

ORDINANCE NO. 13-06

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER _____ ON THE _____ DAY
OF _____, 2006.

AN ORDINANCE ENACTING A RESIDENTIAL RENTAL UNIT
MANDATORY REGISTRATION AND INSPECTION REQUIREMENT.

WHEREAS, the Council of the City of Centerville, Ohio is concerned that some owners of rental units within the City may not be maintaining their rental units in compliance with the City's Property Maintenance Code and Zoning Code which could lead to danger to life and property and lead to blight; and

WHEREAS, the adoption of a rental unit mandatory inspection requirement would help to alleviate this problem.

NOW THEREFORE,

THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

The Centerville Municipal Code is hereby amended by the adoption of Chapter 840, Rental Unit Regulations which shall contain the following sections:

RENTAL UNIT REGULATIONS

Section 840.01 Registration Statement

After _____, 2006, every owner of a residential dwelling unit, whether occupied or vacant, for which the owner is receiving or entitled to receive rent or other compensation, shall register with the City of Centerville, Division of Inspection, the property on which the dwelling unit is located and shall acquire and maintain at all times a current and valid landlord registration certificate. Said registration certificate is good for two years, unless otherwise invalidated by this Chapter.

Section 840.02 Application and Registration Certificate

A. Every person or entity that has an ownership interest in real property on which is located a dwelling unit that is subject to this section, shall:

1. Within 30 days following the date the property interest is acquired, submit a registration application on a form prepared by the City of Centerville. There shall be no administrative fee for the initial application. Thereafter, a new registration application on a form prepared by the City of Centerville shall be submitted on odd years; and

2. On the odd years, for the bi-annual application, every person or entity must make payment to the City of Centerville of a non-refundable administrative fee of \$50 per parcel at the time of an application submission. Failure to pay the administrative fee, within thirty (30) days of when due, shall result in a late fee of ten dollars (\$10.00).

B. The application shall list the names and addresses of all current owners of the property on which is located the dwelling unit, and shall identify the property by street address or legal description. Each owner shall furnish written notice to the City of Centerville, Division of Inspection of that owner's change of address within five business days following such address change.

C. The filing of a registration application by one owner shall satisfy the filing requirements for all of the then owners of the dwelling unit.

D. The City of Centerville, Division of Inspection shall issue a Landlord Registration Certificate no later than 30 days following the date upon which a full and completed application is submitted to the Division and the appropriate amount of administrative fee is paid.

E. All owners of property required to acquire and maintain a landlord registration certificate shall make available for inspection such certificate upon 48 hours advance notice.

Section 840.03 Ownership; Change in Ownership

A. Every owner shall provide written notice to the City of Centerville, Division of Inspection, within five business days after having transferred or otherwise disposed of the legal control of any registered dwelling unit. Timely notice by one owner shall be deemed to satisfy the above requirement as to all owners of the dwelling unit. Such notice shall include the name and address of the person or entity succeeding to the ownership of the dwelling unit.

B. If any dwelling unit is not occupied by a legal owner thereof, there shall be a rebuttable presumption that the owner is receiving, or is entitled to receive, rent or other compensation therefor. Any owner of any dwelling unit for which a certificate of occupancy has been previously issued and which also subsequently fails to conform to City of Centerville laws, ordinances and adopted standards for

dwelling units, is not exempt from compliance with the requirements of this section.

C. Federal, State and County governments and their agencies, departments and subdivisions are not exempt from compliance with the requirements of this section, however such owners shall not be required to pay any administrative fee.

Section 840.04 Registration Certificate Not Transferable

A. No landlord registration certificate shall be transferred, or assigned, or used by any person or entity other than the one to whom it was issued, or a co-owner of the same property whose name appeared on the initial or an updated registration application. No landlord registration certificate shall be used in connection with any dwelling unit that is located on property other than the property for which the certificate was issued.

B. This chapter shall not apply to a dwelling unit that was occupied by an owner on the date of the violation. Proof thereof shall constitute an affirmative defense.

Section 840.05 Appointment of Agent

A. No landlord registration certificate shall be issued to an applicant unless such applicant designates in the certificate application the name of the applicant's agent for the receipt of service of notice of a violation of any City of Centerville ordinance and for receipt of service of process of a court of law. This section shall not apply to any dwelling unit owned, in whole or in part, by any person whose domicile was located either within Montgomery County, Ohio or an adjoining county to Montgomery County, Ohio on the date of violation. The place of domicile shall constitute an affirmative defense.

B. The applicant shall designate as the applicant's agent a person who is (i.) 18 years of age or older who is not a member of the household or any person having an ownership interest in the property that is the subject of the registration, and (ii.) customarily present in an office in Montgomery County for the purposes of transacting business, or who actually resides in Montgomery County or an adjoining county to Montgomery County, Ohio. This designation shall include the business or residence address of the agent.

C. An owner may change the designated agent by notifying the Division of Inspection of the owner's intention to do so. This notice shall be in writing, shall include the name and address of the new agent designated by the owner to replace the previous agent, and shall be effective upon receipt of the notice by the Division of Inspection.

D. An agent may terminate the agency relationship with the owner by simultaneously mailing written notices of his or her intention to do so to the owner and to the Division of Inspection. The termination shall become effective 14 days after the receipt of the notice by the Division. Any notice of violation or legal process which is dispatched to the agent prior to receipt of the notice or during the 14 day period shall be deemed effective service.

E. It shall be the sole responsibility of the owner to appoint a reliable agent and to inform the agent of the owner's current and correct mailing address. Failure of an owner to notify its agent of a current and correct address shall be no defense to a violation for which notice has been properly served upon the agent. Service upon the agent shall be deemed the equivalent of service upon the owner.

F. Individual owners having an interest in the same real property on which a dwelling unit is located may designate an agent in the manner provided herein, but in the absence of such designation, the agent named by the certificate applicant shall be deemed the agent of each owner.

G. No owner shall designate as an agent any person who does not expressly agree to comply with the provisions of this section.

H. No agent shall fail or refuse to accept service of notice of violations or process during the term of his or her agency.

Section 840.06 Residential Rental unit mandatory inspection required.

A. The owner or operator of a premise with a residential rental unit shall have the interior and exterior of the premises, its structures and its rental units inspected bi-annually, to determine compliance with the Property Maintenance Code and Zoning Code.

B. The owner or operator of a premise with a rental unit is subject to have the interior and exterior of the premises, its structures and its rental units inspected prior to the bi-annual inspection under the following circumstances:

1. The absence of or the expiration of a registration certificate as required in Section 840.01;

2. If two or more notices and orders to comply have been issued to the owner or operator pursuant to any section of this chapter relating to the violation of any sections of the codes set forth in this section above, within any two year period, concerning the same premises, and have not been complied within the time provided in the notices and orders to comply, the premises that was the subject of the notices and orders to comply shall be subject to mandatory inspections as specified in this section;

3. If the owner or operator has been convicted of a violation of any sections of the codes set forth in this section above, all premises and structures with a rental unit that the owner owns or that the operator operates shall be subject to mandatory inspections as specified in this section; and

4. If the owner or operator has had a premises ordered razed by the Code Official, all premises and structures with a rental unit that the owner owns or that the operator operates shall be subject to mandatory inspections as specified in this section.

5. In response to a complaint of an alleged violation of any of the provisions of this Chapter or the provisions of the applicable City of Centerville codes.

C. A notice and order to comply that is outstanding on or after _____, 2006, or that is issued subsequent to ____,2006, may constitute an uncomplained notice and order to comply for purposes of enforcement of the mandatory inspections required by subsection (B)(2) of this section.

D. A conviction that was obtained on or after ____,2006 shall constitute a conviction for purposes of enforcement of the mandatory inspections required by subsection (B)(3) of this section.

E. A raze order that the Code Official issued on or after _____,2006 shall constitute a raze order for purposes of enforcement of the mandatory inspections required by subsection (B)(4) of this section.

F. No owner or operator of a premises with a rental unit shall fail to obtain a rental unit mandatory inspection from the Division of Inspection when the provisions of this section require a rental unit mandatory inspection.

G. No fee shall be required for the bi-annual mandatory inspection.

H. A rental unit mandatory re-inspection fee of \$75 per hour for each re-inspection subsequent to the first inspection shall be paid.

Section 840.07 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. The Code Official or his/her duly authorized designee shall at such time:

1. Identify himself/herself and his/her position;
2. Explain why entry is sought;
3. Explain that the owner/operator 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. 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 840.08 Notice of Violation

Whenever, upon inspection of a dwelling unit which has been registered as herein provided, the Code Official finds that conditions or practices exist which are in violation of ordinances of the City of Centerville, any authorized notice of violation shall state that unless the violations are corrected as specified in the notice, the registration certificate for the property on which is located the dwelling unit exhibiting violations may be suspended or revoked.

Section 840.09 Appeal

A. Any owner whose landlord registration certificate has been suspended or revoked shall be entitled to appeal the order of revocation or suspension to the Property Review Commission pursuant to Chapter 1482 by filing a notice of appeal with the Clerk of Council within 15 days following the date of the notice of revocation or suspension.

B. A landlord registration certificate which has been revoked or suspended as herein provided and the suspension or revocation was not appealed or was sustained upon appeal, shall not be reinstated. The owner may, however, obtain a new landlord registration certificate by filing a new application for a landlord registration certificate as provided for in this section. Such new application must be accompanied by an administrative fee as provided in §840.06 and such fee shall not be waived.

Section 840.99 Penalty

A violation of the requirements of §§ 840.01 through 840.08 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 shall be effective from and after the earliest date allowed by law.

PASSED THIS _____ day of _____, _____.

Mayor of the City of
Centerville, Ohio

ATTEST:

Clerk of Council
City of Centerville, Ohio

CERTIFICATE

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. _____, passed by the Council of the City of Centerville, Ohio on the _____ day of _____, _____.

Clerk of the Council

Approved as to form, consistency with the
Charter and Constitutional Provisions.

Department of Law
Scott A. Liberman
Municipal Attorney