

# ELIZABETHTOWN BOROUGH

Lancaster County, Pennsylvania

## ORDINANCE NO. 864

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE BOROUGH OF ELIZABETHTOWN, CHAPTER 5, EXISTING STRUCTURES AND PROPERTY MAINTENANCE, TO ADD REQUIREMENTS FOR THE LICENSING AND INSPECTION OF RESIDENTIAL RENTAL UNITS.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED AND ENACTED by the Borough Council of the Borough of Elizabethtown, Lancaster County, Pennsylvania, as follows:

The Code of Ordinances of the Borough of Elizabethtown, Chapter 5 (Existing Structures and Property Maintenance) shall be amended by the addition of this new Part 3:

### PART 3 RESIDENTIAL RENTAL UNITS REGULATIONS

#### §301. PURPOSE AND SCOPE:

The purpose of this Part and the policy of the Borough of Elizabethtown shall be to protect and promote the public health, safety and welfare of its citizens; to establish rights and obligations of owners and occupants relating to residential rental units in the Borough; and to encourage owners and occupants to maintain and improve the quality of rental housing within the Borough. As a means to these ends, this Part 3 provides for a systematic inspection program, registration and licensing of residential rental units and penalties. In considering the adoption of this Part 3, the Borough makes the following findings:

1. There is a concern in the Borough with the failure of some property owners to properly maintain residential rental units.
2. Borough records indicate there is a greater incidence of problems with the maintenance and upkeep of residential properties which are not owner-occupied as compared to those that are owner-occupied.
3. Borough records indicate that violations of the Borough's Ordinances are generally less severe at owner-occupied units as compared to residential rental units.

4. Borough records indicate that there are a growing number of disturbances at residential rental units.

§302. DEFINITIONS:

Unless otherwise expressly stated, the following terms shall, for the purpose of this Part 3, have the meanings indicated as follows:

**BOROUGH** - The Borough of Elizabethtown, Lancaster County, Pennsylvania.

**CODES COMPLIANCE OFFICIAL** – A person designated by Borough Council to enforce this Part 3, including performance of inspections, issuance of Residential Rental Licenses and issuance of citations.

**CODES** - Any state or local law, code or ordinance adopted, enacted or in effect in and for the Borough including, but not limited to, the Existing Structures and Property Maintenance Code, codified as Chapter 5 of the Code of Ordinances of the Borough of Elizabethtown, Lancaster County, Pennsylvania.

**COUNTY** – The County of Lancaster.

**DISRUPTIVE CONDUCT** – Any act by an occupant of a residential rental unit or by a person present at a residential rental unit involving public drunkenness, consumption of an alcoholic beverage in public, public urination or defecation, the unlawful deposit of trash or litter on public or private property; damage to or destruction of public or private property, the obstruction of public roads, streets, highways or sidewalks, interference with emergency or police services, unreasonable noise as defined by the Borough Noise Nuisance Ordinance, codified as Part 2, Noise Control, of Chapter 10, of the Code of Ordinances, use of profane or obscene language or gestures, indecent exposure, fighting or quarreling, or any other act defined as Disorderly Conduct in the Pennsylvania Crimes Code or any act prohibited in Chapter 10, Part 2 of the Borough's Code of Ordinances or which otherwise injures or endangers the health, safety or welfare of the residents of the Borough residing in the neighborhood or vicinity of the gathering. 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 Codes Compliance Official or a Police Officer shall investigate and make a determination that such did occur, and keep written records, including a Disruptive Conduct Report, of such occurrences. The occupant and the owner and, if applicable, the manager shall be notified of any such occurrences, in writing.

**DISRUPTIVE CONDUCT REPORT** – a written report of disruptive conduct to be completed by a Police Officer or Codes Compliance Official who actually

investigates an alleged incident of disruptive conduct and which shall be maintained by the Codes Compliance Official.

**INSTITUTION AND INSTITUTIONAL FACILITY** – An Organization founded and united for a specific purpose (such as education or health care) consisting of a building or complex of buildings where an Organization for the providing of a service or specific cause is situated.

**INSTITUTIONAL FACILITY ROOM** – A unit used as a residence and located in a structure owned and operated by an Institution for a common purpose such as without limitation an educational facility or a nursing or retirement care facility.

**MANAGER** – A person retained by an owner to be responsible for one or more residential rental units within the Borough.

**OCCUPANT** – Any person living and sleeping in a residential rental unit or having actual possession of said residential rental unit.

**OWNER** – The person who holds record title and/or the equitable owner under an agreement of sale of a property upon which a residential rental unit is erected or maintained. If more than one person owns the residential rental unit as joint tenants, tenants in common, tenants by the entireties, or tenants in co-partnership, each such person shall be considered an owner and shall have all the duties of an owner under this Part 3.

**OWNER’S FAMILY** – The person who holds record title and/or equitable owner to include his or her spouse, son, daughter, owner’s parents or owner’s spouses’ parents only.

**PERSON** – A natural individual, unincorporated association, partnership, corporation, estate, trust or any other legally recognized entity, and the members of such partnership and the officers of such entities.

**PREMISES** – Any parcel of real estate within the Borough, including the land and all buildings and appurtenant structures, on which one or more residential rental units are located.

**PROPERTY MAINTENANCE CODE** – The existing Structures and Property Maintenance Code of the Borough of Elizabethtown enacted as Chapter 5 of the Code of Ordinances of the Borough of Elizabethtown, Lancaster County, Pennsylvania, as it may be amended from time to time.

**RESIDENTIAL RENTAL UNIT LICENSE** – A document, issued by the Borough, to the owner of a residential rental unit.

RESIDENTIAL RENTAL UNIT – (1) A rooming unit or (2) a dwelling unit let for rent or (3) a residential unit occupied by any persons other than one occupied solely by the owner and members of the owner’s family. Each individual townhouse dwelling, each individual apartment unit, each individual unit in a multi-family building, and each rooming unit shall be considered a separate residential rental unit. If a structure contains a rooming unit or if any portion of the structure is let for rent, it shall be considered a residential rental unit whether or not the owner or a relative of the owner also resides in the structure. A residential rental unit includes dwelling units under lease-purchase agreements or long-term (greater than six (6) months) agreements of sale. A residential rental unit shall not include a hotel unit or a hospital room utilized for medical services. It shall include an institutional facility room but only as hereinafter set forth in Section 309.

ROOMING UNIT – A portion of a dwelling unit including any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking purposes. Granting of permission to use shared or common cooking facilities may be associated with the leasing of a rooming unit.

§303. DUTIES OF OWNERS AND MANAGERS OF RESIDENTIAL RENTAL UNITS:

1. It shall be the duty of every owner to :
  - A. Keep and maintain all residential rental units in compliance with all applicable codes, ordinances and provisions of all applicable state laws and regulations, including but not limited to the Borough Zoning Ordinance and Existing Structures and Property Maintenance Code.
  - B. Keep and maintain all premises in good and safe condition.
  - C. Be aware of, and act to eliminate disruptive conduct in all residential rental units.
  - D. Employ policies to and actually manage the residential rental units under his/her control in compliance with the provisions of this Part 3, Borough Ordinances and applicable state laws.
  - E. Pay or ensure payment of all real estate taxes, sewer charges, water charges, and trash collection fees to insure that such vital utilities are provided.
  - F. Obtain and maintain a Residential Rental License for each residential rental unit.

- G. Provide the Borough within ten (10) days of occupancy with the names, physical address and mailing address, if different, of all tenants of the residential rental unit and notify the Borough of changes in the occupancy of the residential unit within ten (10) days thereof.
  - H. Provide trash and recyclable collection and disposal services information and instruct tenants of the method of trash and recyclable collection (e.g. curbside or dumpster and day of pickup).
  - I. Take all actions necessary to ensure that each residential rental unit is occupied by only one family. For the purposes of this paragraph, a “family” is defined in the Borough Zoning Ordinance.
  - J. Require a written rental agreement for each residential rental unit which shall include the names of all permitted occupants. Each Lease shall contain a provision and notice to the tenant(s) that if the Residential Rental License for the leased unit is revoked the owner shall have the right to terminate the Lease and evict the tenant with thirty (30) days written notice and that tenant agrees this procedure does not violate any part of the Landlord Tenant Act of Pennsylvania. Further, if the Lease is so terminated as a result of the Landlord not complying with the terms of this Ordinance, Landlord may be subject to suit by the tenant for damages.
  - K. Retain a manager when this Part 3 requires that a manager be designated.
2. If the owner has appointed a manager, the manager shall be jointly responsible to fulfill all of the obligations set forth in §303 hereof. No owner may relieve himself of the responsibility to perform the duties set forth in §303 by appointing a manager.
  3. It shall be unlawful for any person to conduct or operate or cause to be rented either as owner or manager any residential rental unit within the Borough without having a Residential Rental License as required by this Part.
  4. It shall be the responsibility of every owner and every manager to display the Residential Rental License in the residential rental unit. The Residential Rental License shall include the following information:
    - (a) The name, address and telephone number of the owner or manager.
    - (b) The date of expiration of the Residential Rental License.

5. No Residential Rental License shall be issued to any owner residing more than twenty (20) miles from the municipal limits of the Borough unless the owner provides the Borough with the name, mailing address and telephone number of a manager residing within twenty (20) miles of the municipal limits of the Borough, authorized to accept service of process on behalf of the owner. For the purpose of this section, a post office box is not acceptable for the manager's address. This designation shall not be valid unless signed by the owner and the manager designated to act on behalf of the owner. The owner shall notify the Borough within ten (10) days of any change in manager.

§304. DUTIES OF OCCUPANTS OF RESIDENTIAL RENTAL UNITS:

1. It shall be the duty of each occupant of a residential rental unit to:
  - A. Comply with all obligations of this Part and all applicable Codes and Borough Ordinances, as well as all state laws and regulations.
  - B. Conduct himself/herself and require other persons, including, but not limited to, guests on the premises and within their residential rental unit with their consent to conduct themselves in a manner that will not constitute disruptive conduct nor disturb the peaceful enjoyment of adjacent or nearby dwellings by people occupying the same.
  - C. Not engage in, nor tolerate, nor permit others on the premises to cause damage to the residential rental unit or engage in disruptive conduct, or other violations of this Part 3, Codes, Borough Ordinances, or applicable state laws.
  - D. Use the trash and recyclable collection provided by the owner to include placing trash out for weekly pickup.
  - E. Use the residential rental unit for no purpose other than as a residence.
  - F. Allow the Codes Compliance Official to inspect the residential rental unit in accordance with this Part at reasonable times.
  - G. Not allow persons other than those identified on the lease to reside in the residential rental unit.
  - H. Not allow the possession of, serving to or consumption of alcohol by underage persons, nor allow the possession of, providing to or use of controlled substances by any person in an illegal fashion.

§305. RESIDENTIAL RENTAL UNIT LICENSING:

1. By December 31<sup>st</sup> of each calendar year, the owner and, if applicable, the manager of each residential rental unit shall apply for a residential rental license from the Borough, which shall be valid from January 1<sup>st</sup> to December 31<sup>st</sup> of the following year.
2. The Codes Compliance Official shall issue a Residential Rental License if the owner provides the name, address and phone number of a manager (if applicable), pays the registration fee, submits a complete and accurate occupant listing for the residential rental units by December 31<sup>st</sup> of each year and is current on real estate taxes, sewer fees, water fees and trash collection fees for the residential rental unit.
3. The Codes Compliance Official shall deny and may revoke a Residential Rental License if the owner does not provide the name, address and phone number of a manager (if applicable), does not pay the annual registration fee, is not current on real estate taxes, sewer fees, water fees or trash collection fees for the residential rental unit, does not correct a code violation within the time frame cited by the Codes Compliance Official, and/or has not complied with any requirements of this Part 3.
4. The Codes Compliance Official shall forward written notice to the owner if the Codes Compliance Official will deny, refuse to renew or revoke a Residential Rental License. The notification shall (1) identify the residential rental unit (2) the grounds for the denial, non-renewal or revocation, including the factual circumstances and the Section of this Part supporting such determination; and (3) inform the owner of the right to appeal the denial, non-renewal or revocation of the Residential Rental License to Borough Council under this Part 3.
5. The Codes Compliance Official may reinstate a Residential Rental License if the owner or manager corrects the reason for the revocation of the Residential Rental License has paid the proper fees and is otherwise in compliance with this Ordinance and all other Applicable rules, regulations, ordinances and laws.
6. Elizabethtown Borough Council shall be authorized from time to time to establish by Resolution such fees as they determine are necessary to administer all provisions of this Part 3.

§306. INSPECTION OF RESIDENTIAL RENTAL UNITS:

1. Prior to initial occupancy of newly constructed residential rental units, newly created residential rental units, or substantially rehabilitated

residential rental units, the owner or manager shall register with and make written application to the Borough for a Residential Rental License as herein provided. Such initial inspections will occur in accordance with a phased-in systematic inspection program to be prepared and made available upon request by the Codes Compliance Official. A minimum of fifteen (15) days prior written notice shall be given for all initial inspections. The penalty for not allowing an inspection shall be denial of the Residential Rental License.

2. The Codes Compliance Official shall inspect all other residential rental units in accordance with a systematic program. The Codes Compliance Official may also inspect residential rental units upon a change in occupancy of the residential rental unit, upon receipt of complaints and for any other reasonable cause.
3. If the Codes Compliance Official, upon completion of the inspection, finds that the Residential Rental Unit(s) is/are not in compliance with all applicable codes, the Codes Compliance Official shall issue notices and, if appropriate, commence enforcement actions under the procedures set forth in the Code which may include directing the Landlord to begin eviction proceedings against a tenants but only at the expiration of any designated time period set forth at §305.3. with no “cure” being accomplished. Notice provided to a manager shall be deemed notice provided to the owner. The following notices shall be issued to the owner of the residential rental unit or the manager:
  - A. If the Codes Compliance Official finds violations warranting condemnation of the residential rental unit under the Property Maintenance Code, in addition to the remedies under the Property Maintenance Code, the Codes Compliance Official shall:
    - (1) Issue a ten (10) Day Notice of Violation; and
    - (2) If after ten (10) days from the date of the Ten (10) Day Notice of Violation, a re-inspection reveals that the violations are not corrected and arrangements satisfactory to the Codes Compliance Official have not been made, the Residential Rental License for that unit shall be revoked and if the unit is vacant, it shall remain vacant.
  - B. If the Codes Compliance Official finds violations not warranting condemnation of the residential rental unit under the Property Maintenance Code, the Codes Compliance Official shall issue a Thirty (30) Day Notice of Violation.



- (1) If after thirty (30) days from the date of the Thirty (30) Day Notice of Violation, the first re-inspection reveals that all violations have not been corrected, a Thirty (30) Day Legal Action Warning shall be issued.
- (2) If after thirty (30) days from the date of the Thirty (30) Day Legal Action Warning, the second re-inspection reveals that all violations have not been corrected, the Code Enforcement Official shall revoke the Residential Rental License for that Residential Rental Unit, and if the unit is vacant, it shall remain vacant.
  - (a ) A fee will be charged for each re-inspection. The Codes Compliance Official shall maintain a list of all residential rental units and their ownership that have been the subject of prosecutions during the previous five (5) years.

§307. DISRUPTIVE CONDUCT:

1. Police officers or Codes Compliance Officials shall investigate alleged incidents of disruptive conduct. The police officer or Codes Compliance Official conducting the investigation shall complete a Disruptive Conduct Report upon a finding that the reported incident constitutes disruptive conduct. The information filed in the Disruptive Conduct Report shall include, if possible, the identity of the alleged perpetrator(s) of the disruptive conduct and the factual basis for the disruptive conduct described in the Disruptive Conduct Report. A copy of the Disruptive Conduct report shall be given or mailed to the occupant and mailed to the owner and, if applicable, the manager within ten (10) working days of the occurrence of the alleged disruptive conduct.
2. The occupant or the owner and, if applicable, the manager shall, if they desire, have ten (10) working days from the date of a Disruptive Conduct Report to appeal the Disruptive Conduct Report. The appeal shall be made in writing and submitted to the Codes Compliance Official.
3. After three (3) disruptive conduct incidents in any twelve (12) month period by an occupant documented by Disruptive Conduct Reports, the owner and, if applicable, the manager shall have ten (10) working days from the date of the third Disruptive Conduct Report to begin eviction proceedings against the occupants. Failure to take such action will result in the immediate revocation of the Residential Rental License. The residential rental unit involved shall not have its Residential Rental License reinstated until the reinstatement fee is paid and the disruptive occupants have been evicted, the district

justice has ruled in the occupant's favor, the district justice has ruled in the owner's favor but has not ordered the eviction of the occupant(s), or the occupants have filed an appeal to a higher court or declared bankruptcy, thereby preventing their eviction. The disruptive occupants, upon eviction, shall not re-occupy any residential rental unit on the same premises involved for a period of at least one (1) year from date of eviction. This paragraph is not intended to limit or inhibit the owner and, if applicable, the manager's right to initiate eviction actions prior to the issuance of the third Disruptive Conduct Report in a twelve month period.

4. The Disruptive Conduct Report shall count against all occupants of the residential rental unit. More than one (1) Disruptive Conduct Report filed against the occupants of a residential rental unit in a twenty-four (24) hour period shall count as a single Disruptive Conduct Report for the purpose of §306.3. The Codes Compliance Official shall maintain a list of the names of all occupants evicted as a result of §306.3. The names shall remain on the list for a period of three (3) years.

#### §308. SALE OR TRANSFER OF RESIDENTIAL RENTAL UNITS:

A Residential Rental License shall not be transferred. In the case of licensed residential rental units that are sold or transferred, the new owner shall seek a Residential Rental License for each residential rental unit and have each residential rental unit inspected. Failure to seek a Residential Rental Unit License for each residential rental unit within thirty (30) days of the date of sale or transfer of ownership shall result in the revocation of the Residential Rental License.

#### §308 INSTITUTIONAL FACILITIES:

1. Institutional Facility Rooms shall be subject to the provisions of this Ordinance, subject, however to the provisions of this §309.
2. If an Institutional Facility has in place a program of control and inspection for all of its rooms and desires to be exempt from the provisions of this Ordinance it may make application to Borough Council. In doing so, a representative of the Institution shall appear before Borough Council at a meeting thereof and shall establish to Council's satisfaction that it has in place an adequate program of control and inspection so as to itself assure compliance with the provisions and purposes of this Ordinance. This exemption request application shall be forwarded to Borough Council together with the application fee for this purpose which shall be established from time to time by resolution of Borough Council.

3. Borough Council shall grant or deny such request for exemption based on its sound discretion.
4. If an exemption is granted Borough Council shall have the absolute right to revoke same, if information is received that the Institution's program of control and inspection is not satisfactory to assure compliance with the provisions and purposes of this Ordinance.
5. If an exemption is granted Borough Council shall be forwarded copies of the internal, or related third party, inspection reports from the exempted Institution in a timely manner as determined solely by Borough Council.

§310. APPEALS:

An appeal from any decision of the Codes Compliance Official shall be taken to Borough Council. Such appeal shall be made in writing within ten (10) days after such decision has been made. The appeal shall be verified by an affidavit, shall state the grounds therefor and shall be filed with the Borough Secretary. The appeal shall be accompanied by the appeal fee which shall be established from time to time by this ordinance or by resolution of Borough Council. The appellant or his representative shall have the right to appear and be heard, if such right is requested in the written appeal. Borough Council shall make a decision on such appeal within ten (10) days of the Hearing. Borough Council shall render a written decision, copies of which shall be provided to the Codes Compliance Official and the appellant.

§311. VIOLATIONS AND PENALTIES:

1. Violations. It shall be a violation of this Part to commit or to permit any other person to commit any of the following acts:
  - A. To lease, let, or allow the occupancy of a residential rental unit without obtaining a Residential Rental License where required by this Part.
  - B. To refuse to permit inspections required under this Part 3 for a residential rental unit.

- C. To fail to perform the duties established by Section 303 of this Part 3 if such person is an owner or a manager of a residential rental unit.
  - D. To fail to perform the duties established by Section 304 of this Part 3 if such person is an occupant of a residential rental unit.
  - E. To place false information on to or omit relevant information from an application for a Residential Rental Unit.
6. To fail to comply with any other provision of this Part 3.

2. Penalties and Remedies.

- A. Allowing occupancy of a residential rental unit after the Residential Rental License has been revoked: A fine of not less than five hundred (\$500.00) per residential rental unit for each month the violation exists. Each month the violation exists constitutes a separate violation.
- B. Failure to seek a Residential Rental License: The owner or manager shall be sent a Thirty (30) Day Notice of Violation, warning them of their failure to comply with the terms of this Part 3. If they do not comply at the end of thirty (30) days, there shall be a fine of not less than five hundred dollars (\$500.00) per residential rental unit for each month the violation exists. Each month the violation exists constitutes a separate violation.
- C. Whoever violates any other provision of this Part 3 shall upon a first offense be fined not more than One Thousand (\$1,000.00) or be imprisoned not more than thirty (30) days, or both.
- D. In addition to prosecution of persons violating this Part 3, the Codes Compliance Official, or any duly authorized agent of the Borough, may take such civil or equitable remedies in any court of record of the Commonwealth of Pennsylvania, against any person or property, real or personal, to effect the provisions of this Part 3.
- E. The provisions of this Section and the provisions of this Part 3 governing revocation, suspension or non-renewal of Residential Rental Licenses shall be independent, non-mutually exclusive, separate remedies, all of which shall be available to the Borough as may be deemed appropriate. The remedies and procedures in this Part are not intended to supplant or replace, to any degree, the remedies provided to the Borough in the Property Maintenance Code, Zoning Ordinance or any other Code, law, rule or regulation.

§312. AMENDMENT OF CHAPTER 5.A, Article106:

The Code of Ordinances of the Borough of Elizabethtown, Lancaster County, Pennsylvania, Chapter 5 – Existing Structures and Property Maintenance, Article 106 – Duties and Powers of Code Official, Section 3 – Inspections, shall hereby be amended to read as follows:

Rental Properties : All dwelling units, apartments, rooming houses and hotels or other Residential Rental Units as defined in Part A – Residential Rental Unit, of this Chapter 5, which are let for occupancy shall be subject to all inspections authorized and required by Section 5 of this Code, and this Part, to random inspections by the Codes Compliance Official, and to inspections if the Codes Compliance Official reasonably determines that an inspection is necessary.

§313. INCONSISTENCIES:

All ordinances or resolutions or parts of ordinances or resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.

§314. SAVINGS CLAUSE:

In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any of the remaining provisions, sections, sentences, clauses or parts of this Ordinance; it being the intent of the Borough that the remainder of the Ordinance shall be and shall remain in full force and effect.

§315. EFFECTIVE DATE:

This Ordinance shall take effect and be in force from and after its enactment as provided by the laws of the Commonwealth of Pennsylvania.