

ORDINANCE NO. 1076

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF MECHANICSBURG, ADOPTED BY ORDINANCE 925 AND THEREAFTER AMENDED, WITH RESPECT TO CHAPTER 5, CODE ENFORCEMENT, TO ADOPT AND INSERT A NEW PART 4, TO BE ENTITLED RESIDENTIAL RENTAL DWELLING UNIT INSPECTIONS.

IT IS HEREBY ENACTED AND ORDAINED by the Borough Council of the Borough of Mechanicsburg, Cumberland County, Pennsylvania, as follows:

SECTION 1: A new Part 4, to be entitled Residential Rental Dwelling Unit Inspections, is hereby enacted and inserted in Chapter 5 [Code Enforcement] of the Code of Ordinances of the Borough of Mechanicsburg, to state in its entirety as follows:

Part 4

RESIDENTIAL RENTAL DWELLING UNIT INSPECTIONS

§ 5-401. Legislative Findings.

The Borough has determined that non-owner-occupied dwelling units are frequently maintained at a standard significantly less than owner-occupied dwelling units and that such failure to maintain those units can and frequently does result in dwelling units which are unsafe, unsanitary and, in many instances, not maintained to the minimum standards required by the various applicable codes in effect in the Borough of Mechanicsburg from time to time. Therefore, the Borough Council finds it to be desirable and in the public interest to enact the following provisions providing for the regular and systematic inspection of these properties to insure their continued compliance with applicable Borough codes.

§ 5-402. Short Title.

This article shall be known and may be cited as the Borough of Mechanicsburg Residential Rental Dwelling Unit Inspection Ordinance.

§ 5-403. More Strict Standards to Apply.

In the event any provision of this article is inconsistent with the provisions of any

other part or chapter of this code, other code or ordinance in effect in the Borough of Mechanicsburg, the provision applying the stricter standard shall apply.

§ 5-404. Definitions.

As used in this part, the following words shall have the following meanings, unless the context clearly indicates otherwise:

CERTIFICATE OF COMPLIANCE – The certificate issued by the code official which evidences inspection under the provisions of this part.

CODE OFFICIAL – The person or persons authorized by the Borough to determine compliance with the provisions of this part and to enforce the same. The code official shall include the Borough zoning and/or property code officer as appointed or employed from time to time.

CODES – Any applicable parts or chapters of this code, other codes or ordinances as adopted by the Borough from time to time, statutes and any rules and regulations promulgated thereunder.

DWELLING UNIT – A living area comprised of one or more rooms used for living, sleeping and habitation purposes and having its own kitchen and sanitation facilities, all arranged for occupancy by one or more persons.

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 person 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, 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 and other individual having an interest in the entity, controlling or otherwise.

RESIDENTIAL RENTAL DWELLING UNIT – A dwelling unit not occupied by the owner thereof.

UNIT – A dwelling unit.

§ 5-405. Certificate of Compliance Required.

No residential rental dwelling unit shall be occupied unless a certificate of compliance evidencing compliance with this part has been issued by the code official.

Issuance of a certificate of compliance shall represent compliance with the inspection requirements of this part but shall not denote compliance with any other applicable part, chapter, other code, ordinance or statute. A certificate of compliance shall be valid for a period of thirty-six (36) months. Every certificate of compliance shall be displayed in a conspicuous place in the interior of the unit. Following enactment of this part and for the period expiring thirty-six months thereafter, no person shall be cited for failure to hold a current certificate of compliance unless, following inspection, he has allowed occupancy without obtaining a certificate of compliance.

§ 5-406. Inspections.

No certificate of compliance shall be issued except as follows:

- A. Inspections required. Prior to occupancy and prior to issuance of a renewal of a certificate of compliance, each residential rental dwelling unit shall be inspected by the code official or other authorized inspector, and for such purpose and for any reinspection required hereunder, the owner shall provide access to the code official or authorized inspector. A unit where inspection access is denied may not be issued a certificate of compliance until inspection access is provided.
- B. Inspection to determine compliance. All inspections conducted under

the authority of this part shall determine compliance with this part and all codes incorporated therein. This inspection shall include the exterior and interior of the premises.

- C. Search warrants authorized. Whenever permission for access to a residential rental dwelling unit cannot be obtained for any reason, or whenever the code official shall determine or have a reasonable belief that such unit is being occupied in violation of the provisions of this part, he may seek to obtain a search warrant from a competent authority in accordance with applicable law.
- D. Exemption from inspection.
 - 1. In any instance where the code official shall lawfully issue a certificate of occupancy for a rental residential dwelling unit as a result of new construction or alterations, he shall concurrently issue a certificate of compliance.
 - 2. In any instance where proper evidence is submitted to the code official to demonstrate compliance with a current inspection by a federal or a state authority pursuant to a maintenance standard equivalent or more strict than the provisions required under this part, the code official shall issue a certificate of compliance dated as of the date of such inspection.
- E. Independent inspectors. Any owner shall have the right to employ an independent inspector who is currently approved by the Borough as a qualified and certified inspector under the provisions of part 1 [Building Code] of this chapter, and as to any residential rental dwelling unit inspected and certified by said inspector as being in compliance with the provisions of this part, the code official shall issue a certificate of compliance dated as of said inspection. In this

respect, the Borough shall maintain a list of certified inspectors from which owners may select.

- F. Reservation of right of Borough inspection. Notwithstanding the provisions of Paragraphs D and E above, the Borough reserves the right at any time to inspect any premises to verify compliance with the provisions of this part of any independent or government agency inspection, which borough inspection shall be made without charge. If, as a result of such Borough inspection, violations of the provisions of this part are determined, additional inspections necessitated by such non-compliance shall be at the expense of the owner.
- G. The inspections required by this part shall be applicable to any hotel or motel facility which permits occupancy on a weekly or monthly basis. No inspection shall be required of hotels or motels principally providing overnight lodging.

§ 5-407. Notice of violations.

If the inspection of a residential rental dwelling unit discloses noncompliance with the provisions of this part, the code official shall issue a notice of violation. The notice of violation shall set forth the following:

- A. The street address or appropriate description of the subject property;
- B. The date of the inspection;
- C. The identity of the inspector;
- D. A list of the code deficiencies;
- E. The number of days in which the owner and/or occupant is to accomplish repairs and/or otherwise cure the violation; and
- F. Notice that if the conditions are not repaired or the premises are not otherwise brought into compliance with the provisions of this part within the time specified, the occupant and/or the owner may be prosecuted and/or the residential rental dwelling unit may be placarded as unfit for human occupancy, in which event the occupants shall

promptly vacate the premises. Only the code official shall have authority to institute prosecutions under the provisions of this part.

§ 5-408. Fees.

Fees for the administration of this part shall be established by resolution of the Borough Council from time to time. Authorized fees shall include, but not be limited to, issuance of certificates of compliance, renewal of certificates of compliance, inspections, re-inspections and review of independent inspection reports.

§ 5-409. Municipal Liability.

The issuance of a certificate of compliance 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 the Borough, its officials, agents or employees.

§5-410. Appeals.

Any person affected by a decision of the code official or a notice or order issued under this part shall have the right to appeal to the Board of Appeals duly constituted and empowered from time to time by the Borough Council pursuant to §5-105 [Means of Appeal] of this Chapter [Code Enforcement] of the Code of Ordinances of the Borough of Mechanicsburg, which establishes a Board of Appeals. An application for appeal shall be based on a claim that the true intent of this part or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this part do not fully apply, or the requirements of this part are adequately satisfied by other means.

§ 5-411. No Enforcement Limitation.

The issuance of a certificate of compliance shall not preclude or otherwise affect the authority of the code official from the enforcement of this or any other part of this code, or applicable statute, ordinance, rule or regulation at any time.

§ 5-412. Violations and penalties.

Any person who shall violate any provision of this part or shall fail to comply with any requirements thereof shall be guilty of a summary offense and shall, upon

conviction thereof, be sentenced to pay a fine of not less than \$100 nor more than \$1,000, plus costs of prosecution; in default of payment of said fine and costs, said person may be subject to imprisonment of up to 30 days. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of this part shall be paid over to the Borough.

§ 5-413. Borough Remedies.

When there is or appears to be a violation of the provisions of this part, the code official may institute in the name of the Borough any appropriate action or proceeding, at law or in equity, to prevent, restrain, correct or abate such violation or nuisance.

SECTION 2: All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

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SECTION 3: In all other respects, Chapter 5 [Code Enforcement] of the Code of Ordinances of the Borough of Mechanicsburg shall remain as heretofore enacted, ordained and amended, which said Chapter, as amended, is hereby re-enacted in its entirety herein.

ENACTED AND ORDAINED this 17th day of January, 2006.

ATTEST:

BOROUGH OF MECHANICSBURG

Jonathan S. Stough, Secretary

By: _____
Rodney L. Whitcomb, President

APPROVED this 17th day of January, 2006.

Jack C. Ritter, Mayor