

CHAPTER 11

HOUSING

Part 1 Residential Rentals

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Part 1
Residential Rentals

§101. Title.

This Ordinance shall be known and may be cited as the "Nazareth Residential Rental Ordinance."

§102. Purpose and Findings.

A. This ordinance is intended to serve the following purposes:

1. To assist the Borough of Nazareth ("Borough") in protecting and promoting the public health, safety, and welfare of its citizens.
2. To establish rights and obligations of Owners and Occupants relating to the rental of residential properties in the Borough and to seek that Owners and Occupants properly maintain rental properties within the Borough,
3. To ensure that Owners, Managers and Occupants comply with the Borough's Property Maintenance Code and any other applicable ordinance, to prevent over-crowding, to avoid nuisances for neighboring residents, and to maintain and improve the overall quality of life in the community, and
4. To provide for a system of inspections; issuance and renewal of licenses; and establish penalties for violations.

B. In considering the adoption of this ordinance, the Borough makes the following findings:

1. There is a greater incidence of code violations at residential rental properties than at owner-occupied residential properties.
2. There is a greater incidence of problems with the maintenance and upkeep of residential rental properties than at owner-occupied residential properties.
3. There is a greater incidence of disturbances which adversely affect the peace and quiet of the community at residential rental properties than at owner-occupied residential properties.
4. A systematic inspection process can assist in avoiding life-threatening problems, such as a lack of functioning smoke detectors and other dangerous conditions.

§103. Definitions. The words and phrases as used in this ordinance shall have the following meanings:

AGENT: Any person or manager designated by the owner who has charge, care, or control of a residential rental property.

BOROUGH: The Borough of Nazareth, Northampton County, Pennsylvania.

CODE: Any code or ordinance adopted, enacted, or in effect in and for the Borough as may be amended from time to time.

CODE ENFORCEMENT OFFICER: Borough appointed code enforcement officer(s) having the duty to enforce this ordinance and other codes and ordinances of the Borough, and any assistants or deputies thereof.

COMMON AREA: In multi-unit buildings, space which is not part of an individual residential rental unit, and which is shared among occupants of the building. Common areas shall be considered as part of the premises for purposes of this ordinance.

DISRUPTIVE CONDUCT: A form of conduct, action, incident, or behavior perpetrated, caused, or permitted by an occupant or guest of a residential rental unit that:

1. is a violation of any Code of the Borough and subject to civil or criminal enforcement,
2. is the subject of a criminal citation for disorderly conduct or other related criminal violations,
3. is a violation of the Pennsylvania Landlord and Tenant Act of 1951, as amended, relating to drug offenses set forth in 68 P.S. Section 250.505-A, or
4. is the subject of a criminal citation under the Pennsylvania Crimes Code or the Pennsylvania Liquor Code.

DISRUPTIVE CONDUCT REPORT: A written report of disruptive conduct, on a form prescribed by the Borough, to be completed by the code enforcement officer who investigates an alleged incident of disruptive conduct or a police report referred to the code enforcement officer by the police department may serve as a form of disruptive conduct report.

DWELLING: A building that contains one or more residential rental units, intended, or designed to be used, rented, leased, let, or hired out to be occupied, or that are occupied for living or sleeping purposes.

DWELLING UNIT: A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EXEMPT UNIT: The following types of premises shall each be considered exempt from the provisions of this ordinance:

1. Owner-occupied dwellings, except for any part of the owner-occupied dwelling is a residential rental unit
2. State-licensed hospitals, nursing homes, personal care homes, and group homes, and or other rental units used for human habitation which offer or provide licensed medical or nursing services and wherein all operations of such facilities are subject to county, state or federal licensing or regulations concerning the health and safety of the occupants. Upon request, the owner/operator or manager of such a unit shall provide the code enforcement officer all inspection reports as produced by the authorities or agencies having regulation jurisdiction, and
3. Hotels or motels used for transient guests.

GUEST: An individual on the premises of a residential rental unit with the actual or implied consent of the occupant or owner.

LANDLORD: This term shall have the same meaning as owner.

MANAGER: An adult individual designated as such by the owner of a residential rental unit. The manager shall be the agent of the owner for service of process and receiving notices or demands and to perform the obligations of the owner under this ordinance.

MULTI-UNIT BUILDING: A building containing two or more dwelling units that are not completely separated from each other by vertical party walls.

OCCUPANT: Any person, corporation, partnership, or group occupying a dwelling or portion thereof as a residential rental unit and subject to a rental agreement.

OWNER: Any person who, alone or severally with others, holds legal or equitable title to any dwelling that one or more residential rental units.

OWNER-OCCUPIED: A dwelling, dwelling unit, sleeping unit, or rooming unit in which the owner of record occupies the dwelling, dwelling unit, or rooming unit as his primary residence and resides therein for a minimum of 181 days per annum.

PERSON: An individual, firm, corporation, association, or partnership.

PREMISES: A lot, plot or parcel of land including the buildings and structures thereon.

RENTAL AGREEMENT: A written agreement or other legally enforceable agreement between landlord and tenant embodying the terms and conditions concerning the use and occupancy of a specified residential rental unit.

RESIDENTIAL RENTAL LICENSE: An annual license issued to the owner of a residential rental unit.

RESIDENTIAL RENTAL UNIT: A dwelling unit, rooming unit, or sleeping unit that is not an Exempt Unit and in which the owner of record does not occupy said unit as their primary residence.

ROOMING UNIT: Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping but not for cooking or eating purposes.

SHORT-TERM OCCUPANT: Any person living and sleeping in a residential rental unit for a period of 30 days or less.

SLEEPING UNIT: A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

YARD: An open space on the same lot with a structure.

§103. Duties of Owner.

A. It shall be the duty of every owner and manager, if any, to:

1. Keep and maintain the premises and all residential rental units in compliance with all applicable Borough Codes and provisions, all applicable federal, state, and local laws, ordinances and regulations including, but not limited to, this ordinance.

2. Keep and maintain the premises and all residential rental units in good and safe condition.

3. Regulate the proper and lawful use and maintenance of every residential rental unit. Every owner or manager shall act, either through enforcement of the rental agreement or by any other means reasonably available, to eliminate disruptive conduct arising from the residential rental unit.

4. Annually renew the registration and maintain a valid and current residential rental license for each residential rental unit.

5. Within ten (10) business days of any change in occupancy which is expected to exceed 30 days, notify the Borough of the names of all permitted occupants and whether they are an adult or minor.

6. Pay or ensure payment of all real estate taxes, sewer rates, water rates, and trash collection fees to ensure that such vital utilities are provided.

7. Owner shall retain a manager when this ordinance requires that a manager be designated.

8. Provide trash and recyclable collection and disposal services and instruct occupants of the method of trash and recyclable collection (i.e., curbside or dumpster) and the day of the week of trash and recyclable pickup.

9. Provide each occupant with a copy of this ordinance and any amendments to this ordinance.

10. Require a rental agreement or written rental agreement for each residential rental unit.

11. Take all actions necessary to ensure that the maximum number of occupants for each residential rental unit does not exceed the maximum number of occupants permitted.

B. Designation of Manager.

1. If the owner is not a full-time resident of the Borough or does not reside within a 20-mile radius of the Borough, the owner shall designate a person to serve as manager. The manager must reside within a 20-mile radius of the Borough.

2. The owner shall provide the Borough in writing with the legal name, mailing address, email address, and daytime and evening telephone numbers of the manager, and such information shall be kept current and updated within five (5) business days of any changes.

3. The Manager shall be authorized to accept service of process on behalf of the owner.

§104. Duties of Occupants.

A. Each occupant of a residential rental unit shall have the following duties:

1. Comply with all obligations of this ordinance, all applicable federal, state, and local laws, ordinances, and regulations.

2. Not engage in disruptive conduct.

3. Ensure that all guests conduct themselves in a manner that does not constitute disruptive conduct.

4. Use the trash and recycling services provided by the owner.

5. Use the residential rental unit for no purpose other than as described in the rental agreement and as permitted by the Borough zoning ordinance, as amended.

6. Allow a code enforcement officer to inspect the residential rental unit at reasonable times.

7. Not allow persons other than those identified in the rental agreement or registration form to reside in the residential rental unit.

8. Take all actions necessary to ensure that the maximum number of occupants for each residential rental unit does not exceed the maximum number occupants permitted.

§105. Bedroom Size, Maximum Occupancy.

A. Each bedroom in a residential rental unit shall be a minimum area of 80 sq. ft. for one individual and 120 sq. ft. for two individual overnight occupants, respectively.

B. The maximum overnight occupancy of a residential rental unit shall not exceed two (2) individuals per bedroom except for a dwelling unit, which may have up to two additional overnight individual occupants.

C. The maximum number of day guests permitted at any time shall be fifty percent (50%) of the maximum overnight occupancy.

D. An owner or manager may request that the maximum overnight occupancy be increased above what is permitted by this Section. Such permission shall be in writing at the discretion of the code enforcement officer after inspection of the residential rental unit. In assessing whether to grant such a request, the code enforcement officer shall review several factors, including, but not limited to the total area and layout of the residential rental unit, the adequacy of bathroom and sanitation facilities, and the availability of off-street parking.

§106. Disruptive Conduct.

A. The code enforcement officer shall investigate alleged incidents of disruptive conduct and shall complete a disruptive conduct report upon a determination that the reported incident constitutes disruptive conduct as defined under this ordinance. The information filed in the disruptive conduct report shall include, if possible, the identity of the perpetrator(s) and all other reasonably obtainable information, including the factual basis for the incident. A copy of the disruptive conduct report shall be served upon an occupant listed in the rental agreement and the owner or manager. The disruptive conduct report shall count against all occupants of the residential rental unit.

B. An occupant listed on the rental agreement, or an owner aggrieved by a disruptive conduct report, shall have twenty (20) days from service of a disruptive conduct report to file an appeal with the Borough council law committee.

C. It is unlawful for any occupant to cause or permit a third disruptive conduct violation within any 12-month period. If any occupant or guest of a residential rental unit is involved in a third disruptive conduct violation within any 12-month period, the occupants shall be subject to eviction. The code enforcement officer shall serve written notice of violation upon the owner or manager and a minimum of one (1) occupant listed on the rental agreement that the residential rental unit shall be vacated ("eviction order"). Owner shall begin eviction proceedings within twenty (20) days after service of an eviction order an owner or manager and shall continue such proceedings to completion, without interruption, unless the subject occupants vacate the rental unit. Once an eviction order is issued by the code enforcement officer, those occupants shall not be permitted to occupy any area in the residential rental unit or related premises for a minimum period of two years commencing upon eviction. In addition, once an eviction order is issued by the code enforcement officer, those occupants shall not, for the aforesaid minimum two-year period, be permitted to occupy any residential rental unit within the Borough that is owned by the same owner.

1. Failure of owner to comply with an eviction order shall result in suspension or revocation of the rental license as determined by the code enforcement officer and shall be a violation of this ordinance.

2. This ordinance shall not limit the ability of an owner to evict tenants in compliance with state law for reasons other than violations of this ordinance.

3. The code enforcement officer shall maintain a list of all adult occupants who were ordered to be evicted and the affected addresses. Such list will be maintained for a minimum of three (3) years and shall be available for public review.

§107. Registration and License.

A. Registration and receipt of a residential rental license shall be required for all residential rental units intended to be rented or occupied by a person other than the owner. Not later than January 31 of each year, the owner or manager shall register or renew the registration for each residential rental unit. Registration information shall be submitted on a form provided by the Borough and upon successful registration the owner shall receive a one (1) year residential rental license valid until January 31 of the following calendar year.

B. A residential rental license shall not be issued or renewed until:

1. The owner has paid in full all overdue real estate taxes, water, sewage, garbage collection fees or fines or costs arising from enforcement of this ordinance or any Code of the Borough, and

2. The owner has provided all necessary contact information concerning a manager, if applicable, and has provided a list of current occupants and whether they are an adult or minor.

C. Owner shall, within ten (10) business days of any change in occupancy which is expected to exceed 30 days, notify the Borough of the names of all occupants who are not short-term occupants.

§108. Inspection and Access to Dwellings; Administrative Warrants.

A. The code enforcement officer shall schedule and conduct inspections of residential rental units providing the owner or manager a minimum of 10 days' notice. The owner is responsible for notifying and coordinating with occupants for the inspection to be executed. Each residential rental unit shall be inspected a minimum of one inspection every five (5) years according to the established inspection schedule or on an as needed basis. The Borough is not obligated to complete all inspections within the inspection schedule. If the Borough is not able to complete an inspection within a designated year, the Borough may inspect the unit in a subsequent year.

B. The code enforcement officer shall perform an inspection of the residential rental unit to ensure that the residential rental unit meets all the requirements of the Code of the Borough, including, but not limited to, the International Property Maintenance Code, the Uniform Construction Code, the International Fire Code, the terms and conditions of this section, and any other applicable provisions of the Code of the Borough or the laws of the Commonwealth.

C. The code enforcement officer is authorized and directed to make inspections to determine compliance with this ordinance. For this purpose, the code enforcement officer, or their designated agent, are authorized, upon jurisdiction based on a valid complaint, on official annual inspection, or information, and upon showing adequate identification, to enter and examine any dwelling or other building, yard, or part of either, at all reasonable times, and every owner, manager or occupant shall provide them free access to it. Nothing in this section shall be deemed to limit or restrict the ability of the Borough to conduct inspections of any residential rental unit as deemed necessary to enforce any ordinance of the Code of the Borough or the laws of the Commonwealth.

D. Every occupant of a residential rental unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, or its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this ordinance or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this ordinance.

E. A passing inspection by itself shall not warrant that a residential rental unit is lawful, safe, habitable or in compliance with all Borough Codes.

F. Administrative Warrant. If a code enforcement officer is scheduled and entry is refused or cannot be obtained, the code enforcement officer shall have recourse to every remedy provided by law to secure lawful entry and inspect the premises including, but not limited to, securing an administrative warrant as permitted by Pennsylvania Law.

§109. Fees.

A. Every residential rental registration or renewal shall be accompanied by a residential rental registration fee in an amount established by Borough Council and set forth in the Borough's Schedule of Fees. The registration/renewal fee shall be paid by January 31 of each year or additional late fees shall apply.

B. An inspection fee shall be charged to each owner of a residential rental unit within thirty (30) days of an inspection in an amount established by Borough Council and set forth in the Borough's Schedule of Fees. There shall be no additional fee if one (1) reinspection is needed because the unit was found to be in violation during the initial inspection. However, there shall be an additional fee for each additional reinspection subsequent to the first reinspection, when reinstatement of a license previously revoked is applied for, or when the code enforcement officer is unable to gain access at the time scheduled.

§110. Enforcement Notices and Appeals.

A. When the code enforcement officer determines that there exists a violation of any provision of this ordinance, the code enforcement officer shall give written notice of such violation to the owner or manager. Such written notice shall be served by hand delivery in the form of a field report, or a letter sent registered or certified mail and by electronic mail, if applicable, to the owner or manager. In the event such notice cannot be served as stated above for any reason, such notice may then be served by posting it in a conspicuous portion of the dwelling and such posting shall be considered good and sufficient notice.

B. The notice shall specify the violation which exists and a reasonable time within which to correct it. The notice may also describe a course or remedial action which will affect compliance with this ordinance.

C. Any person aggrieved by a decision, or an action of the code enforcement officer may appeal to the Borough Council Law Committee for a review of the decision in accordance with procedures prescribed by the Law Committee. If an appeal is filed within ten (10) days after receipt of the notice of decision or action of the code enforcement officer, compliance with a notice of violation shall not be required when the appeal is pending before the Law Committee or before a court, except as provided in Subsection D below.

D. Whenever the code enforcement officer determines that a violation of this ordinance creates an emergency requiring immediate correction to protect the health or safety of any occupant of a dwelling or the public, the code enforcement officer may issue a notice of violation reciting the existence of the emergency and requiring necessary action to be taken immediately. Any person to whom such notice is directed shall comply immediately even though an appeal is taken to the Law Committee. Any person aggrieved by such notice of violation may appeal to the Committee as provided in Subsection C above. The Committee shall give priority to such appeal. If a dangerous violation cannot be promptly corrected, the residential rental license shall be revoked, and the owner shall take immediate steps to evict the occupants and/or to locate alternative housing for the occupants.

§111. Penalty for Violation.

A. Any person who violates a provision of this ordinance shall upon conviction thereof before a District Magistrate be liable to pay the following penalties:

1. First violation at a dwelling with no prior violations in the previous twelve months - A fine of \$200.00.

2. Second violation at a dwelling within a twelve-month period—A fine of \$500.

3. Third and each subsequent violation at a dwelling within a twelve-month period - A fine of \$1,000.00 and revocation of residential rental license.

4. If owner or manager permits occupancy of a residential rental unit without the owner or manager first obtaining a residential rental license, a fine of \$1,000.00 shall apply.

B. For each week that a violation continues to exist after the time limit established for correction of the violation by a code enforcement officer, a separate violation shall have been deemed to occur, requiring an additional fine.

C. A residential rental license shall be prohibited from renewal or shall be revoked at the discretion of the code enforcement officer if the residential dwelling unit is consistently in violation of the Borough Code and is a danger to the public health, safety, and welfare of the occupants or residents of the Borough.

D. A residential rental license shall be reinstated if the owner or manager corrects the reason for the revocation and pays any outstanding fees or costs.

§112. Sale or Transfer. A residential rental license shall not be transferred. In the case of a sold or transferred dwelling which contains residential rental units, the new owner shall re-register each residential rental unit in the owner's name and comply with all requirements of this ordinance. Failure to apply for a residential rental license within thirty (30) days after transfer of ownership shall result in revocation of the residential rental license(s) obtained by the prior owner for all applicable residential rental units.

§113. Severability. If any section, clause, provision, or portion of this ordinance shall be held invalid or unconstitutional by a Court of competent jurisdiction, such decision shall not affect any other section, clause, provision, or portion of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared severable.

§114. Repealer. All existing ordinances of the Borough or parts thereof which are inconsistent with the provisions of this ordinance are hereby repealed. This ordinance hereby expressly repeals Chapter 13, Part 2, Residential Rental Property Registration, Licensing and Inspection, last amended by Ordinance No. 799 adopted August 4, 2014.

(Ord. 869, 4/4/2022)