

ORDINANCE NO. 7-07

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Robert Corbin ON THE 18th DAY OF June, 2007.

AN EMERGENCY ORDINANCE AMENDING CHAPTER 840 TO FURTHER CLARIFY SECTION 840.02(B) AND ENACTING NEW CENTERVILLE MUNICIPAL CODE SECTION 840.02(C) ENTRY TO INSPECTION REFUSED AND SECTION 840.99 PENALTY TO THE RENTAL UNIT INSPECTION REGULATIONS.

WHEREAS, the City of Centerville on July 17, 2006, enacted Chapter 840, Rental Unit Inspection Regulations ordinance for the purpose of requiring mandatory inspection of rental units; and

WHEREAS, the enacted ordinance requires that 24-hour notice be given to the owner/operator, occupant or other person having charge or control of the rental unit, prior to the time of inspection; and

WHEREAS, it was the original intent of Council to have the ordinance require the owner/operator to notify the units' occupant when applicable; and

WHEREAS, the Council determines that provisions of the Rental Unit Inspection Regulations provided in Section 840.02(B) of the Centerville Municipal Code are not inclusive of all applicable remedies; and

WHEREAS, it was the intent of Council to provide for penalties for violations of Section 840.03.

NOW THEREFORE: THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

Section 1. That the following amendments to Centerville Municipal Code Chapter 840, Rental Unit Inspection Regulations, are hereby enacted as follows with new language to be added in *italics* and text to be deleted in ~~strikeout~~ as provided in Section 5.02 of the Centerville Charter:

Section 840.02 Access to Rental Unit

A. Access by Owner or Operator

Every occupant of a rental unit shall give, upon proper notice, the owner or operator thereof, or his/her agent or employee, access to any part of such rental unit at all reasonable times for the purpose of effecting such maintenance, making such repairs or making such alterations as are necessary to effect compliance with any lawful notice or order issued pursuant to the provisions of the applicable City of Centerville codes.

B. Access by Code Official

The Code Official or his/her duly authorized designee is hereby authorized to conduct inspections of any rental unit within the City of Centerville in order to perform the duty of safeguarding the health, safety and welfare of the occupants and the public under the provisions of this chapter. Whenever necessary to make an inspection to enforce any of the provisions of this Chapter or the provisions of the applicable City of Centerville codes or whenever the Code Official or his/her duly authorized designee has probable cause to believe that there exists in any rental unit any condition which makes such rental unit in violation of any of the provisions of this Chapter or the provisions of the applicable City of Centerville codes or in response to a complaint that an alleged violation of any of the provisions of this Chapter or the provisions of the applicable City of Centerville codes may exist, the Code Official or his/her duly authorized designee may enter such rental unit at all reasonable times to inspect the same or to perform any duty imposed upon the Code Official by this Chapter or the provisions of the applicable City of Centerville codes, provided that if such rental unit is occupied, he/she shall first make a reasonable effort to locate the owner/operator, occupant or other person having charge or control of the rental unit and request entry giving 24-hour notice ~~, when applicable, to the tenant.~~ *Once notified of the inspection date and time, the owner/operator shall give notice, pursuant to ORC Sections 5321.04 (A) and 5321.05(B), to the occupants who are subject to the inspection. Failure to provide said notice to an occupant shall subject the owner/operator to the penalties provided in section 840.99.* The Code Official or his/her duly authorized designee shall at such time of inspection:

1. Identify himself/herself and his/her position;
2. Explain why entry is sought;
3. Explain that the owner/operator, *occupant* or other person(s) having charge or control of the rental unit may refuse, ~~without penalty,~~ entry without a search warrant;
4. Provide documentation of written notice to the owner/operator giving 7-day notice of deficiency. (Such notice shall not be construed to imply that the repairs need be completed at that time.)

C. Entry for Inspection Refused

In the event that entry for inspection has been refused by the owner/operator, occupant or other person having charge of the rental unit, the person refusing such entry may be subject to penalties as provided for in Section 840.99.

C.D. Search Warrant

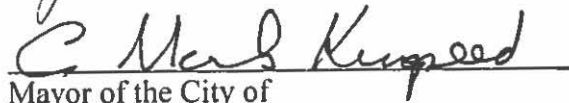
If consent to inspect a rental unit is withheld by any person or persons having the lawful right to exclude, the Code Official or his/her duly authorized designee may apply to a court of competent jurisdiction for a search warrant of the rental unit. No owner/operator or occupant or any person having charge, care or control of a rental unit shall fail or neglect, after presentation of a search warrant, to properly permit entry therein by the Official or his/her duly authorized designee for the purpose of inspection and examination pursuant to this Chapter.

SECTION 840.99 Penalty

A violation of the requirements of §§ 840.01 through ~~840.02~~ 840.03 shall constitute a fourth degree misdemeanor, punishable by a fine of not more than \$250.00 or imprisoned not more than thirty days, or both, for each offense. Each day, such violation is continued, shall constitute a separate offense.


Section 2. This ordinance is hereby declared to be an emergency measure and shall become effective immediately upon passage. An emergency affecting public health, safety and welfare is hereby declared to exist by virtue of the fact that the City desires to insure that rental units are maintained in accordance with the City codes.

PASSED THIS 18th day of June, 2007.



Mayor of the City of
Centerville, Ohio

ATTEST:



Clerk of Council
City of Centerville, Ohio

CERTIFICATE * *Emergency*

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 7-07, passed by the Council of the City of Centerville, Ohio on the 18th day of June, 2007.

Debra A. James
Clerk of the Council

Approved as to form, consistency with the
Charter and Constitutional Provisions.
Department of Law
Scott A. Liberman
Municipal Attorney