

ORDINANCE NO. _____

AN ORDINANCE OF THE BOROUGH OF WAYNESBORO, FRANKLIN COUNTY, PENNSYLVANIA AMENDING AND REPLACING ENTIRELY CHAPTER 213 OF THE CODE OF ORDINANCES OF THE BOROUGH OF WAYNESBORO TO INCLUDE PROVISIONS REQUIRING INSPECTIONS OF CERTAIN RENTAL PROPERTIES

WHEREAS, Section 1202(15) of the Borough Code, 8 Pa.C.S.A. § 1202(15), authorizes the Borough of Waynesboro (the “Borough”) to adopt a property maintenance code; and

WHEREAS, Section 32A04(a) of the Borough Code, 8 Pa.C.S.A. § 32A04(a), authorizes the Borough to enact a property maintenance code incorporating a nationally recognized property maintenance code or any variations; and

WHEREAS, Section 1202(5) of the Borough Code, 8 Pa.C.S.A. § 1202(5), authorizes the Borough to make regulations as may be necessary for the health, safety, morals, general welfare, and cleanliness and beauty, convenience, comfort, and safety of the Borough; and

WHEREAS, the Borough has determined that it is in the best interest of the health, safety, morals, and general welfare of the Borough residents that an inspection and permitting process be enacted to provide a mechanism to ensure that multifamily and two-family properties meet appropriate property maintenance standards; and

NOW THEREFORE BE IT ENACTED AND ORDAINED, by the Mayor and Borough Council of the Borough of Waynesboro, Franklin County, Pennsylvania, and it is hereby enacted and ordained as follows:

SECTION 1: Chapter 213 of the Code of the Borough of Waynesboro is hereby amended by removing the contents thereof and replacing them with the following:

Section 213-1. Title. This Ordinance shall be known and cited as the “Residential Rental Inspection Ordinance of the Borough of Waynesboro.”

Section 213-2. Adoption of Standards. A certain document designated as the “International Property Maintenance Code, 2015,” and published by the International Code Council, be and is hereby adopted as the Residential Rental Dwelling Unit Code of the Borough of Waynesboro, Franklin County, Pennsylvania, for the control of residential rental buildings and structures as herein provided, and each and all of the regulations, provisions, penalties, conditions and terms of the “International Property Maintenance Code” are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance, with the additions, insertions, deletions and changes, if any, prescribed in this Ordinance.

Section 213-3. More Strict Standards to Apply. In the event any provision of this Ordinance is inconsistent with a provision of any Borough Ordinance or state law, the provision applying the stricter standard shall apply.

Section 213-4. Modifications. The following sections of the International Property Maintenance Code, 2015 are hereby revised, removed, replaced, and/or modified as follows:

101.1 Title. These regulations shall be known as the “Residential Rental Inspection Ordinance of the Borough of Waynesboro”, hereinafter referred to as “this Ordinance” or “the Ordinance”.

101.2 Scope. The provisions of this Ordinance shall apply to Multifamily Dwellings and Two-Family Dwellings as defined in Chapter 258 of this Code. When used in this Chapter, said terms shall have the same meaning as in Chapter 258.

The provisions of this code constitute minimum requirements and standards for the properties, owners, owner’s agents, and occupants regulated by this code, which requirements and standards are enacted to protect the health, safety, and welfare of the residents of the Borough.

103.5 Fees. The fees for services, inspections, and activities performed by the Borough, or its officials, agents or employees in carrying out responsibilities under this code shall be as set forth and amended from time to time by resolution in the Fee Schedule of the Borough of Waynesboro. The authorized fees shall include, but not be limited to, fees for inspections, the issuance of Rental Certificates, re-inspections, and review of independent inspection reports.

106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order serviced in accordance with Section 107 shall be deemed guilty of a summary offense. If the notice of violation is not complied with, the Code Official may institute the appropriate proceedings at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this article or of the order or direction made pursuant thereto. Any corrective action taken by the authority having jurisdiction over such premises may be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

106.4 Violation penalties. Any person, firm, or corporation who shall violate any provision of this article shall, upon conviction thereof, be subject to a fine of not more than \$1,000 or imprisonment for term not to exceed 30 days, or both at the discretion of the court. Each day that a violation continues shall be deemed a separate offense.

106.6 Administrative search warrants. The Code Official may seek an administrative search warrant to ensure that any property regulated by this Ordinance is in compliance with this Ordinance.

106.7 Violations as public nuisances. Violations as public nuisances. Any property regulated by this Ordinance that is in violation of this Ordinance may be considered a public nuisance and be abatable as such in accordance with 8 Pa.C.S.A. § 1202.

107.2 Form. Such notice prescribed in Section **107.1** shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification, including the street address.
3. The date of the inspection.
4. The identity of the inspector.
5. Include a statement of the violation or violations, including citations to the appropriate ordinance section, and why the notice is being issued.
6. Include a correction order allowing up to 90 days to make the repairs and improvements required to bring the residential structure into compliance with the provisions of this code or the order or direction of the Code Official.
7. Inform the property Owner or Owner's Agent of the right to appeal.
8. Include a statement of the right to file a lien in accordance with Section **106.3**

111.3 Notice of meeting. The Board of Appeals shall meet at its regularly scheduled meeting, notice of which shall be published in accordance with the requirements for publishing public notice of local agency meetings. The Board of Appeals may also hold special meetings, which meetings shall be held in accordance with the Sunshine Act.

111.4.1 Procedure. The Board of Appeals shall conduct the public hearing in accordance with the Local Agency Law adopted by the Commonwealth of Pennsylvania. (2 Pa. C.S. § 105).

111.6 Board of Appeals decisions. The Board of Appeals shall modify or reverse the decision of the Code Official only by a concurring vote of a majority of a quorum on the Board members.

111.6.2 Administration. The Code Official shall take immediate action in accordance with the decision of the Board of Appeals, unless properly appealed to a court of appropriate jurisdiction.

111.7 Court review. Any person aggrieved by an adjudication of the Board of Appeals who has a direct interest in such adjudication shall have the right to appeal therefrom to the court vested with jurisdiction of such appeals by or pursuant to Pennsylvania law.

111.9 Extension of time. The Board of Appeals shall have the ability to grant extensions of time for the completion of repairs or maintenance required by this code upon a hearing held in accordance with this code; provided, however, that for correction orders issued as a result of inspections occurring in the months of November through February, which correction orders require exterior corrections such as, but not limited to, exterior painting or the repair/replacement of sidewalks, which corrections cannot be completed due to weather conditions, the Code Official may grant an extension, which shall not extend the time for completion further than May 31.

202 General Definitions. The following definitions shall be added or amended. The definitions in the code not referenced below shall remain in full force and effect.

BOARD OF APPEALS. The entity authorized with presiding over appeals brought pursuant to this Ordinance or the Property Maintenance Ordinance of the Borough of Waynesboro.

CODE OFFICIAL. The person or persons authorized by the Borough to determine compliance with the provisions of this Ordinance and to enforce the same. The Code Official may be either a third-party company appointed by Borough Council or an individual employed and/or appointed by the Borough.

CODES. Any codes and ordinances of the Borough of Waynesboro and the Commonwealth of Pennsylvania, and any rules and regulations promulgated thereunder.

DWELLING UNIT. A building or part thereof having cooking, sleeping, and sanitary facilities for one family, and having no cooking, sleeping, or sanitary facilities in common with any other dwelling unit.

EXTERIOR AREA. The outside facade of a building, including but not limited to any porch, yard, lawn, landscaping, sidewalks, setbacks, curbs, and all open area contiguous to a building owned by the same owner (as defined below) or persons or part of the same real estate parcel.

OWNER. Any person, agent, operator, firm, corporation, partnership, limited liability company, limited liability partnership, association, other entity, property management group, trust, or fiduciary holding or having legal, equitable or other interest in any real property or otherwise having control of the property, including the guardian of the estate of any such person and the executor or administrator of such person's estate. When used in this Part in a clause proscribing any activity or imposing a penalty, the term as applied to corporations, partnerships, limited liability companies, limited liability partnerships, associations, other entities, or property management groups shall include each and every member, shareholder, partner (limited or general), director, officer, trustee and other individual having an interest in the entity, controlling or otherwise. The term Owner shall also include Owner's Agent.

OWNER'S AGENT. An individual or firm designated by the owner of real property, in writing, to the Borough, who shall reside on the premises or within a forty-mile radius of the Borough of Waynesboro, a map of which is available for inspection in the Borough office, and who shall be legally responsible for the operation of the rental property in compliance with all of the provisions of the codes and ordinances of the Borough of Waynesboro and the Commonwealth of Pennsylvania and who shall be responsible for providing legal access to the

property for the purposes of making inspections of said premises to ensure compliance with said ordinance(s) and laws.

PERSON. An individual, corporation, partnership, trust, or any other group or entity acting as a unit.

RESIDENTIAL RENTAL DWELLING UNIT. Dwelling unit not occupied by the Owner thereof.

SALE OR CONVEYANCE. Any legal transfer of title of real property from one person to another.

STRUCTURE. Any human-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

**CHAPTER 9
INSPECTIONS
SECTION 901
GENERAL**

901.1 Inspections.

1. Prior to any sale or conveyance of a Multifamily Dwelling or Two-Family Dwelling containing two (2) or more Residential Rental Dwelling Units within the structure, or a Multifamily Dwelling or Two-Family Dwelling in which one Dwelling Unit is owner occupied, within the Borough of Waynesboro, the structure, and each Residential Rental Dwelling Unit, shall be inspected by the Code Official, and for such purpose and for any re-inspection required hereunder, the Owner shall provide access to the Code Official.
2. The Owner or Owner's Agent shall be responsible for the fees and costs for the inspection as stated in section 103.5 of this Ordinance; unless section 901.1, subsection 4 applies.
3. All inspections conducted under the authority of this Chapter shall determine compliance with this Ordinance and all codes incorporated therein.
4. If the Code Official, after inspection pursuant to this Chapter, determines that the Multifamily Dwelling or Two-Family Dwelling complies with this Ordinance and all codes incorporated herein, the Code Official shall issue a Rental Certificate for the property.

5. A Rental Certificate issued for a particular structure shall not be transferable to a subsequent purchaser of said structure.
6. Inspections may also occur if an Occupant files a complaint in writing signed by the Occupant at the Borough Office or with the Code Official. The Owner or Owner's Agent shall be notified of the complaint and the Owner or the Owner's Agent may be present for the inspection. If no violation(s) of this Ordinance is found to exist by the Code Official, the Occupant who filed the complaint shall be responsible for the cost of the inspection. If a violation of this Ordinance is found by the Code Official in the course of the inspection, the Owner or Owner's Agent shall be responsible for the cost of the inspection.
7. Reservation of the Right of Borough Inspection. Notwithstanding the provisions above, the Borough reserves the right at any time to inspect any premises to verify compliance with the provisions of the Part or other applicable ordinances of any independent or government agency inspection, the Borough inspection shall be made without charge. If, as a result of the Borough inspection, violations of the provisions of this Part are determined, additional inspections necessitated by such noncompliance shall be at the expense of the Owner.

SECTION 902 VIOLATIONS OF THIS ORDINANCE

902.1 Occupancy after sale or conveyance without Rental Certificate. It shall be unlawful for any Owner or Owner's Agent of a Multifamily Dwelling or a Two-Family Dwelling containing two (2) or more Residential Rental Dwelling Units, or a Multifamily Dwelling or Two-Family Dwelling in which one Dwelling Unit is owner occupied, to permit any occupancy therein after sale or conveyance, without first ensuring that an inspection pursuant to Section 901 of this Ordinance has occurred, and that a Rental Certificate has been issued.

902.2 Prosecution of violation of Chapter 9. Any person failing to comply with a notice of violation or order served in accordance with this Ordinance shall be deemed guilty of a summary offense. If the notice of violation is not complied with, the Code Official may institute the appropriate proceedings at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Ordinance or of the order or direction made pursuant thereto. Any corrective action taken by the authority having jurisdiction over such premises may be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

902.3 Penalties. A violation of this Ordinance, including a failure to pay any fees under this Ordinance, shall be subject to the penalties provisions of section 106.4.

Section 213-5. Municipal Liability. The issuance of a Rental Certificate shall not be deemed, nor construed as, a representation, guaranty or warranty of any kind by the Borough, or its officials, agents or employees, and shall create no liability upon or duty by the Borough, its officials, agents or employees.

Section 213-6. No Enforcement Limitation. The issuance of a Rental Certificate shall not preclude or otherwise affect the authority of the Code Official from the enforcement of this or any other part of this Ordinance or other codes, or applicable statute, ordinance, rule or regulation at any time.

SECTION 2: Repealer. All provisions of previous ordinances of the Code of the Borough of Waynesboro, which are contrary to this Ordinance, are expressly repealed.

SECTION 3: Savings Clause. In all other respects, the Code of the Borough of Waynesboro shall remain as previously enacted and ordained.

SECTION 4: Severability. If any word, phrase, sentence, part, section, subsection, or other portion of this ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable and the remaining provisions of this ordinance and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

SECTION 5: Effective Date. This Ordinance shall take effect immediately.

ENACTED, ORDAINED and APPROVED this _____ day of _____, 2018.

Waynesboro Borough Council

By: _____
C. Harold Mumma, President

ATTEST:

Melinda Knott, Secretary

Richard Starliper, Mayor