real property in the Borough, including the land and all buildings and apartment structures or apartment elements on which one or more rental units are located.
- q. **Property Maintenance Code-** the property maintenance code as adopted by the Borough from time to time, (for information on the property maintenance code, contact the department).
- r. **Property Owner-** any person, agent, or manager having a legal or equitable interest in the property, or recorded in the official records of the Commonwealth, county, or municipality as holding the title to the property; or otherwise having control of the property, including the guardian of the estate of any deceased person, and the executor or administrator of the estate of any deceased person.

- s. **Registration Certificate**- a certificate issued by the department indicating that the owner of the rental property has paid for and received a passing inspection.
- t. **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, mother-in-law, father-in-law, or first cousin. This definition shall not include relationships such as second, third, and fourth cousins.
- u. **Rent to Own**- "rent to own" will for the purpose of this ordinance will be known as owner financing. A rent to own agreement shall be reported to the Code Department. The owner on a deed of record shall be required to comply with all regulations of this ordinance, regardless of any private agreement to transfer the property at a later date.
- v. **Rental Unit**- means a dwelling unit occupied by one or more tenants.
- w. **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 owner-occupied, or who does not reside in the Borough of Mount Carmel shall appoint an agent who shall live in the Borough or within a (30) thirty mile radius of the Borough.

Section 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 Borough of Mount Carmel: 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(unless stated in the lease that it will be the responsibility of the tenant), and ensure continued compliance of the premises with the property maintenance codes, building codes and zoning codes in effect in the Borough of Mount Carmel, as well as arrange for garbage removal.
- b. The name, address and telephone number of an owner and an agent (if required) shall be reported to the department in writing on provided documents 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 the inspector 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 enacted codes and ordinances, and health regulations.
- 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 current International Property Maintenance codes, building codes and zoning regulations of the Borough of Mount Carmel. 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 the peace, and any disturbance the community.

- f. It shall be the duty of the owner or agent, upon the receipt of disruptive conduct reports from the Borough, to contact the occupants, and inform 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 disruptive conduct.
- g. It shall be the duty of the owner/agent, or tenant to produce a lease upon request from the department whenever it is deemed necessary by the department to enforce the Borough ordinances and zoning codes.
- h. If a rental unit is closed due to (3) three 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 of closing of a rental unit.
- i. If the rental unit is closed due to condemnation or otherwise closed due to the act or omission of the owner or agent, it shall be the responsibility of the owner to find suitable housing for the occupants at the owner's expense.

Section 4. Duty 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 ordinance at any time shall not exceed the requirements of the zoning ordinance and the property maintenance code.
- c. It shall be the duty of the occupant to make the necessary arrangement's for trash removal, and to maintain trash in a manner prescribed in Borough Ordinance 5-1998.
- d. An occupant shall not intentionally cause, nor permit, nor tolerate others to damage the rental unit, common areas, or other 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 Borough Council, shall have the responsibility for administering the registration of all rental properties within the Borough.

- a. The registration form shall include, but not limited to the name, address, and telephone number of the owner, and or the agent if required, and the location of the rental property, the number of rental units and the number of occupants per unit at that particular location. The name(s) of the prospective tenant, former address, contact phone number, identification number (drivers license or other form of identification), date(s) of birth, and the most recent copy of a paid occupational tax bill.
- 3. b. Any rental property owner whom does not live in the Borough or within a (30) thirty mile radius of the Borough, must designate an agent in which is either located within the Borough or within the (30) thirty mile radius of the Borough, who is authorized to accept service of process on behalf of the owner of said rental property. Said authorization shall be signed by the person so designated and the owner to accept service. The owner shall be required to contact the department upon any change of the agent in order to update the Borough records with regard

to the information for the locally designated agent or ownership changes. 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, has paid for, and had completed the registration certification inspection.

- c. Said registration Certificate must be readily available inside the rental unit, this certificate must be available upon the request of any officer of the borough, be it the police department, fire department, or code enforcement officer. If the tenant is unable to produce a certificate, this may constitute an illegal inhabitation and cause for legal action and possible eviction.
- d. The maximum number of occupants shall be listed on the certificate of occupancy along with the names of said occupants, in accordance with each rental unit size. It shall be unlawful for any persons, including a tenant, to allow a greater number of persons than the persons listed on the certificate of occupancy to sleep or occupy overnight the dwelling unit. Any person violating this provision shall be subject to the penalty provisions provided herein.
- e. Any person who owns rental units in the Borough shall notify the Department within (30) thirty days of any change of ownership of the property.
- f. Failure to register a rental unit with the department within (60) sixty days of the passage of this ordinance or within (30) thirty days of the purchase or legal conversion of a structure to a rental property shall constitute a violation of this ordinance.
- 7. g. No registration certificate shall be issued if the premises has a delinquent property tax, sewer fees, or outstanding violations from the Code Enforcement Department as defined by each agency. (Proof that said fees are paid in full is required at the time of registration.)
- h. At the time of registration of a rental unit the owner must supply the name, address, and telephone number of the assigned agent to receive service of process, if applicable.

Section 6. Closures of rental units

- a. The department may close a rental unit pursuant to this ordinance when (1) one or more of the following events occurs.
 - 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 (12) twelve month period.
 - 3. Three (3) or more Disruptive Conduct Reports or police reports are generated from activity on the premises in any (12) twelve 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 any 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 of the premises is deemed not fit for habitation by the Department or the Fire Department, or Borough Engineer as unsafe or unfit for human occupancy, or structurally unsafe.
6. The owner has failed to appoint an agent pursuant to section 5 (b) to respond to and receive notices from the Borough.
7. The owner has failed to comply with local property maintenance codes, building codes and zoning codes as adopted from time to time by the Borough, if any violations thereof are found; the owner has failed to pay the fine or rectify the underlying problem which generated a notice of violation or a citation from the department regarding the condition of the premises as described by the department; has failed to come into compliance with code ordinances or law which the owner has violated within such time as the department may state.
8. No rental property shall be authorized to be occupied prior to inspection and compliance to all the requirements set forth by this ordinance.
9. Upon the eviction of a tenant for Disruptive Conduct as prescribed herein, a tenant shall not enter into another rental or lease agreement within the borough for a period of (1) one year from the date of eviction.
10. A violation under Ordinance 1 – 2007, establishing sex offender residing restrictions.

Any person found in violation of any events numbered 1 through 10 shall be ordered to be closed by the Borough for a period of time which will be the lesser of the time needed to cure the violating event or (6) six 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 the Borough for closure of a rental unit issued under this ordinance relating to housing, building, health or disruptive conduct may appeal such order within (14) working days from the date thereof, to the appeals board, by filing an appeal and paying the prescribed appeal fee as set from time to time by resolution of the Borough Council.

Section 7. Notices

- a. All notice shall be sent to the owner or agent, if applicable, by regular first class mail at the address stated for service on the most recent 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 of the property and/or the tax assessment bureau. If such notice is not returned by the United States Postal Authorities within (7) seven days of its deposit in the US Mail, then it shall be deemed to have been delivered to and notice received by the addressee on the (7th) seventh 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 affected by posting of the notice in a conspicuous place on the premises. It will also be deemed as being served if the property is posted without sending the notice by US Mail.
- c. For the purpose of this ordinance, any notice required hereunder to be given to the agent shall be deemed as notice given to the owner.

A claimed lack of knowledge by the owner, or agent, if applicable, of any violation hereunder cited shall be no defense to the closure of a rental unit, as long as all notices prerequisite to such proceedings has been given in accordance with the provisions of this ordinance.

Section 8. Casualty and Fire Legal Liability Insurance

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

- a. **Minimum coverage; use of insurance proceeds.** All property owners owning rental property in the Borough shall be required to obtain a minimum of (\$75,000) seventy five thousand dollars in fire legal liability insurance, and casualty insurance in the 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 Borough code and all applicable ordinances.
- b. **Property owners to provide Borough with insurance information.** All rental property owners shall be required to submit a certificate of insurance on their rental property to the department along with their application for Rental Property Registration form. A registration certificate shall not be issued to any person unless the aforementioned information has been provided to the Department. The Borough shall be informed of any change in policies for a particular rental property or cancellation of a policy for said property within (10) ten days of said change or cancellation.

Section 9. Fees

Fees for the administration of the Rental Registration Program shall be assessed against the owner and shall be determined by resolution from time to time by Borough Council.

Section 10. Enforcement

- a. The following persons are hereby authorized to enforce this ordinance. Any member of the Borough Police Department, and or the Code Enforcement Department.

Section 11. Violation and Penalties

Any person, corporation, partnership or entity whom shall violate any provision of the Ordinance shall be charged with a summary violation, and upon conviction thereof, be sentenced to pay a fine of not less than **\$100.00** and not more than **\$300.00**, plus costs and in default of payment thereof, suffer up to three (3) days imprisonment. Every day that the violation of this ordinance continues shall constitute a separate offense.

Section 12. Exceptions to the ordinance

The following rental units are exempt from the terms of this ordinance;

- a. Elderly multi dwelling units where 75% or more of the occupants are persons over the age of (65) sixty-five.
- b. Hotels and or Motels.

Section 13. Saving clause

This ordinance shall not affect violations of any ordinances, 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 of the violation was committed.

Section 14. Severability

If any section, clause or provision 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 Borough 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 of this ordinance, and the effective administration thereof.

Section 15. Effective date

This ordinance shall become effective immediately upon approval of the Borough Council.

ENACTED AND ORDAINED THIS _____ DAY OF _____, 2008
BOROUGH OF MOUNT CARMEL, PA

CARL FROUTZ, III, PRESIDENT
ATTEST:

JOSEPH K. BASS, SECRETARY

APPROVED THIS _____ DAY OF _____, 2008

J. KEVIN JONES, MAYOR