

ORDINANCE NO. 1 OF 2018

AN ORDINANCE OF THE BOROUGH OF LARKSVILLE, LUZERNE COUNTY, PENNSYLVANIA, AMENDING ORDINANCE NO. 8 OF 2012, AS AMENDED BY ORDINANCE NO. 6 OF 2014 **AND ORDINANCE NO. 1 OF 2016**, ESTABLISHING A LANDLORD REGISTRATION, LICENSING AND OCCUPANCY SYSTEM, SETTING FORTH REQUIREMENTS AND OBLIGATIONS ON THE PART OF LANDLORDS, ESTABLISHING A MANNER OF ENFORCEMENT AND PROVIDING PENALTIES FOR THE VIOLATION OF THE REQUIREMENTS.

WHEREAS, Larksville Borough, its Police Department and Code Enforcement Office have received numerous complaints from residents asserting that the physical conditions of, and activities upon, various tenant-occupied properties detract from and pose threats to the health, safety and welfare of the residents of the Borough; and,

WHEREAS, Larksville Borough is empowered by the laws of the United States and the Commonwealth of Pennsylvania to enact ordinances and regulations designed to secure and promote the health, safety and welfare of residents and to prohibit certain conditions, actions or activities that adversely affect the same; and,

WHEREAS, Larksville Borough Council deems it to be in the best interests of the health, safety and welfare of the residents of Larksville Borough, and all other persons who shall find themselves within the limits of the Borough, to enact an ordinance mandating a landlord registration system in the Borough of Larksville; and,

WHEREAS, Larksville Borough Council has, for the reasons aforesaid, previously enacted Ordinance No. 8 of 2012 by which a landlord registration, licensing and occupancy system, etc. was established; and

WHEREAS, Larksville Borough Council did thereafter amend the said Ordinance No. 8 of 2012 by means of Ordinance No. 6 of 2014 **and by Ordinance No. 1 of 2016**; and

WHEREAS, Larksville Borough's duly authorized officials, based upon their experience gained from administering the system, have suggested to Larksville Borough Council that certain further changes be made to the established system; and

WHEREAS, Larksville Borough Council has determined that, rather than amending Ordinance No. 8 of 2012, **amended as aforesaid**, by listing the various changes to specific Sections and/or Sub-sections, it will be more beneficial and advisable, and will avoid the need for its officials and the public to review multiple documents in order to

ascertain the current requirements, to incorporate the suggested changes within the enactment of a full text of the Ordinance, as changed from its 2012 version **and amended versions,**

NOW, THEREFORE, it is hereby ENACTED and ORDAINED by the Borough Council of the Borough of Larksville, Luzerne County, Pennsylvania, as follows:

SECTION 1. Title:

This Ordinance shall be known and may be cited as the Larksville Borough Landlord Registration, Licensing and Occupancy Ordinance.

SECTION 2. Purpose:

It is the purpose of this Ordinance, and the policy of the Borough of Larksville, in order to protect and promote the public health, safety and welfare of its residents, to establish registration and licensing requirements for landlords in the Borough of Larksville; to establish and maintain a current record of all rental properties and tenants occupying such properties, and to establish an enforcement mechanism to effect the aforementioned objectives.

In order to accomplish the aforementioned purpose, Larksville Borough Council believes it to be necessary to establish, and does hereby establish, an inspection program requiring rental unit inspections in accordance with the provisions hereinafter set forth in this Ordinance.

SECTION 3. Definitions:

As used in this Ordinance, the following terms shall have the meanings hereinafter set forth unless the context of the Ordinance shall clearly indicate otherwise:

Landlord: One or more persons, as defined by this Section, jointly or severally, in whom all or part of the legal title to the premises is vested or all or part of the beneficial ownership and a right to the present use and enjoyment of the premises. This definition includes a mortgage holder in possession of a residential rental unit.

Larksville Borough: The Borough of Larksville, County of Luzerne and Commonwealth of Pennsylvania.

Occupancy License: The license issued to the owner of residential unit(s) under this Ordinance, which is required for the lawful rental and occupancy of residential rental unit(s).

Occupant: An individual who resides in a residential rental unit, with whom a legal relationship with the owner/landlord is established by a lease, whether written or oral, or by the laws of the Commonwealth of Pennsylvania.

Owner: Shall have the same definition as set forth herein for Landlord; and such terms may be used in combination or interchangeably in this Ordinance.

Person: A natural person, partnership, corporation, unincorporated association, limited partnership, limited liability company, estate, trust, or any other entity.

Property Manager: A natural person, partnership, corporation, unincorporated association, limited partnership, limited liability company, estate, trust, or any other entity appointed by a landlord to take care of rental property within the Borough of Larksville and be the agent of said landlord.

Rental Inspection: An inspection of a residential rental unit or units by Larksville Borough's Code Enforcement officials or such other agency or company as Larksville Borough may from time to time designate to perform such inspections.

Residential Rental Unit: Any structure within Larksville Borough occupied by someone 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 receives any value, including but not limited to money, or the exchange of services. Each apartment or other separately designated portion or area within a structure is a separate unit requiring a license.

SECTION 4. Owner's duties:

A. Annual Registration.

Every owner of a residential rental unit(s) must register the unit(s), with the Code Enforcement Official or his designee by April 1 of the year in which such unit(s) will be first offered for rent, and on **an annual basis thereafter**, and request a rental unit inspection to be performed by Larksville Borough, in accordance with the following schedule:

(1) All owners of residential rental unit(s) must register the unit(s) with the Code Enforcement Officer, or his designee, by April 1 of the year in which such unit(s) will be first offered for rent. Such registration shall remain valid for a period **ending on April 1st of the next calendar year.**

(2) Any individual, entity or firm which converts any structure to a residential rental unit or units shall register the residential rental unit or units with the Code Enforcement Officer, or his designee, upon the earliest occurrence of the following events:

(a) Within thirty (30) days of the completion of conversion;

(b) Within thirty (30) days of the date when any rent, including the exchange of other services, for the rental unit(s) is payable and/or obtained;

(c) Within thirty (30) days of the date on which a tenant or tenants occupies the unit or units. A rental unit inspection must be performed before new tenants move in and each time a rental unit(s) changes tenant(s) unless an inspection was performed within the previous four (4) months;

(3) It shall be the responsibility of the grantee and the grantee's agent to notify the Code Enforcement Officer of Larksville Borough within ten (10) days of any purchase or transfer of a rental unit(s).

(4) Registration information shall be provided by all owners and shall include the following:

(a) Owner's name, address and telephone number;

(b) Property address and apartment or unit number;

(c) Maximum occupancy per unit;

(d) Emergency telephone number (in addition to the number required by Subsection A. 4. (a));

(e) Actual number of occupants;

(f) Name(s) of current tenant(s).

(5) The owner of a residential rental unit must update the registration information on record with the Code Enforcement Officer within ten (10) days of any change of any of the required information set forth above and request a rental inspection before a new tenant moves in unless an inspection was performed within the previous four (4) months.

(6) Any owner of a residential rental unit shall notify the Code Enforcement Officer, and request a rental unit inspection no less than ten (10) days nor more than thirty (30) days prior to a new tenant(s) occupying, renting or residing in a landlord's or owner's residential rental unit .

B. License requirement.

(1) As a prerequisite to entering into a rental agreement, whether written or oral, or permitting the occupancy of any rental unit (except as provided in Subsection B. (3) below), the owner of every such rental unit shall be required to apply for and obtain a license for each rental unit. The fee/cost of a license shall be \$25.00 per unit. The fee/cost of a license may be amended, from time to time, by Resolution of Larksville Borough Council. The fees for rental inspections shall be set by Larksville Borough Council, and such inspection fees may be amended at any time by Resolution of Borough Council.

(2) A license shall be required for all residential rental units.

(3) The following categories of rental properties shall not require licenses, and thus shall not, therefore, be subjected to the requirements of Subsection A. (1) of this Section:

(a) Residential rental unit(s) occupied by immediate members of the owner's family, provided that not more than two (2) unrelated individuals, in addition to the immediate members of the owner's family, occupy the residential rental unit at any given time. Although no license or license fee shall be required, **rental registration, rental inspections and payment of rental inspection fees shall be required for rental units occupied by immediate family members of owners.**

(b) Hotels and motels.

(c) Hospitals and nursing homes.

(d) Residential units occupied by members of a group home owned by an entity recognized by Internal Revenue Code Section 501 (c) (3).

(4) The application for the license shall be in a form as determined by the Borough of Larksville.

C. General.

(1) It shall be the duty of every owner/landlord to keep and maintain all residential rental units in compliance with all applicable laws and regulations of the Commonwealth of Pennsylvania and Ordinances of the Borough of Larksville, and to keep such property in good and safe condition. The owner/landlord shall be responsible for regularly performing all maintenance, including lawn mowing and ice and snow removal, and for making of any and all repairs in and around the premises in conformity with the Property Maintenance and/or other Codes in force in the Borough of Larksville. The delegation of the aforementioned duties to tenants (or any other person or entity) shall not excuse the owner/landlord from these responsibilities.

(2) The owner/landlord shall be responsible for the management of their property in conformity with the laws of the Commonwealth of Pennsylvania and Ordinances of the Borough of Larksville.

(3) Owner(s)/landlord(s) must be proactive in managing their property and are expected to utilize all legal means available to them to evict tenant(s) who routinely engage in disorderly or like or similar conduct, disturb the public peace, create excessive noise, or violate those criminal laws of the Commonwealth of Pennsylvania relating to the illegal sale and/or distribution of controlled substances (drugs). The term "routinely engage" is defined as three (3) or more violations of any of the foregoing in and sixty (60) day period or more than eight (8) times in any twelve (12) consecutive month period.

SECTION 5. Appointment of Property Manager:

A. Every owner/landlord residing further than twenty (20) miles from the corporate boundaries of the Borough of Larksville must designate a property manager or person responsible for the care of all rental property. The property manager or person responsible for the care of rental property must reside or have its corporate offices within twenty (20) miles of the corporate boundaries of the Borough of Larksville. The property manager shall be the designated recipient of all correspondence and violation notices from the Borough of Larksville. The property manager shall be the direct point of contact for disruptive conduct, emergencies, and any other occurrence that may be of a time-sensitive nature. The property manager shall be the agent of the property owner and by his, her or its appointment, shall be authorized and empowered to accept service of all correspondence, violation notices, citations, court complaints and pleadings on behalf of the owner/landlord. The appointment of a property manager shall remain in effect and shall be considered as legally binding on both the principal (owner/landlord) and agent (property manager) until revoked and written notice of revocation is provided by the owner/landlord to the Borough of Larksville.

B. Every owner/landlord residing further than twenty (20) miles from the corporate boundaries of the Borough of Larksville must appoint a property manager within forty-five (45) days of enactment of this Ordinance. The owner/landlord must provide the Borough of Larksville with the property manager's name, address and all pertinent contact information. The owner/landlord must also provide the Borough with his/her name, address and all pertinent contact information. The owner/landlord of the property shall be responsible for all of the duties of the property manager in the event that the Borough is unable to communicate with the property manager. **Contact information shall be updated on an annual basis by April 1 of each year, at the time of registration, and within ten (10) days after any change in the appointed property manager.**

SECTION 6. Enforcement; violations and penalties:

I. Enforcement:

This Section shall be enforced by the Code Enforcement Officer of the Borough of Larksville or his/her designee.

II. Violations:

A. Any owner/landlord that fails to comply with the registration and rental inspection requirements of this Ordinance, in accordance with Section 4 A. herein, is in violation of this Ordinance.

B. Any owner/landlord that rents a residential rental unit requiring a license and/or inspection without a valid, current license and/or inspection, issued by the Borough of Larksville authorizing such use, in accordance with Section 4 B. herein, is in violation of this Ordinance.

C. Any owner/landlord that resides or has its corporate offices further than twenty (20) miles of the corporate boundaries of the Borough of Larksville who fails to appoint a property manager, in accordance with Section 5 herein, is in violation of this Ordinance.

D. Any owner/landlord that fails to maintain their property in conformity with the laws of the Commonwealth of Pennsylvania and/or Borough Ordinances, in accordance with Section 4 C. 1. herein, is in violation of this Ordinance. A record of any unpaid citations for property maintenance violations shall be conclusive evidence of a violation of this Ordinance and shall prevent the issuance of any license pursuant to this Ordinance.

E. Any owner/landlord that fails to utilize all legal means available to them to evict tenants who routinely engage in disorderly conduct, disturb the public peace, create

excessive noise, or violate those criminal laws of the Commonwealth of Pennsylvania relating to the illegal sale and/or distribution of controlled substances (drugs), in accordance with Section 4 C. 3. herein, is in violation of this Ordinance.

III Penalties:

A. Any landlord or owner of a residential rental unit who violates any provision of Section 4 of this Ordinance, including any and all of the subsections thereof, shall be guilty of a summary offense and, upon conviction thereof, be sentenced to pay a fine of not less than \$100.00 and up to \$500.00 for each and every offense. Each day a landlord or owner operates a residential rental unit in violation of Section 4, including any and all of its subsections, shall constitute a separate offense.

B. Any landlord or owner of a residential rental unit who violates Section 5 of this Ordinance shall be guilty of a summary offense and, upon conviction thereof, be sentenced to pay a fine of not less than \$100.00 and up to \$500.00. Each day a landlord or owner operates a residential rental unit in violation of Section 5 shall constitute a separate offense.

C. No landlord or owner with outstanding fines resulting from violations(s) of Larksville Borough Ordinances shall be eligible to obtain a license to rent residential real estate in the Borough of Larksville until and unless such fines are paid in full.

D. Fines imposed through this Ordinance shall be collected by any means allowable by law.

E. Each day a landlord or owner of a residential rental unit violates any provision of this Ordinance shall constitute a separate offense.

F. This Ordinance and the foregoing penalties shall not be construed to limit or deny the right of the Borough of Larksville, its agents, employees and/or representatives, to seek any other equitable or legal remedies that may otherwise exist under applicable law.

G. In addition to the fines set forth herein, the Borough of Larksville shall be entitled to recover reasonable attorney's fees and costs of collection incurred enforcing this Ordinance, and such fees and costs shall be added to any penalties set forth above.

SECTION 8. Miscellaneous Provisions:

A. For purposes of this Ordinance, any notice, complaint, enforcement, or other information given to a manager shall be deemed as having also been given to the landlord/owner.

B. Changes in ownership and/or occupancy or residential rental units. It shall be the duty of each owner of a residential rental unit to notify the Code Enforcement Officer, in writing, of any change in ownership of the premises or in the number of residential rental units on the premises. It shall also be the duty of the owner to notify the Code Enforcement Officer, in writing, of any increase in the number of occupants in any residential rental unit or of the changing of a residential dwelling, or part thereof, from owner-occupied to non-owner-occupied, which thereby transforms the residential dwelling, or part thereof, into a residential rental unit for purposes of this Ordinance.

C. Owners jointly and severally responsible. If any residential rental unit is owned by more than one person, in any form of joint tenancy, tenancy in common, as a partnership, or otherwise, each owner shall be jointly and severally responsible for the duties imposed under the terms of this Ordinance and shall be severally subject to prosecution for violation(s) of this Ordinance.

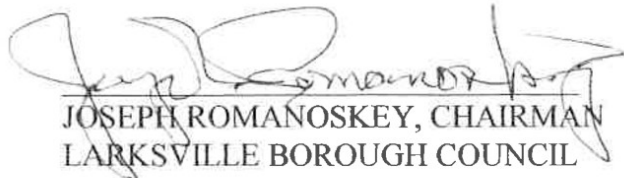
D. Confidentiality. All registration and contact information shall be maintained in a confidential manner by the Code Enforcement Officer and shall only be utilized for the purpose of enforcement of this Ordinance by the Code Enforcement Officer and/or his/her designee.

SECTION 9. Severability:

In the event that any one or more of the provisions of this Ordinance shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

SECTION 10. Effective date: This Ordinance shall take effect immediately upon its final passage, enactment and advertisement by Larksville Borough Council.


ENACTED and ORDAINED at a regular meeting of Larksville Borough Council, this 19 day of JUNE, 2018.


JOSEPH ROMANOSKEY, CHAIRMAN
LARKSVILLE BOROUGH COUNCIL

ATTEST:


BOROUGH SECRETARY

APPROVED, as having been duly enacted and ordained this 19 day of JUNE, 2018.



JOSEPH ZAWADSKI, MAYOR
LARKSVILLE BOROUGH