

ORDINANCE 2017-5

Establishment of a Registration and Licensure Program for All Residential Rental Properties and All Institutional Occupancies

BE IT ORDAINED BY THE GOVERNING BODY OF MOUNT HOLLY SPRINGS BOROUGH, and it is hereby ordained and with the authority of the same as follows:

SECTION 1. INTENT

It is the purpose of this Ordinance and the policy of Mount Holly Springs Borough, in order to protect and promote the public health, safety and welfare of its citizens, to establish rights and obligations of owners and occupants relating to tenant-occupied residential rental units and institutional facilities. As a means to those ends, this Ordinance provides for a system of inspections, issuance and renewal of occupancy licenses, and sets penalties for violations. It also sets forth requirements of all owners of tenant-occupied residential units to designate an agent for service of process, and prescribes duties of owners and agents.

SECTION 2. DEFINITIONS AND INTERPRETATION

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 shall include the plural, and words in the masculine shall include the feminine and the neuter.

AGENT – an individual of legal majority who has been designated by the Owner as the agent of the Owner, manager of the property or legal entity under the provisions of this Ordinance.

BOARDING HOUSE – a residential use in which rooms that do not meet the definition of dwelling units are rented for habitation, or a dwelling unit that includes greater than the permitted number of unrelated persons; a boarding house shall not include a use that meets the definition of dormitory, motel, life care center, personal care center, bed and breakfast inn, group home or nursing home.; a boarding house may either involve or not involve providing meals to residents, but shall not include a restaurant open to the public unless the use also meets the requirements for a restaurant; a boarding house shall primarily serve persons residing on-site for five or more days.

BOROUGH – Mount Holly Springs Borough.

BOROUGH CODE – the Building Code officially adopted by the governing body of 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.

DAYS – defined as calendar days unless otherwise specified.

DORMITORY – a residence hall offered as student or faculty housing to accommodate a college or university, providing living or sleeping rooms for individuals or groups of individuals, with or without cooking facilities, and with or without private baths.

DWELLING UNIT – a single habitable unit, providing living facilities for one or more persons, including permanent space for living, sleeping, eating, cooking, bathing and sanitation, whether furnished or unfurnished. There may be more than one Dwelling Unit on a Premises.

INSPECTOR – any person authorized by law, ordinance or resolution to inspect buildings or systems (e.g. zoning, housing, plumbing, electrical systems, heat systems, mechanical systems, and health) necessary to operate or use buildings within the borough. An Inspector would include those identified in Section 10 - Enforcement.

FIRE DEPARTMENT – Citizens Fire Company or any member thereof, and includes the Fire Chief or his designee.

HOTEL – a building or part of a building in which living and sleeping accommodations are used primarily for transient occupancy, may be rented on a daily basis, and desk service is provided, in addition to one or more of the following services: maid, telephone, bellhop service or the furnishing or laundering of linens.

LET FOR OCCUPANCY – to permit, provide or offer, for consideration, possession or occupancy of a building, dwelling unit, rooming unit, premise or structure, by a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement or contract for the sale of land.

MOTEL – a building or group of buildings which contain living and sleeping accommodations used primarily for transient occupancy, may be rented on a daily basis, and desk service is provided, and has individual entrances from outside the building to serve each such living or sleeping unit.

OCCUPANT – a person age 18 or older who resides at a Premises.

OFFICE – the Office of Code Enforcement for the Borough.

OPERATOR – any person who has charge, care, or control of a Premises which is offered or let for occupancy.

OWNER – any Person, Agent, or Operator having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court of competent jurisdiction.

OWNER–OCCUPANT – an owner who resides in a Dwelling Unit on a regular permanent basis, or who otherwise occupies a non-residential portion of the Premises on a regular permanent basis.

PERSON – any person, partnership, firm, association, corporation or municipal authority or any other group acting as a single unit.

POLICE DEPARTMENT – the Mount Holly Springs Borough Police Department or any member thereof sworn to enforce laws and ordinances in the Borough, and includes the Chief of Police or his designee.

PREMISES – any parcel of real property in the Borough including the land and all buildings and structures in which one or more Rental Units are located.

RENTAL OCCUPANCY LICENSE - a document issued to the Owner of a Dwelling Unit or Rental Unit by Mount Holly Springs Borough certifying that the unit is registered with the Borough and approved to be let for occupancy.

RENTAL UNIT – a Dwelling Unit or Rooming Unit which is let for occupancy and is occupied by one or more Tenants; any Dwelling or Rooming Unit that is not occupied by its Owner.

ROOMING UNIT – any room or groups of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

TENANT – any Person authorized by the Owner or Agent who occupies a Rental Unit within a Premises regardless of whether such Person has executed a lease for said Premises.

ZONING ORDINANCE – Zoning Ordinance as officially adopted by the Mount Holly Springs Borough

SECTION 3. APPOINTMENT OF AN AGENT AND/OR MANAGER

- a. Each Owner who is not an Owner-Occupant of a Residential Rental Unit, or who does not reside in Mount Holly Springs Borough or within a (30) thirty-mile air radius of the Borough limits, shall appoint an Agent who shall reside in the Borough or within a (30) thirty-mile air radius of the Borough limits.
- b. When the Owner and/or Agent registers the property with the Borough, the Owner and/or Agent must provide proof of residency according to Section 3a. A valid Pennsylvania driver's license with the Owner and/or Agent's current address will provide satisfactory information as to the place of residency of the Owner and/or Agent. In lieu of a valid Pennsylvania driver's license, a valid business license operated by the Agent with an address that is within a (30) thirty-mile air radius will satisfy this requirement.
- c. The address provided to the Borough by the Owner and/or Agent responsible for managing and maintaining the property must be an actual physical address. No post office boxes will be accepted as proof of residency according to Section 3a.
- d. If the Owner moves outside of the (30) thirty-mile air radius of the Borough limits, the Owner must notify the Borough within fifteen (15) days. Within those fifteen (15) days, the Owner must appoint an Agent, notify the Borough of the name of the new Agent, and

the Agent must provide proof of residency to the Borough within thirty (30) days as outlined in Sections 3a, 3b and 3c.

- e. If the appointed Agent resigns or is removed from duty by the Owner for any reason, the Owner has fifteen (15) days from the date of separation of services to appoint a new Agent. The Owner has to then notify the Borough with the name of the new Agent, and the Agent is responsible for providing proof of residency within those fifteen (15) days to the Borough as outlined in Sections 3a, 3b and 3c.

SECTION 4. DUTIES OF THE OWNER AND/OR AGENT

- a. The Owner has the duty to maintain the Premises in good repair, keep it in a clean and sanitary condition, and to maintain the Premises in compliance with the International Property Maintenance Code (and all amendments thereto) together with all other Borough Codes, Building Codes and Zoning Ordinance of Mount Holly Springs Borough and the Commonwealth of Pennsylvania. The Owner may delegate implementation of these responsibilities to an Agent, but the Owner remains responsible to comply with the requirements of this Ordinance.

The duties of the Owner and/or Agent shall be to receive notices and correspondence, including service of process, from Mount Holly Springs Borough to arrange for the inspection of the Residential Rental Units; do or arrange for the performance of maintenance, cleaning, repair, pest control, snow and ice removal, and ensure continued compliance of the Premises with the International Property Maintenance Code (and all amendments thereto) current Codes, Building Codes and Zoning Ordinance in effect in the Borough, as well as arrange for garbage removal.

- c. The name, address, and telephone number of the Owner and Agent, if applicable, shall be reported to the Office of Code Enforcement in writing upon registering the Rental Units. The address must be a physical address and not a post office box. The Owner is responsible to inform the Office of Code Enforcement of a change in agent or agent contact information within fifteen (15) of any change.
- d. No Dwelling Unit shall be occupied, knowingly by the Owner or Agent, by a number of persons that is in excess of the requirements outlined in the most current version of the International Property Maintenance Code, Chapter 4, Light, Ventilation, and Occupancy Limits, Section PM-404.5, Overcrowding, or any update thereof.

SECTION 5. REGISTRATION AND LICENSE REQUIREMENTS

- a. No Person shall be allowed to occupy a Residential Rental Unit or Institutional Facility within the Borough for which an application for license has not been made and filed with the Office of Code Enforcement and for which there is not an effective license. Initial application and renewal shall be made upon forms provided by the Office of Code Enforcement for such purpose and shall specifically require the following minimum information:

1. If a Residential Rental Unit, the name, mailing address, street address and phone number of the Owner, and, if the Owner is not a natural person, the name, street address and phone number of a designated representative of the Owner.
2. If an Institutional Facility, the name, mailing address, street address, and phone number of the Owner, and if the Owner is not the Operator of such Institutional Facility, the name, mailing address, street address and phone number of the Owner or corporate entity that is operating said Institutional Facility.
3. Name, mailing address, street address and phone number of the Agent of the Owner, if applicable.
4. The street address of the Premises being registered.
5. The number and types of units within the Premises (Dwelling Units or Rooming Units).

The Owner or Agent shall notify the Office of Code Enforcement of any changes to the above information within fifteen (15) days of such change.

- b.* The initial application for occupancy licensing shall be made by personally filing an application with the Office of Code Enforcement. One application per Dwelling Unit or Rental Unit is required, and each Dwelling Unit or Rental Unit will receive its own occupancy license.
- c.* Upon receipt of the initial application of any renewal thereof and the payment of applicable fees as set forth in Section 7 below, as well as the completion of any inspections required under this Ordinance, the Office of Code Enforcement shall issue a Rental Occupancy License to the Owner within thirty (30) days of receipt of payment.

Whenever the Inspector or Code Enforcement Officer determines that the unit is in violation of the Rental Inspection Checklist, it shall serve notice as required and will notify the Owner or responsible Agent in writing that unless the notice of violation is complied with, the license can be revoked. After the expiration of the time for compliance as stated on the notice of violation, an inspection shall be made to determine compliance. If violations still exist, a re-inspection shall be made. A fee for such re-inspection shall be imposed in accordance with the provisions hereof. If the violation has not been corrected and no appeal is pending, the Code Official can revoke the license and, in such event, shall serve written notice upon the Owner or Agent of such action. The license may also be revoked for failure to properly designate a responsible Agent; for failure to pay the required registration, inspection and rental occupancy fee; for failure to pay or to be delinquent in the payment of water, sewer or trash fees; for failure to pay or be delinquent in the payment of Borough real estate taxes with respect to the unit; and/or failure to comply with any other provisions of this ordinance.

If a license is revoked and the unit is vacant, it shall remain vacant until such time as the license is reinstated. Re-inspection shall be made by the Inspector within thirty (30) days after the Owner or responsible Agent notifies the Borough that the violation causing the revocation of the license has been cured.

- d. Any person whose license has been revoked or his application for license for a unit has been denied may appeal the decision to the Mount Holly Springs Borough Residential Rental Properties Appeals Board by delivering to the Borough Manager a notice of appeal within thirty (30) days of receipt by the applicant or licensee of notice of the decision. The applicant or licensee will be given the opportunity for a hearing to be scheduled within thirty (30) days of receipt of the appeal. The decision of the Appeals Board or the Code Enforcement Officer's denial which is not appealed in accordance with this paragraph is deemed a final determination by the Borough. A timely-filed appeal will act as a supersedeas and occupancy of the rental property may continue pending the appeal, unless the defective condition is such as to cause imminent risk of harm to the occupants.
- e. All rental units will be inspected once every three years or once within the term's ~~three~~ year cycle.
- f. Any person aggrieved by determination of violation issued by the inspector or Code Official may appeal the determination to the Residential Rental Properties Appeal Board. The appeal must be filed at the Office of Code Enforcement no later than 10 days after the date of determination of violation. An appeal fee, which shall be set by separate resolution, must also be paid by the appellant at the time the appeal is filed. No refunds shall be paid if the sole determination of the Residential Rental Properties Appeals Board is an extension of time for compliance.

The residential rental properties appeal board shall meet to hear the appeal no later than 60 days after the appeal is filed. Notice of the time, date and place of the hearing will be sent by ordinary mail to the appellant or the appellant's attorney or Agent of record not less than 10 days prior to the date and time of hearing. The burden of proof shall be on the inspector or Code Enforcement Officer to establish a violation of this Ordinance. The determination of the inspector or code enforcement official shall be affirmed and supported by substantial evidence.

- g. A Residential Rental Properties Appeal Board shall be appointed by resolution of Borough Council.
- h. Each new license issued hereunder, and each renewal Rental Occupancy License, shall expire three years from the date of issuance. Subsequent Rental Occupancy License renewal applications shall be sent to the Owner or designated Agent no later than 90 days prior to the expiration date on the existing Rental Occupancy License. Renewal applications and inspection fees may be returned by mail or in person to the Office of Code Enforcement. A renewal Rental Occupancy License will not be issued unless the registration and inspection fee have been remitted and the unit has been inspected in pursuant to the inspection guidelines set forth in this Ordinance.

The Rental Occupancy License cycle is a three-year period; the Borough will be divided into three zones with inspections in zone one conducted in year one, inspections in zone two conducted in the second year, and zone three inspections conducted in the third year. A map of Mount Holly Springs Borough denoting the three zones is included in the Ordinance as attachment one. The Rental Occupancy License is issued for a three-year

period. An inspection of the unit is required within the three-year cycle.

SECTION 6. DESIGNATION OF FACILITIES

- a. Residential I - Shall include all buildings or portions of buildings that contain one or more Dwelling Units meant to be occupied exclusively for residential purposes on a long-term basis for more than a month at a time.
- b. Residential II - Shall include all buildings or portions of buildings that contain an area that is designated to be occupied by a person who pays a consideration for living within the household and does not occupy such space as an incident of employment. The person who occupies this space will be known as a Boarder.
- c. Residential III - Shall include all buildings or spaces occupied, as a rule, transiently, for a period of less than one month, as the more or less temporary living space of individuals or families who are lodged, with or without meals, including, but not limited to the following:
 1. Hotels (transient);
 2. Motels (transient); and
 3. Rooming or Boarding houses (transient).

Residential III units are exempt from the program, inspection and licensing under this ordinance.

- d. Institutional - Shall include the use of a building or structure, or a portion thereof, in which people are cared for or live in a supervised environment, having physical limitations because of health or age, or in which people are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. This group shall include, but not be limited to, the following:
 1. Adult homes, where occupants are capable of self-preservation;
 2. Alcohol and drug abuse rehabilitation centers;
 3. Assisted living facilities;
 4. Halfway houses; and
 5. Residential care facilities.

Institutional units are exempt from the program, inspection and licensing under this ordinance.

SECTION 7. FEES.

- a. Every owner or responsible Agent of property shall register the property with the Borough on a form provided by the Borough. The applicant shall pay a Residential Occupancy License fee. All residential occupancy licensing and inspection and, or, or re-inspection fees will be set and/or amended from time to time by separate Resolution of Borough Council.

- b. Every person applying for a Rental Occupancy License under this Ordinance shall supply such information as the Office of Code Enforcement requires and shall pay the Rental Occupancy License fee as established by resolution of Borough Council, on or before January 31st of the year for which it is issued.
- c. A fee schedule established by Resolution of Borough Council shall also include charges for subsequent inspections and re-inspections. All Residential and Institutional occupancies will be inspected according to the schedule to determine that there are no violations of the Codes of Mount Holly Springs Borough. The inspection shall include all units in the property.

SECTION 8. INSPECTIONS

- a. It shall be the duty of all Owners or Agents to notify their tenants and provide access to Borough Officials who are authorized to enforce this Ordinance, to all units subject to inspections hereunder, and failure to permit such acts shall be deemed a violation of this Ordinance.
- b. For the purposes of enforcing this Ordinance, the Code Enforcement Official or his designee may seek to obtain an administrative warrant issued by a competent authority for the purpose of compelling an inspection.
- c. The Inspector or Code Enforcement Official or his authorized representative will disclose proper identification credentials of the respective offices for the purpose of inspecting any and all structures and property in the performance of their duties under this chapter.
- d. In addition to the inspections referenced above, the Inspector or Code Enforcement Officer shall also inspect units upon any of the following occurrences:
 - 1. Prior to the initial occupancy of newly-constructed units, newly-erected units, or substantially-rehabilitated units
 - 2. Following the sale of any unit or other structure in which it is located.
 - 3. Upon the Office of Code Enforcement's written receipt of complaints that relate to the health and safety of the Tenants.
 - 4. For any reasonable cause.
- e. Application, inspection, issuance, and re-inspection. The Inspector or the Code Enforcement Official may make inspections of any Residential or Institutional unit(s) or building(s) set forth in this Ordinance upon application for a Rental Occupancy License. In the event its dwelling is in compliance with this Code, the license applied for shall be issued upon 1) payment of the license fee; 2) confirmation that a proper responsible Agent has been designated, if required; and 3) there are no outstanding water, sewer, trash or municipal taxes owed to the Borough related to such property or unit. Such written leases shall indicate the name of the occupants of each unit and the term of the lease. In the event that the unit is not in compliance with the Codes of Mount Holly Springs Borough, the Inspector or Code Enforcement Official shall notify the applicant in writing and shall specify the non-compliance with the Code. Upon abatement of the violations, the Inspector or Code Enforcement Official shall inspect the property and/or

unit, and upon the unit passing the inspection, issue the license applied for. If any violation still exists, re-inspections shall be scheduled.

- f. If the Inspector or Code Enforcement Official, upon completion of the inspection, finds that the applicable codes have not been met, the Inspector or Code Enforcement Official shall issue notices and, if appropriate, may commence enforcement actions under the procedures set forth in the Code which have been violated or under any other applicable Ordinance of the Borough.

SECTION 9. POSSESSION OF LICENSE

- a. Each Owner, manager or responsible Agent will be issued a Rental Occupancy License for the unit for which it was issued. The license shall include
 1. The name, mailing address and telephone number of the Owner or the responsible Agent.
 2. The date and expiration of the license.
 3. The license number.

All Rental Occupancy Licenses will be available upon request in the Office of Code Enforcement.

SECTION 10. ENFORCEMENT

The following persons are hereby authorized to enforce this Ordinance:

1. Police Chief;
2. Any Police Officer;
3. Code Enforcement Officers or Building Inspectors appointed by Borough Council
4. Borough Manager

SECTION 11. FAILURE TO CORRECT VIOLATIONS

If any Person shall fail, refuse or neglect to comply with a notice of violation as set forth in Section 4 above, the Borough shall have the right to file an enforcement action with the Magisterial District Judge against any Person the Borough deems to be in violation. If, after a hearing, the Magisterial District Judge determines that such Person or Persons are in violation, the Magisterial District Judge may, at the Borough's request, order the closure of the Rental Unit(s), or assess fines in accordance with Section 12 below, until such violations are corrected. Such order shall be stayed pending any appeal to the Court of Common Pleas of Cumberland County.

SECTION 12. FAILURE TO COMPLY WITH THIS ORDINANCE; PENALTIES

Any Person who shall violate any provision of the Ordinance shall, upon conviction thereof after

notice and a hearing before the Magisterial District Judge, be sentenced to pay a fine of not less than \$300.00 and not more than \$1,000.00 plus costs, or imprisonment for a term not to exceed ninety (90) days in default of payment. Every day that a violation of this Ordinance continues shall constitute a separate offense, provided however, that failure to register or renew or pay appropriate fees in a timely manner shall not constitute a continuing offense, but shall be a single offense not subject to daily fines.

SECTION 13. CORRESPONDENCE

Any and all correspondence relating to any and all rental properties on record within Mount Holly Springs Borough will be sent to the Owner and/or Agent of record that is on file in the Office of Code Enforcement. The Owner and/or Agent will be identified according to the provisions set forth in Section 3 of this Ordinance.

SECTION 14. CONFIDENTIALITY OF INFORMATION

All registration information collected by the Borough under this Ordinance shall be maintained as confidential and shall not be disseminated or released to any individual, group or organization for any purpose except as provided herein or required by law. Information may be released only to authorized individuals when required during the course of an official Borough, state or federal investigation or inquiry.

SECTION 15. SAVING CLAUSE

This Ordinance shall not affect violations of any other ordinance, code, or regulation existing prior to the effective date thereof, 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 the violation was committed.

SECTION 16. SEVERABILITY

If any section, clause, provision or portion 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 without 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 and intent of this Ordinance, and the effective administration thereof.

SECTION 17. EFFECTIVE DATE

This Ordinance shall become effective immediately upon approval. This Ordinance repeals and replaces any other Ordinances or portions of Ordinances that are in conflict with the provisions of this Ordinance.

SECTION 19.

This Ordinance is enacted by the Council of Mount Holly Springs Borough under the authority of _____ and all other laws enforceable in the State of Pennsylvania.

ORDAINED AND ENACTED by Council this 12/11/17 (date).

ORDINANCE PASSES roll call vote, yeas/nas listed, date

Ms. Still - Yes

Mrs Halpin-Brophy - Yes

Mr. Schildt - Yes

Mr. Collins - Yes

Mr. Hockley - Yes

Mr. Kendall - No

Mrs. Stoner - Yes.

James J. Collins, II

James J. Collins, II

Council President

Sara E. Jarrett

Sara E. Jarrett

Borough Secretary/ Treasurer

Mayor P. Scott Boise

