

ORDINANCE NO.: 68-2018
INTRODUCED BY: Mayor Roche

AN ORDINANCE AMENDING CHAPTER 1306, "CERTIFICATE OF AUTHORIZED OCCUPANCY", OF THE CODIFIED ORDINANCES OF THE CITY OF RICHMOND HEIGHTS; AND DECLARING AN EMERGENCY.

WHEREAS, the City requires that a property owner obtain a Certificate of Authorized Occupancy before a property owner may enter an agreement to rent or lease residential property;

WHEREAS, the Building Commissioner must inspect the interior premises and exterior premises and property areas of the dwelling structure used for rent or lease before the required certificate may be issued to the property owner; and

WHEREAS, on advice of legal counsel, Council believes that it is beneficial to the public health, safety, and general welfare to adopt the amendments proposed by this Ordinance.

NOW, THEREFORE, Be It Ordained by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: Sections 1306.02, 1306.03, 1306.06, 1306.07, 1306.09, and 1306.10 of the Codified Ordinances of the City of Richmond Heights are amended to read as follows:

1306.02 CERTIFICATE OF AUTHORIZED OCCUPANCY.

On or after January 1, 2008, no person shall occupy a rental unit, and no owner, agent or person in charge of any dwelling structure, including but not limited to a single-family dwelling, two-family dwelling, multi-family dwelling, multiple dwelling and double house, used or designed or intended to be used as a single-family dwelling unit shall rent or lease a rental unit for residential occupancy unless the owner thereof ~~holds~~ has submitted an application for a certificate of authorized occupancy ~~to~~ issued by the Commissioner of Building, Zoning and Housing ("Building Commissioner") and either a certificate of authorized occupancy has been issued by the Building Commissioner or the written notice by the owner or the owner's authorized agent has been served upon a prospective tenant or lessee for the rental unit, pursuant to Section 1306.03 (e) of this chapter, ~~which~~ There shall be no occupancy of a rental unit that is subject to the regulations of this chapter where the certificate of authorized occupancy required by this chapter has not expired, been revoked or otherwise become null and void, or unless: the written notice to the prospective tenant or lessee has been served as provided for by Section 1306.03 (e) of this chapter; or such dwelling structure or part thereof is licensed as a temporary rooming house.

1306.03 APPLICATION, INSPECTION, AND ISSUANCE.

(a) Application. An application for a certificate of authorized occupancy shall be made annually and separately for each rental unit and/or multiple dwelling to the Building Commissioner on forms supplied by him and shall be accompanied by the fee required by the provisions of this chapter. The annual application shall be made annually by December 31 of the previous calendar year for which the application is made and be in writing by supplying necessary information to determine compliance with applicable laws, ordinances, rules, and regulations for the existing use or occupancy or the intended use or occupancy. Such information shall include, but need not be limited to, the following:

- (1) The name, address and telephone number of the owner of the property;
- (2) The name, address and telephone number of the agent or person in charge of the property, if any;
- (3) The address of the property and the number of dwelling units contained in the dwelling structure;
- (4) The current name, address, and telephone number of the persons who, since the last application, have been occupying the dwelling unit, and the address or identification of the dwelling unit which they occupied; and
- (5) The familial relationship, if any, among the persons listed in paragraph (a)(4) above.

The Building Commissioner may require the submission of an affidavit stating the foregoing information. Should any of the required information change during the period for which a certificate is issued, such changes shall be timely conveyed to the Building Commissioner to allow for up-dating of records.

(b) Applications for a certificate of authorized occupancy pursuant to this chapter that are requested to be issued for the year in which the application is made and that are issued by the Building Commissioner shall only be effective through December 31 of that year.

(b) c Inspection. The Building Commissioner shall inspect or cause to be inspected the interior premises and exterior premises and property areas of the dwelling structure used for rent or lease within thirty (30) days of the initial application for a certificate of authorized occupancy. The purpose of the inspection is to enable the Building Commissioner to list any repairs or other work necessary to eliminate any unsafe or hazardous conditions, to ensure compliance with applicable requirements of the Planning and Zoning Code,

Building Code, Fire Prevention Code and other relevant ordinances, and also to correct any unlawful nuisance conditions, at least once every three (3) years thereafter for rental units that are not within a multiple dwelling, and once per year thereafter for each rental unit in a multiple dwelling.

(d) If the owner, occupant, or agent thereof does not consent to the inspection provided for in subdivision (b) of this section, then the Building Commissioner or the Commissioner's agent may appear before a judge in a court of competent jurisdiction and seek an administrative search warrant to allow an inspection. Any such application shall be made within ten (10) calendar days after the non-consent. The application for the warrant shall specify the basis upon which the warrant is being sought and shall include a statement that the inspection will be limited to a determination whether there are violations of the Planning and Zoning Code, Building Code, and Fire Prevention Code. The court may consider any of the following factors along with such other matters as it deems pertinent in its decision as to whether a warrant shall issue:

- (1) Eyewitness account of violation;
- (2) Citizen complaints;
- (3) Tenant complaints;
- (4) Plain view violations;
- (5) Violations apparent from city records;
- (6) Property deterioration;
- (7) Age of property (or the septic system);
- (8) Nature of an alleged violation;
- (9) Condition of similar properties in the area;
- (10) Documented violations on similar properties in the area;
- (11) Passage of time since last inspection; and/or
- (12) Previous violations on the property.

(e) If, a warrant as referred to in subdivision (c) of this section, is issued, no owner, occupant, or agent thereof shall fail or neglect, upon presentation of a warrant, to properly permit entry of the subject premises by the Building Commissioner or the Commissioner's authorized designee.

(f) If the court declines to issue a warrant, or if no warrant is sought, the inspection shall still take place but the scope thereof shall be limited to such areas that are in plain view. However, if the Building Commissioner only conducts a limited scope inspection of areas in plain view, the owner or the owner's authorized agent shall be obligated to notify the prospective tenant or lessee, in writing within ten (10) days of notice to the owner or the owner's authorized agent of the limited scope inspection by the Building Commissioner and that the property has not been fully inspected by the Building Commissioner. No criminal penalty shall attach solely by reason of the owner's, occupant's, or agent's refusal to consent to a full

inspection by the Building Commissioner.

(eg) Issuance. If a full inspection has occurred and it is found that a rental unit is in compliance with the provisions of this Code and all other laws, ordinances, rules, and regulations applicable thereto, the Building Commissioner shall issue a certificate of authorized occupancy valid until December 31 of the calendar year for which the certificate is issued. A certificate of authorized occupancy for such rental unit shall contain the following information:

- (1) The street address or other identifying characteristics of the dwelling structure.
- (2) The name and address of the owner, and if the owner does not reside on the premises, the name and address of the resident agent in charge of the dwelling structure, and the name and address of the nonresident agent, if any.
- (3) The exact nature and extent of the use or occupancy authorized.
- (4) The period for which such certificate of authorized occupancy is issued.

(d) Certificate must be valid. Such certificate shall be valid through December 31 of the calendar year for which it is issued unless there is until a change or alteration of the premises ~~alter~~ which revises the authorized occupancy, or until there is a change in the ownership of the premises.

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1306.06 POSTING OF CERTIFICATE.

If the Building Commissioner has issued a Certificate of Authorized Occupancy, then the owner, agent or person in charge of every dwelling structure shall cause to be posted conspicuously at all times, at the main entrance of such structure, the certificate of authorized occupancy hereinbefore required. Such certificate shall be provided with a protective covering and shall be securely affixed to the wall.

1306.07 NEW OR REMODELED BUILDING.

(a) The owner of a dwelling structure which will be completed or remodeled and available for occupancy subsequent to January 1 of any year and which requires a certificate of authorized occupancy, shall apply for such certificate as soon as practicable, ~~but in no event shall the structure be occupied in whole or in part until the certificate of authorized occupancy has been issued.~~ Failure to so apply will be deemed

to be a violation of this chapter and will subject the owner of the structure to the legal action and penalty described herein.

(b) Any new or remodeled dwelling structure must also comply with Chapter 1305.

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1306.09 CHANGES IN OWNERSHIP.

In the event there is a change in ownership of record, the certificate of authorized occupancy issued under the provisions of this chapter to the former owner shall become null and void within thirty (30) days of the recorded date of such change of ownership and the new owner must apply for a new certificate of authorized occupancy ~~must be obtained by the new owner~~. Application for such new certificate of authorized occupancy shall be made not more than thirty (30) days after such change in ownership has occurred, on forms supplied by the Building Inspector. A fee of one hundred dollars (\$100.00) shall be paid upon application for each such new certificate. The new certificate shall expire on the same date as that of the certificate which it replaces.

1306.10 CHANGE IN USE OR OCCUPANCY.

Any change in the nature or extent of the use or occupancy as specified on the certificate of authorized occupancy shall render the certificate of authorized occupancy null and void upon the happening of such change. ~~No such change is permissible under this Code unless such change has been approved by the proper City authorities pursuant to this Code, and unless a new certificate of authorized occupancy, incorporating such change, has been issued.~~ Any such change without the approval of the proper City authorities will subject the owner, operator or agent to the penalties provided in this Code."

Section 2: Existing Chapter 1306 and any other ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed but only to the extent of the conflict.

Section 3: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and general welfare of the City, its residents and visitors, and for the further reason that this Ordinance must be immediately effective to provide for a court-issued warrant for inspections, if necessary, or notice to tenants and lessees of potential safety hazards upon occupancy of a dwelling unit; wherefore, this

Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: June 26, 2018

David H. Roche
David H. Roche, Mayor

APPROVED: June 26, 2018

ATTEST: Betsy Traben
Betsy Traben
Clerk of Council

Eloise Cotton-Henry
Eloise Cotton-Henry
President of Council