

ORDINANCE NO. 494

AN ORDINANCE OF SOUTHMONT BOROUGH,
CAMBRIA COUNTY, PENNSYLVANIA,
REQUIRING LANDLORDS/OWNERS TO REGISTER RENTAL PROPERTIES
AND THEIR TENANTS

WHEREAS, the Borough of Southmont (hereafter "Borough") is experiencing various difficulties with rental properties within the Borough; and

WHEREAS, the Council of the Borough is having difficulty enforcing certain ordinances and collecting certain taxes of the Borough due to absent landlords and the inability of the Borough to know who lives within the Borough's boundaries; and

WHEREAS, the Council of the Borough desires to adopt rules and regulations to promote compliance by landlords and their tenants with the various codes and ordinances of the Borough; and

WHEREAS, the Council of the Borough, in order to protect and promote the public health, safety and welfare of its citizens, desires to establish rules and regulations of owners and occupants relating to the rental of certain residential rental units in the Borough and to encourage owners and occupants to maintain and improve the quality of rental housing within the community; and

NOW THEREFORE, be it ordained as follows.

Section 1. Title and Repealer.

This Ordinance shall be known as the "Landlord Registration Ordinance" of the Borough.

Section 2. Findings, Purpose and Intent.

It is the purpose of this Ordinance to protect and promote the public health, safety and welfare of its citizens by establishing certain rights and obligations of owners and occupants relating to the rental of certain residential rental units in the Borough 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 and ordinances adopted to protect and promote public health, safety and welfare. As a means to those ends, this Ordinance provides for a property registry, issuance and renewal of occupancy 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 Borough states that in recent years, many formerly private homes have been turned into residential rental units. These rental units have oftentimes been rented to individuals who, because they have no ownership interest in the property, have allowed the properties to deteriorate. In many cases, the owners of the properties

live long distances from the Borough and have not kept up with proper property maintenance of many rental units in the Borough. In addition, problems have occurred because many tenants, because they have no ownership interest in the real estate, have not been concerned about following Codes/Ordinances of the Borough, including Codes/Ordinances which govern maintenance and safety of the property and payment of proper taxes to the Borough. This, in turn, has caused problems for other home owners near the rental units and the reduction of tax revenues.

Section 3. Definitions.

BOROUGH - The Borough of Southmont, Cambria County, Pennsylvania.

CODE - any code or ordinance adopted, enacted and/or in effect in and for the Borough concerning fitness for habitation or the construction, maintenance, operation, occupancy, use or appearance of any premises or residential rental unit. Included within, but not limited by, this definition are the following which are in effect as of the date of the enactment of this Ordinance: The Uniform Construction Code (hereinafter "UCC") the International Property Maintenance Code, International Plumbing Code, International Fire Prevention Code, International Electrical Code, Flood Plain Management Ordinance, the International Building Code and any duly enacted amendment or supplement to any of the above and any new enactment falling within this definition.

CODE ENFORCEMENT OFFICER - the duly appointed Code Enforcement Officer(s) having charge of the Office of Code Enforcement of the Borough and any assistants or agents.

LANDLORD - one or more persons, jointly or severally, in whom is vested all or part of the legal title to the premises or all or part of the beneficial ownership and a right to the present use and enjoyment of the premises, including a mortgage holder in possession of a residential rental unit. (same as "owner").

LANDLORD-TENANT ACT - The Landlord and Tenant Act of 1951, 68 P.S. §§50.101, *et seq.*

MANAGER - an adult individual designated by the owner of a residential rental unit.

OCCUPANCY LICENSE - the license issued to the owner of residential rental units under this Ordinance, which is required for the lawful rental and occupancy of residential rental units.

OCCUPANT - an individual who resides in a residential rental unit, whether or not he or she is the owner thereof, with whom a legal relationship with the owner/landlord is established by a lease or by the laws of the Commonwealth of Pennsylvania.

OWNER - one or more persons, jointly or severally, in whom is vested all or part of the legal title to the premises or all or part of the beneficial ownership and a right to the present use and enjoyment of the premises, including a mortgage holder in possession of a residential rental unit.

PERSON - a natural person, partnership, corporation, unincorporated association, limited partnership, trust or any other entity.

POLICE - any police department or any of its law enforcement officers having jurisdiction within the Borough of Southmont.

PREMISES - any parcel of real property in the Borough, including the land and all buildings and appurtenant structures or appurtenant elements, on which one or more rental units are located.

RENTAL AGREEMENT - a written agreement between owner/landlord and occupant/tenant supplemented by the addendum required under § 141.4.5, embodying the terms and conditions concerning the use and occupancy of a specified residential rental unit or premises.

RENTAL UNIT - any residential structure within the Borough which is occupied by someone for the purpose of domicile other than the owner of the real estate as determined by the most current deed and for which the owner of the said parcel of real estate received any value, including but not limited to money, or the exchange of services. Each apartment within a building is a separate structure requiring a license.

TENANT - an individual who resides in a rental unit, whether or not he or she is the owner thereof, with whom a legal relationship with the owner/landlord is established by a lease or by the laws of the Commonwealth of Pennsylvania. (same as "occupant").

Section 4. Owner's Duties.

1. *General.* It shall be the duty of every landlord/owner to keep and maintain all rental units in compliance with all applicable State laws and regulations and local ordinances and to keep such property in good and safe condition. As provided for in this Ordinance, every owner/landlord shall be responsible for regulating the proper and lawful use and maintenance of every dwelling which he, she or it owns.
2. *Designation of Manager.* If a landlord/owner designates a manager for the rental properties owned, the manager shall be the agent of the owner for service of process and receiving of notices and demands, as well as for performing the obligations of the owner under this Ordinance and under rental agreements with occupants. The identity, address and telephone number(s) of a person who is designated as manager hereunder shall be provided by the owner or manager to the Borough and such information shall be kept current and updated as it changes.

3. Disclosure.
 - A. The landlord/owner or manager shall disclose to the occupant in writing on or before the commencement of the tenancy:
 - (1) The name, address and telephone number of the landlord/owner of the premises and the name, address and telephone number of the manager, if applicable;
 - (2) A tenant registration form (supplied by Borough) and advising them of the tenant(s) requirement to comply with Section 6 "Tenant Registration" of this Ordinance.
4. Furnishing of Leases. Upon request by the Borough, the landlord/owner within ten (10) days of the request shall furnish to the Borough copies of any lease(s) required by the Landlord Tenant Act that the landlord/owner has entered into for rental units including acknowledgment that the occupants have received the disclosures and information required by this Ordinance.
5. Address. Any landlord/owner subject to this Ordinance shall at all times provide the Borough with an address where he/she can be reached and where notifications related to their rental units can be sent and accepted.
6. Tenant Compliance. The landlord/owner of all rental units in the Borough shall have the responsibility of making sure that all tenants and occupants within their rental units comply with and abide by this ordinance of the Borough.

Section 5. Registration of Rental Units.

Every landlord/owner of a rental unit must register the unit with the Borough's Code Enforcement Officer in compliance with the following schedule and provisions:

1. Time Requirements.
 - A. All landlords/owners of rental units or owner-occupied rental units must register said units with the Borough's Code Enforcement Officer within thirty (30) days after the effective date of this Ordinance.
 - B. Any individual, entity or firm which converts any structure to a rental unit or units shall register the rental unit or units with the Borough's Code Enforcement Officer within thirty (30) days of the completion of the conversion of the unit or units or within thirty (30) days of the time when any rent, including the exchange of other services for the unit or units, is obtained or within thirty (30) days of the date within which a tenant or tenants occupies the unit or units, whichever time period is sooner.

- C. If real estate containing a rental unit or units is sold after the effective date of this Ordinance, the purchaser of said real estate shall notify the Borough within five (5) business days of purchasing the real estate and/or rental unit(s).
 - D. The landlord/owner of a rental unit must update the registration information on record with the Code Enforcement Officer within ten (10) days of any changes in the registration information for a given rental unit as set forth in paragraph 2 of Section 5 "Registration of Rental Units" as stated below.
 - E. Any landlord/owner of a rental unit shall notify the Borough within ten (10) days of a new tenant occupying, renting or residing in the landlord's or owner's residential rental unit.
2. Registration Information. A landlord/owner shall provide the following registration information for each and every rental unit:
- A. Owner(s) name, address, telephone number.
 - B. If applicable, a local manager name, address, telephone number (an emergency contact person).
 - C. Property address and number of units.
 - D. Maximum occupancy per unit.
 - E. Emergency telephone number.
 - F. Actual number of occupants.
 - G. Names of current tenants for each unit and term of lease (beginning date and termination date, month-to-month, etc.).
3. Disclosure of Information. Notwithstanding any other provisions of this chapter, the names and addresses of a tenant shall not be disclosed by any Borough personnel in the event that the tenant is the subject of a court order requiring that this information be kept confidential.

Section 6. Tenant Registration.

1. Duty of Tenants to Register. All tenants who are renting a rental unit or rental units in the Borough shall do the following:
- A. Present the "Tenant Registration Form" provided by the landlord/owner or manager.

- B. Provide photo identification (state issued driver's license or photo identification card) to the Codes Enforcement Officer at the Borough's offices located at 148 Wonder Street, Johnstown, PA 15905.
 - C. Provide the address of the rental unit/leased property that he/she will be living.
 - D. Provide the name of the landlord of the rental unit and the term of the lease (beginning and end date of the lease, month-to-month, etc.).
2. Confirmation of Information. The Borough shall record the name of the tenant, the date of registration and confirm that the information provided by the tenant is accurate. The tenant shall attest in writing that the information provided is true and correct subject to the penalties provided for unsworn falsification to authorities.
 3. Disabled Tenant. If a tenant is unable to present this information in person on account of a disability or infirmity, the Code Enforcement Officer shall provide alternative means to provide this information in order to reasonably accommodate the tenant.

Section 7. Licensing of Rental Properties.

1. Licensing as a Prerequisite. As a prerequisite to entering into a rental agreement or permitting the occupancy of any rental unit, the landlord/owner of every such rental unit shall be required to apply for and obtain a license from the Borough for each rental unit. An application for a license will be supplied by the Borough.
2. Obtaining License. In order to obtain a license from the Borough for each rental unit, the owner/landlord or its manager must be in compliance with the following:
 - A. Section 4 of this Ordinance, which provides for the duties of Landlords/Owners.
 - B. Section 5 of this Ordinance, which provides for the registration requirements of rental units.
 - C. Section 6 of this Ordinance, which provides for tenants' duties related to renting within the Borough.
 - D. Shall have no unpaid fines and/or costs arising from enforcement of this Ordinance or any of the ordinances of the Borough relating to land use and/or code enforcement or if any licensing fees under this Ordinance are due and owing the Borough.
 - E. Pay a yearly licensing fee if required by the Borough

3. Issuing of License. If the Borough determines that an owner/landlord has met the criteria for obtaining a license, it shall issue the owner/landlord a license which shall be good for one year from the date of issue.
4. Denial of License. In the event that a license is denied by the Borough or Code Enforcement Officer, the denial shall set forth the reasons for the denial. Upon receipt of the denial, the owner/landlord may either:
 - A. Remedy the reasons for the denial and resubmit its application for a license; or
 - B. File an appeal to the Borough Council of the Borough within thirty (30) days of the date of the notice of denial of the application.

The appeal shall set forth the reasons why the owner/landlord believes the denial of license was in error. Upon receipt of the appeal, the Borough shall conduct a hearing before the Borough Council governed by the Local Agency Law.

Section 8. Enforcement / Penalties.

If the Borough or the Code Enforcement Officer determines that violation of this Ordinance has occurred, the Borough or Code Enforcement Officer shall notify the owner/landlord of the rental unit of the violation.

1. Basis for Violation. The following shall be deemed violations of this Ordinance:
 - A. Failure of any landlord/owner or manager of a rental unit to fail to register his/her/its rental unit(s) as provided by this Ordinance;
 - B. Failure of any landlord/owner or manager of a rental unit to fail to have his/her/its tenants of the rental unit(s) to register as provided by this Ordinance; or
 - C. Failure of any tenant to register as provided by this Ordinance.
1. Notification. The Borough shall notify the landlord/owner by either certified mail or by actual communication of any violation of this Ordinance. Similarly, the Borough shall notify any tenant by either certified mail or by actual communication of any violation of this Ordinance. Notification sent to the address provided by the landlord/owner to the Borough pursuant to this Ordinance shall be deemed as notification. Notification sent to the tenant(s) at the address of the rental unit in questions shall be deemed as notification.

2. Format of Notification. In notifying the landlord/owner, manager or tenant of the violation(s), the Borough shall provide the following:
 - A. A description of the violation(s) that led to the notification;
 - B. The date on which the violations were noted;
 - C. Provide the landlord/owner with a time frame to remedy the violation(s).
3. Penalties for Failure to Remedy the Violation(s). If a landlord/owner, manager or tenant fails to remedy a violation of this Ordinance within the time period provided by the Borough, the following penalties shall be implemented:
 - A. Any landlord/owner of a rental unit which violates any of the provisions of this Ordinance shall upon conviction thereof in a summary proceeding upon conviction thereof be sentenced to pay a fine of \$300.00 for each and every offense. Each day of the said violation shall be a separate offense.
 - B. Any tenant of a rental unit which violates any of the provisions of this Ordinance shall upon conviction thereof in a summary proceeding upon conviction thereof be sentenced to pay a fine of \$100.00 for each and every offense. Each day of the said violation shall be a separate offense.
 - C. Each day during which any landlord/owner, manager or tenant of a rental unit violates any provision of this chapter shall constitute a separate offense.
4. Collection. Fines as imposed through this ordinance shall be collected as allowable by law.
5. Not Exclusive Remedy. This chapter and the foregoing penalties shall not be construed to limit or deny the right of the Borough or its agents or representatives to such equitable or other remedies as may otherwise be available with or without process of law.


Section 9. Severability.

If any section or provision of this Ordinance is adjudged by a court of competent jurisdiction to be unlawful, void, or unenforceable, all the remaining sections and provisions of this Ordinance shall remain in full force and effect.

Effective Date: This Ordinance shall become effective in five (5) days after the adoption hereof.

ENACTED AND ORDAINED into law by the Borough of Southmont, Cambria County
Pennsylvania, this 15th day of April, 2013.

BOROUGH OF SOUTHMONT



Council President

ATTEST:



Borough Secretary



Mayor