

**BOROUGH OF SEWICKLEY
ALLEGHENY COUNTY, PENNSYLVANIA
ORDINANCE NO. 1389**

AN ORDINANCE OF THE BOROUGH OF SEWICKLEY, ALLEGHENY COUNTY, PENNSYLVANIA, PROVIDING REGULATIONS FOR THE REGISTRATION, INSPECTION, PERMITTING, AND OCCUPANCY OF RESIDENTIAL RENTAL UNITS IN THE BOROUGH OF SEWICKLEY, SETTING FORTH THE SCOPE OF APPLICATION, DEFINITIONS, REQUIREMENTS FOR REGISTRATION AND BIENNIAL INSPECTIONS, PROCEDURES UPON REFUSAL TO PERMIT INSPECTION, APPEAL RIGHTS, FEES, VIOLATIONS AND PENALTIES, SEVERABILITY, REPEAL OF CONFLICTING ORDINANCES, EFFECTIVE DATE, AND EXCEPTING CERTAIN DWELLING UNITS FROM THE REQUIREMENTS HEREOF.

WHEREAS, the Council of the Borough of Sewickley finds that the implementation of an effective mechanism to identify, register, and inspect residential rental units is in the best interests of the health, safety, and welfare of the residents of the Borough; and

WHEREAS, the Council of the Borough of Sewickley desires to establish a comprehensive regulatory framework for the registration, inspection, and enforcement of applicable codes and regulations to ensure the safety and habitability of residential rental units within the Borough.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Borough of Sewickley, as follows:

SECTION 1. SCOPE. The provisions of this ordinance shall apply to all dwelling units in the Borough of Sewickley which are leased, rented, or otherwise occupied by persons who do not own the premises, and to all persons which own, lease, and otherwise rent residential properties in the Borough as specified herein. This ordinance is not intended, nor shall its effect be, to limit any other enforcement remedies which may be available to the Borough under separate ordinance or law, and it shall not be construed to impede the enforcement of any building, zoning, property maintenance code, fire safety codes, or associated inspection requirements arising thereunder.

SECTION 2. DEFINITIONS. For the purposes of this ordinance, the following terms shall have the meanings set forth below unless specifically indicated otherwise. Any terms that are not expressly defined herein shall be interpreted in accordance with the purpose and intent of this ordinance and the context of such terms.

CODE — The Sewickley Borough Code of Ordinances, as amended, and any other applicable ordinances, codes, statutes, regulations, or standards that are in effect to protect the health, safety, and welfare of the public through the regulation of property, buildings, structures, and dwelling units, including but not limited to those concerning construction, maintenance, electrical systems, plumbing, fire safety, sanitation, habitability, occupancy, and use.

CODE ENFORCEMENT OFFICER — Any representative of the Borough having been duly appointed by the Borough Council to enforce the provisions contained herein, including but not limited to the Code Enforcement Officer, Building Code Officer, or a third-party inspector.

COMMON AREA — Space that is not part of an individual dwelling unit and which is open for the common use and enjoyment of all persons on the premises of multiple-unit dwellings.

DWELLING — A building having one or more dwelling units.

DWELLING UNIT — A self-contained housing unit intended for single-family occupancy that is comprised of one or more rooms that provide facilities for living, sleeping, sanitation, and food preparation/consumption.

LANDLORD — Any person who, by means of a rental agreement, lets, rents, leases, or otherwise allows other persons to occupy or use a regulated rental unit or premises that is owned by, or under the management/control of the landlord.

OWNER — A person who has legal or equitable title to real property.

PERSON — A natural person, partnership, corporation, unincorporated entity, association, limited partnership, trust, or any other entity.

PREMISES — Any parcel or real property in the Borough of Sewickley, including the buildings and improvements thereon, in which one or more regulated rental units are located.

REGULATED RENTAL UNIT — A residential dwelling unit occupied by any person other than the owner pursuant to a rental agreement.

RENTAL AGREEMENT — A written/oral agreement between landlord and tenant for the use/occupancy of a specified regulated rental unit or premises.

RENTAL OCCUPANCY PERMIT — The permit issued to the landlord of regulated rental units under this ordinance, which is required for the lawful rental and occupancy of regulated rental units.

TENANT — Any person(s) who, by means of a rental agreement, is entitled to the use/occupation of a dwelling unit owned by another person.

SECTION 3. RENTAL OCCUPANT REGISTRATION. The landlord of any regulated rental unit within the Borough of Sewickley shall register each such unit with the Borough, and shall thereafter maintain a current registration, as follows:

- A. Within forty-five (45) days after enactment of this ordinance, or within fifteen (15) days of written notice from the Borough, each landlord must apply to the Borough for a rental occupancy permit for each regulated rental unit occupied by a tenant.
- B. The landlord of any dwelling unit that is not occupied by a tenant at the time of enactment of this ordinance must first obtain a rental occupancy permit as a condition precedent to occupancy of such regulated rental unit by any tenant.
- C. Any new dwelling or dwelling unit that did not exist at the time of enactment of this ordinance and that is to contain a regulated rental unit shall be registered by the landlord as part of the initial occupancy permit approval process.

Section 4. Biannual rental unit inspections.

- A. Following enactment of this ordinance, the Borough shall implement, commence, and continue a Borough-wide regulated rental unit inspection program on a biannual basis, as follows:
 - (1) All regulated rental units occupied by tenants at the time of commencement of the inspection program shall be inspected within two years thereof and shall be re-inspected at least once every two years thereafter. Nothing shall prohibit inspections on a more frequent basis as determined to be necessary by the Code Enforcement Officer in response to complaints or particularized safety concerns.
 - (2) Any new or existing dwelling unit intended to be used as a regulated rental unit shall be inspected prior to initial occupancy by a tenant and shall be re-inspected at least once every two years thereafter.
 - (3) In the interest of efficiency and convenience, inspections pursuant to this ordinance should be conducted in conjunction with other Borough-required inspections when possible.
 - (4) Nothing herein shall prohibit the Code Enforcement Officer from exercising his/her discretion to deviate or waive the biannual inspection requirement for good cause, including for the purpose of coordinating inspections to occur on the same schedule where multiple regulated rental units are situated in the same dwelling.

B. Inspection procedures shall be as follows:

- (1) Inspections of regulated rental units shall be conducted by the Code Enforcement Officer for the purpose of determining compliance with the provisions of this ordinance and all other codes relevant to the safety and habitability of residential dwelling units, as have been or may be adopted and amended by the Borough.
- (2) The landlord and tenant (if any) shall each be given written notice at least ten (10) days prior to the scheduled inspection. The notice shall specify the date and time of the inspection and inform the recipients of their right to be present during the inspection. Where the identities of the persons required to receive notice is unknown, the requirements of this section may be satisfied by mailing the notice to the dwelling unit and to the respective tax mailing address.
- (3) All code violations discovered upon inspection shall be listed in a post-inspection summary letter which shall cite the applicable code for which a violation exists, note the necessary action to abate each violation, and inform the landlord that the issuance of a permit is suspended while the landlord has twenty (20) days from the date of the letter to abate all violations and contact the Borough to schedule a reinspection of the specified violations. Any necessary reinspection may occur following reasonable advanced notice to the Tenant (if any).
- (4) Failure of the landlord to contact the Borough to schedule a required reinspection prior to the expiration of the twenty (20) day abatement period may result in the issuance of a Notice of Violation by the Code Enforcement Officer.
- (5) Nothing shall prohibit the Code Enforcement Officer from exercising his/her discretion to extend the time allowed for abatement of violations.
- (6) No rental occupancy permit or renewal shall be issued until all repairs or corrective actions have been made or taken to eliminate any substandard conditions and/or to bring the premises, common areas, and/or regulated rental unit into compliance with the applicable Borough codes and ordinances.
- (7) Nothing herein shall prohibit the Code Enforcement Officer, upon good cause shown, from issuing a temporary rental occupancy permit pending completion of necessary repairs and reinspection, where the Code Enforcement Officer in his sole discretion is satisfied that such temporary occupancy does not pose a danger to the health, safety and welfare of the building's tenants or to other persons or property within the Borough.

Section 5. Refusal to permit inspection. All inspections under this ordinance shall be conducted in accordance with constitutional restrictions on unreasonable searches and seizures. If entry is not obtained or upon the refusal of any person to permit entry to a dwelling unit to conduct the inspection mandated under this ordinance, the Code Enforcement Officer is hereby authorized to apply to the Magisterial District Justice for an administrative search warrant to enter and to conduct an inspection. The refusal of a landlord or tenant to consent to entry of a regulated rental unit pending an administrative search warrant shall not itself constitute a violation of this ordinance.

Section 6. Appeal rights for denial, suspension, or revocation of permit. Any person who is aggrieved by a decision of the Code Enforcement Officer to refuse to issue a rental occupancy permit or to suspend or revoke a rental occupancy permit may file an appeal in writing with the Borough Manager within thirty (30) days after the date of such determination or notice thereof. Upon receipt of such appeal, the Borough Council or a committee thereof shall hold a hearing within thirty (30) days for the purpose of hearing the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties, at which time they may appear and be heard. On consideration of the appeal, the Borough Council may affirm or reverse the Code Enforcement Officer's decision and may impose any conditions to be met prior to the issuance of a rental occupancy permit by the Code Enforcement Officer. The decision of the Borough Council shall constitute an adjunction within the meaning of Local Agency Law and shall be communicated to the appellant in writing within ten (10) days of the hearing. An appeal from the decision of the Borough Council may be taken to the Allegheny County Court of Common Pleas within thirty (30) days of the date thereof as provided by Local Agency Law.

Section 7. Fees. Registration and inspection fees shall be paid by the Landlord to defray in whole or in part the Borough's costs to administer this ordinance. Fees for the initial registration and inspection and every inspection required thereafter shall be One Hundred (\$100.00) Dollars per dwelling unit. The first reinspection of particularized violations identified during an inspection shall be at no cost to the landlord, however, any subsequent reinspection required to confirm abatement of those violations shall be at a fee of Fifty (\$50.00) Dollars per reinspection. The registration, inspection, and reinspection fees set forth herein may be amended from time to time by resolution of Council.

Section 8. Forms. The Borough may establish, alter, and modify the applications, inspection checklists and compliance letters for the operation and enforcement of this ordinance without further amendment hereto.

Section 9. Exceptions. The following categories of properties shall not require registration, and shall not, therefore, be subject to the permitting provision of this ordinance:

- A. Senior citizen retirement and assisted living facilities duly licensed and complying with the laws and regulations of the Commonwealth of Pennsylvania with respect to such facilities;

- B. Convents and parish houses;
- C. Housing provided by fire companies to its members;
- D. Group homes providing medical and related care for persons with disabilities;
- E. Any dwelling unit legally occupied by a family member of the landlord where no rent is exchanged;
- F. Any dwelling unit that is otherwise inspected and/or permitted pursuant to another ordinance or law that adequately provides for the protection of the health, safety, and welfare of occupants as determined in the discretion of the Code Enforcement Officer.

Section 10. Nonliability of Borough. The issuance of a permit under this ordinance is not intended to be a representation by the Borough that the regulated rental unit and/or the building in which it is located is in compliance with any fire prevention, building, mechanical, electrical, plumbing or similar codes. The Borough reserves the right to conduct no more than a cursory inspection of the regulated rental unit prior to the issuance of a rental occupancy permit as the Code Enforcement Officer may deem fit in his sole discretion. Neither the enactment of this ordinance nor the issuance of a permit shall impose any liability upon the Borough for any errors or omissions which resulted in the issuance of such permit, nor shall the Borough bear any liability not otherwise imposed by law.

Section 11. Violations and penalties. Any person found by the Borough to be in violation of this ordinance or who permits a violation of this ordinance shall be subject to prosecution under the Borough Code, 8 Pa.C.S.A. § 3321, *et seq.*, and upon being found liable therefor, shall pay a fine of not less than Fifty (\$50.00) Dollars and not more than Six Hundred (\$600.00) Dollars, plus costs, including but not limited to, the costs of abatement of the violation, court costs, and reasonable attorneys' fees incurred by the Borough in the enforcement proceedings and in the abatement of the violation. Each day a violation exists shall constitute a separate offense, and each section of this ordinance that is violated shall also constitute a separate offense. If the penalties and costs provided by this ordinance, or the penalties and costs allowed by any other remedy in law or equity, are not paid by the person(s) found to be liable, the Borough may initiate a civil action for collection of any penalty, cost, claim, judgment, or lien against persons or property in accordance with the Pennsylvania Rules of Civil Procedure and/or the Municipal Claim and Tax Lien Law, 53 P.S. § 7101, *et seq.* The remedies provided herein shall be cumulative, and nothing shall preclude the Borough from enforcing this ordinance in equity in the Court of Common Pleas of Allegheny County, or in any other manner allowed by law.

Section 12. Severability. If any provision, section, sentence, clause, or part of this Ordinance is held to be invalid, such invalid provisions are deemed to be severable and shall not affect or impair

any remaining provision, section, sentence, clause, or part of the Ordinance, which shall continue in full force and effect.

Section 13. Repealer. Any ordinance or resolution or parts thereof which are in conflict herewith are repealed and replaced only to the extent of such conflict.

Section 14. Effective Date. This Ordinance shall be effective immediately upon adoption, or as soon thereafter as provided by law.

ORDAINED AND ENACTED into law this 12th day of March, 2024.

ATTEST:

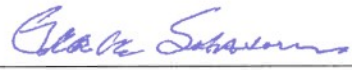


Donna Kaib, Borough Manager

THE BOROUGH OF SEWICKLEY

By: 

Cynthia Mullins, Council President

By: 

George Shannon, Mayor