

## ORDINANCE NUMBER 2 OF 2016

### AN ORDINANCE OF THE BOROUGH OF THROOP, LACKAWANNA COUNTY, PENNSYLVANIA, TO BE KNOWN AS THE TENANT OCCUPANCY SAFETY INSPECTION ORDINANCE REPEALING ORDINANCE NO. 9 OF 2014, KNOWN AS THE RESIDENTIAL RENTAL UNIT OCCUPANCY ORDINANCE

**WHEREAS**, Throop Borough Council wishes to repeal Ordinance No. 9 of 2014 known as the Residential Rental Unit Occupancy Ordinance and adopt the following policies/procedures for the inspection and licensing of Residential Rental Units in Throop Borough.

**NOW THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE BOROUGH OF THROOP AND IT IS HEREBY ORDAINED AND ENACTED BY THE AUTHORITY OF THE SAME, THAT FROM AND AFTER THE EFFECTIVE DATE OF THIS ORDINANCE, THE FOLLOWING ORDINANCE SHALL BE IN FULL FORCE AND EFFECT IN THE BOROUGH OF THROOP THEREBY REPEALING ORDINANCE NO. 9 OF 2014.**

#### SECTION I

1. All prior Ordinances of the Borough of Throop or parts of ordinances conflicting herewith are hereby repealed; however, such repeal shall not affect any act done or any liability or violation accrued under any such prior ordinances herein, repealed or superseded and also its liabilities or violations shall continue and may be enforced in the same manner as if such ordinance had not been repealed.

#### SECTION II

2. The purpose of this Ordinance and the resulting policy of the Borough of Throop shall be to protect and promote the public health, safety and welfare of its citizens, to establish rights and obligations of owners and occupants relating to residential rental units in the Borough and to encourage owners and occupants to maintain and improve the quality of rental housing within the Borough. As a means to these ends, this Ordinance provides for a systematic inspection program, registration and licensing of residential rental units and penalties.

## SECTION III

### **Definitions:**

**Agent for an owner** – any person who resides in Lackawanna County and is authorized to act on behalf of a property owner and has charge and control of a residential rental unit and possesses written proof for said authority. See also Manager/Operator and Responsible Agent.

**Apartment** – a part of a house, apartment house or other dwelling occupied by a tenant while the rest is occupied by another or others. Each apartment within a residential rental unit is a separate structure requiring an inspection and a license.

**Apartment House** – a building arranged in several suites of connecting rooms, each suite designed for independent housekeeping but certain mechanical conveniences such as heat, electric or other utility services may be in common to all tenants occupying the building.

**Borough** – the Borough of Throop

**Building or Code Official** - a duly appointed individual or agent of the Borough of Throop having the duty to enforce provisions of this Ordinance. The Building Code official may be appointed by resolution of Borough Council. Borough Council may change the duly appointed Building Code official from time to time by resolution. Building Code or Code Official also includes any assistant, agent, third party or independent contractor hired by the Borough of Throop to conduct inspections of residential rental units, apartments, dwelling units, and/or premises.

**Codes** – Uniform Construction Code and the International Property Maintenance Code of 2009 and all referenced codes that are included, as subsequently amended or revised and any state or local codes or ordinance adopted by Throop Borough relating to or concerning the fitness for habitation, construction, maintenance, operation, use or appearance of any premises, dwelling unit or residential rental unit.

**Dwelling Units** – a single unit providing complete, independent living facilities for one or more tenants including permanent provisions for living, sleeping, eating, cooking and sanitation. All rooms comprising of dwelling units shall have access through an interior doors or to other parts of the dwelling unit. This term shall not include hotels, motels, and owner occupied housing or other structure used for transient residents. It shall include dwelling units under a written or unwritten lease agreement.

**Emergency** – a serious unexpected and potentially dangerous event, circumstances or condition to persons and/or property, event or situation requiring immediate action.

**To Let for Occupancy** – to permit possession or occupancy of a dwelling, dwelling units, residential rental unit, building or structure by a person who is the legal or equitable owner of record or agent thereof to a written or unwritten agreement.

**Manager/Operator** – a person residing in Lackawanna County who has charge and/or control of a structure, premises, dwelling unit residential rental unit which is let or offered for occupancy. (See also agent).

**Occupant** – an individual who resides in a residential rental or dwelling unit whether or not he/she is the owner thereof, with whom a legal relationship with the owner/landlord or agent is established by a lease or by the laws of the Commonwealth of Pennsylvania.

**Owner** – every person or persons, jointly or severally, in whom is vested all or part of the legal title to the premises or all or part of the beneficial ownership and a right to the present use and enjoyment of the premises, including a mortgage holder in possession of a residential rental unit (same as “Owner”) who has a property right of the premises.

**Person** – an individual, proprietorship, cooperation, partnership, association or other legal entity.

**Premises** – any parcel of real property in the Borough of Throop including the land and all buildings and appurtenant structures or appurtenant elements, on which one or more residential rental units or dwelling are located.

**Residential Rental License** – a document issued by Throop Borough Enforcement Office to the owner, operator, responsible agent or manager of residential rental unit upon correction of all applicable code violations granting permission to operate a residential rental unit or dwelling unit in Throop Borough. Such licenses are required for the lawful rental and occupancy of residential rental units under this Article.

**Residential Property** – a property used or intended to be used for residential purposes.

**Residential Rental Registration** – the annual registration and certification of all individual residential rental units and/or dwelling units within Throop Borough.

**Residential Rental Unit** – any structure within the Borough of Throop, which is occupied by someone other than the owner of the real estate as determined by the most current deed and for which the owner of the said parcel of real estate received any value, including but not limited to money, for the exchange of services. A residential rental unit shall not include a hotel unit.

**Structure Unfit for Human Occupancy** – whenever the Throop Borough Code Official or its authorized representative applying the relevant Code(s) finds that such structure is unsafe, unlawful or because of the degree that the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by the relevant code constitutes a hazard to the occupants of the structure or to the public. (See also Unsafe Structure and Unsafe Equipment)

**Transient** – any individual residing or stopping in Throop Borough for less than thirty (30) days at any one time.

**Unsafe Structure** – a structure that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is possible.

**Unsafe Equipment** – any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid container or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

**Tenant** – a person who pays rent and leases a residential rental unit from a landlord for a period of time.

## SECTION IV

### Registration

A. No person shall rent or lease a residential rental unit or dwelling unit to another unless that person holds a current unrevoked residential rental license issued by the Throop Borough Code Official and it is in that persons name for the specified residential rental unit or premises.

B. The owner, operator, responsible agent or manager of each residential rental unit who rents or leases any residential rental unit in the Borough of Throop to any tenant for a period of time in excess of 30 days shall apply for a residential rental license on or before March 31 of each calendar year. In addition, the owner, operator, responsible agent or manager agrees to comply with all provisions of this ordinance and the Code as herein described.

C. The application form shall be made available at the Throop Borough office. The application form shall not be deemed complete until all required information is supported and all fees, if any, are paid. Any fees related to application and/or safety inspection shall accompany the application form made payable to Throop Borough or its designated representative.

D. Registration alone does not warrant the habitability, safety or condition of the residential rental unit.

E. It shall be the duty of the owner, landlord, manager or agent of the owner to renew the application and license prior to its stated expiration date.

F. In the case of a registered residential rental unit and/or dwelling unit that is sold, transferred or constructed, the new owner shall seek a rental registration license for each residential rental purchased or acquired. Failure of the new owner to seek a new rental registration license for each unit within sixty days of the date of sale or transfer of ownership shall result in a violation and fines as stated in this ordinance.

## **Section V**

### **Inspection**

A. Application – All residential rental units must be inspected at a minimum of one inspection every two years and upon change of occupancy. Inspections shall be conducted by ward or in an orderly manner as decided by the Borough Code official.

B. Within thirty (30) days of receipt of the complete application for a license or upon receipt of written notification of a change in occupancy, the Code Official or his designated representative shall conduct a safety inspection of the residential rental unit for compliance with this ordinance and the code as may be applicable.

C. After inspection, if the residential rental unit or premises fails to comply with the provisions of any applicable code adopted by this ordinance, the code official shall notify the owner in writing of the deficiencies within 10 days of the inspection. The

owner/operator shall be given thirty (30) days from the date of the notice to schedule a second inspection. If an inspection has not been scheduled by the owner within the given time frame, the license shall not be issued.

D. If the Code Official is required to perform a reinspection it shall be performed at a cost as per the attached rate sheet. Notice provided to a manager or local agent shall be deemed notice to the owner. All notices shall be sent by regular mail and another by certified mail return receipt requested to the owner or his/her designated local agent or manager at such address of record with the Borough. The Throop Code enforcement official shall maintain a list of all residential rental units and there ownership.

E. Inspections to be conducted at reasonable times. All occupancy safety inspections under this ordinance shall be conducted at reasonable times with prior notice to the applicant, owner, landlord, manager, or agent for the owner and tenant. Prior to seeking entry to conduct a safety inspection, the borough official or his designated representative shall display proper credentials.

F. If entry is not obtained or upon refusal of an applicant, owner, landlord, manager, tenant or agent for an owner applying for a rental license to permit entry to conduct the safety inspection mandated under this ordinance, the inspection shall not be conducted and the inspector is authorized to pursue recourse as provided by law and Section VI below.

G. Upon completion of a satisfactory inspection, the code official or his designated representative shall issue a license to the owner or to the owners local agent or manager. Upon issuance of the license the residential rental unit may thereafter be occupied as a residential rental unit.

H. Each license shall expire twelve (12) months after the date of issuance. A license may be renewed only by making application as provided in this ordinance. Applications for renewal shall be made 30 days prior to the expiration date and, one made fewer than thirty (30) days before the expiration date the dependency of the application will not prevent the expiration of the permit.

I. No license shall be issued or renewed to a non-resident applicant unless such applicant designates in writing to the Borough Official or his designated representative the name of his agent for receipt of service of any notice or violation and for service of process who must reside in Lackawanna County.

J. Any person aggrieved by any decision of a building code official or public officer may appeal to the Throop Borough Board of Appeal who shall issue a decision in writing within forty-five (45) days setting forth specific facts and legal conclusions. The owner may subsequently appeal any decision to the Court of Common Pleas of Lackawanna County.

## **SECTION VI**

### **Administrative search warrant to conduct inspection if entry refused unless an emergency situation exists.**

A. If entry to conduct an inspection pursuant to this ordinance is refused, the Throop Borough Code official and/or his designated representative is authorized to apply to an issuing authority having jurisdiction over such residential rental unit for an administrative search warrant to enter and conduct an inspection unless an emergency situation exists which requires immediate entry. If an emergency situation exists demanding immediate access to the residential rental unit, the borough official or his designated representative may conduct a prompt safety inspection even if entry is refused and even if an administrative search warrant is not obtained.

B. An administrative search warrant to enter and conduct a safety inspection may be issued upon probable cause supported by affidavit if the Borough Code official and/or his designated representative has reason to believe a violation exists within the premises to be searched, or, where an inspection is sought due to the lapse of time since the last inspection. An administrative search warrant shall be served by the Throop Borough Code official and/or his administrative representative between the hours of 6:00 a.m. and 9:00 p.m. and the entry and inspection shall be conducted within a specified period of time not to exceed two days from the day of issuance.

The Throop Borough Code official or his designated representative executing the administrative search warrant shall give notice of his or her identity, authority and purpose to any occupant of the premises specified in the warrant and shall not make a forceable entry to inspect unless an emergency situation exists.

## **SECTION VII**

### **Proof of Rental**

Proof of the residential rental registration and license shall be presented to the Code official or tenant within seventy-two (72) hours upon demand.

## **SECTION VIII**

### **Adoption of Regulations**

The following regulations are hereby adopted for the implementation of this ordinance.

A. International Property Maintenance Code of 2009 as subsequently amended and/or revised or any other law of the Commonwealth of Pennsylvania or by regulations departments or agencies of the Commonwealth adopted by Throop Borough.

## **SECTION IX**

### **Fee/Cost of Permit**

The fee for the application for a license shall be set by Throop Borough Council and may be modified, from time to time by resolution. The annual fees for both inspection and a permit are set forth on Exhibit "A" attached hereto.

Owners rights to the terms and provisions of this ordinance are not intended to bar, preclude or effect the right of the owner to pursue judicial or extrajudicial relief against a tenant.

## **SECTION X**

### **Insurance**

All owners shall be required to obtain a minimum of \$50,000.00 in general liability hazard and casualty insurance. Owners are required to place the insurance companies name, policy number and policy expiration date on their rental registration form or in the alternative to provide the code enforcement officer with a copy of the certificate of insurance. A registration certificate shall not be issued unless insurance information is provided to the code enforcement office.

## **SECTION XI**

### **Violations and Penalties**

The following shall be violations of this ordinance:



- a. failure to submit a complete application in a timely manner for an initial license, renewal license, or updated license, upon change of occupancy;
- b. Occupancy of any residential rental unit without first obtaining a license in accordance with this ordinance.
- c. Permitting the continued occupancy of a residential rental unit in the absence of the license, whether due to the expiration of the license, or for any other reason whatsoever.
- d. any violation of this Code, shall be a violation of this ordinance where such code violation occurs in a residential rental unit or on any premises on which a residential rental unit is located.
- e. failure to permit the Borough Code Official or his designated representative to inspect a residential rental unit on which is located in accordance with this ordinance.
- f. whoever violates or fails to comply with any of the provisions of this ordinance, or code, or fails to correct within the time set by this ordinance the defects for which a residential rental unit has been cited, shall be subject to a fine of not less than \$600.00 and shall upon conviction in a summary proceeding be committed to Lackawanna County Jail for a period not to exceed 30 days.
- g. the fine shall be per residential rental unit. Each month the violation exists shall constitute a separate violation.
- h. after conviction for a violation of this ordinance or code, if such person continues violating the same provision then such person shall be liable for further prosecution, conviction and punishment without the issuance of a new notice of violation or order.

Provisions of this ordinance are declared to be severable; and if any section, sentence, clause or phrase shall for any reason be held to be invalid or unconstitutional, such provision shall not affect the validity of the remaining sections, sentences, clauses

and phrases of this ordinance but shall remain in full effect it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any of its parts.

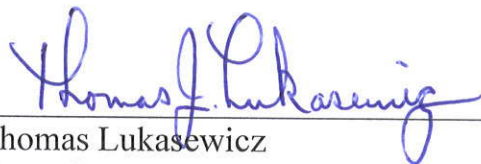
## SECTION XII

This ordinance shall become effective immediately after its enactment.

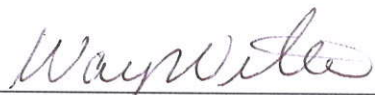
## SECTION XIII

This Ordinance is enacted by the Council of the Borough of Throop under the authority of the Act of the Legislative, as amended, December 12, 1990, P.L. 1994, No. 220, and any other applicable law arising under the laws of the Commonwealth of Pennsylvania.

**ORDAINED AND ENACTED** this 25<sup>th</sup> day of January, 2016.



Thomas Lukaszewicz  
Council President



Wayne Williams  
Mayor

Attest:



Renee O'Malley  
Secretary