

**AN ORDINANCE TO ENSURE SAFE RENTAL/LEASE HOUSING IN THE
CITY OF HINTON, WEST VIRGINIA**

WHEREAS, the City Council has been made aware that rental housing and leased housing in Hinton, West Virginia, is not always kept in safe and respectable conditions for the tenants threatening the health, safety and general welfare of the residents of the City of Hinton;

WHEREAS, the City Council is committed to becoming more vigilant respecting all matters involving rental and/or leased dwellings or buildings and their safety of the community members who reside or work in those dwellings or buildings;

WHEREAS, in order to facilitate the public good and promote the general public welfare, the City Council has determined that these structures must be maintained to promote the health, safety, and general welfare of the residents of the City of Hinton;

WHEREAS, the City needs a new ordinance to adopt and enforce this upkeep by landlords to protect the residents of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL, AS FOLLOWS:
THAT ARTICLE ____ OF THE ORDINANCES OF THE CITY OF HINTON BE ENTITLED
“AN ORDINANCE TO ENSURE SAFE RENTAL/LEASE HOUSING IN THE CITY OF
HINTON, WEST VIRGINIA”.

Is hereby enacted as follows:

1. **Purpose & Scope.**

- a. *Purpose.* The purpose of this article is to ensure the health, safety, and welfare of the residents of the City of Hinton by providing for registration and regular inspection of rental/leased housing to ensure compliance with the Building Code and Fire Code. In instances where compliance is not met, this Ordinance provides fines and remedies to ensure enforcement. This Ordinance also ensures that the Summers County Assessor’s Office and the Summers County Sheriff’s Tax Office have been notified of the location and all rental/leased housing realty within the City, and that all such rental/leased housing/realty is classified by the Sheriff’s Tax Office accordingly.
- b. *Scope.* This article applies to all rental/leased dwellings, households, buildings, and/structures within the City. An owner-occupied single-family dwelling is not governed by this article unless the dwelling, or a portion of the dwelling, is offered for rent to more than one tenant.

2. **Definitions.**

Terms used in this article or in the administration of powers given unto the City shall have the meanings below.

As used in this article:

- a. *Dwelling* means any house, building, or mobile home or portion thereof intended to be occupied as the place of habitation of human beings, either permanently or transiently, but excluding hotels, bed and breakfast establishments, and similar businesses catering to travelers. State-licensed health and custodial facilities are excluded.
- b. *Dwelling unit* means one or more rooms intended to be occupied for living purposes by an individual or group of individuals as a single residence for the individual or group of individuals.
- c. *Rental and/or Leased Structure* means a structure containing one or more rooms intended to be occupied for business purposes, or purposes other than that of a dwelling unit, but which still requires a minimum occupancy of workers no less than thirty hours per regular, non-holiday, calendar week.
- d. *Code Enforcement Officer* means the Code Enforcement Officer or Building Inspector of the City, the Fire Marshal of the City, and any employee of the City designated by the city to perform inspections for compliance with this article or the Building Code or Fire Code.
- e. *Inspection report* means a document issued by the Code Enforcement Officer to show that the premises have been inspected, the date and time of such inspection and setting time periods for rectification of deficiencies noted.
- f. *Letter of compliance* means a document issued by the Code Enforcement Officer indicating the subject inspection found the premises to be in substantial compliance with this article on the date of inspection and enclosing a copy of the inspection report.
- g. *Occupant* means any person living, sleeping, cooking or eating in, having a business in, or having actual possession of a dwelling unit and/or rental or leased structure.
- h. *Operator* means any person, including the owner, who has charge, care or control of a building including one or more rental dwelling units and/or the rental/leased structures.

- i. *Owner* means any person who alone, jointly or as tenant in common with others, has legal or equitable title to any dwelling unit or rental/leased structure with or without accompanying actual possession thereof. For the purposes of this article, "owner" includes an agent of the owner empowered by the owner to act on the conditions or under the circumstances in question.
 - j. *Owner-occupied single-family dwelling* means any townhouse, condominium or detached dwelling that is occupied as a dwelling by the owner. It is one dwelling unit even if no more than two roomers occupy one bedroom of the dwelling.
 - k. *Person* means a natural person, his or her heirs, executors, administrators, or assigns and also a firm, partnership or corporation and its, or their, successors or assigns.
 - l. *Premises* means a lot and its buildings and other improvements.
 - m. *Rent* means payment of money, goods, labor, service or otherwise for use of a dwelling.
 - n. *Tenant* means an occupant of a rental dwelling unit who has signed a lease or made a verbal contract exceeding a seven consecutive day commitment.
3. **Applicability.**
- a. Other Laws
 - i. This article is not intended to abrogate any of the rights and responsibilities normally ascribed to the tenant or the landlord under the laws of West Virginia whether set out by case law or by the West Virginia Code or any other applicable laws.
 - ii. The minimum requirements of this article may not be waived, either intentionally or impliedly, by either party to a rental agreement.
 - iii. Violation of this article shall constitute a misdemeanor and any person violating the article shall be subject to the penalties stated in this article and provided by law.
 - iv. If any provision of these regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these regulations which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable
 - b. Other codes and ordinances; regulations.

- i. This article is in addition to all housing requirements of other City ordinances, and the law of the State, as the case may be.
 - ii. The Code Enforcement Officer or other designee shall prepare and maintain any and all forms and regulations necessary and convenient to the administration of this article. All regulations shall be reduced to writing, dated, and delivered to the City Clerk for retention with the records of the City. The current forms and regulations shall be available to the public from the office of the Code Enforcement Officer or City Hall.
4. **Enforcement.**
- a. Illegal conditions; penalty.
 - i. It shall be illegal for any owner or operator to rent or offer for rent any dwelling units and/or rental/leased structure for use in whole or in part for human habitation without a valid letter of compliance issued to said owner or operator for such dwelling unit. Any person who rents or offers for rent a dwelling unit and/or rental/leased structure without a valid letter of compliance shall be subject to a mandatory penalty of \$100.00 per month for each month that the unit was illegally occupied subject to a maximum penalty of \$500.00.
 - ii. It shall be illegal for any person to occupy or allow any other person to occupy any dwelling unit and/or rental/leased structure more than the time period indicated in the letter of compliance for that dwelling unit or building, or after the Code Enforcement Officer finds that vacation of the dwelling unit or building is necessary to protect the health and safety of occupants or the public under this article or the Building Code or Fire Code.
 - b. Application for letter of compliance; filing deadlines; fees.
 - i. Application for a letter of compliance shall be submitted in writing, on forms provided, to the Code Enforcement Officer and shall contain at least:
 - The address or addresses of the dwelling and/or rental/leased structure;
 - The number of dwelling units in the dwelling;
 - The number of rental/leased structures in the structure;
 - The name, address and telephone number of the owner, the agent, operator, or other person to contact in case of a violation or

emergency, who must be a resident of the State of West Virginia with authority to enter the dwelling and/or rental/leased structure and correct any violation;

- The tax map and parcel number for the realty;
- For each dwelling unit within the dwelling:
 - Whether the application is for an initial or a renewal letter of compliance;
 - Number of off-street parking spaces available on site; and
 - Dwelling unit and/or rental/leased structure identification or number.
- A statement that the applicant has notified the Summers County Assessor's Office that the realty should be classified as Class IV realty in accordance with State law.

- ii. Any applicant who provides false information on the application shall be in violation of this article, and the application containing false information shall be denied, in addition to any other penalty provided by law. If the Code Enforcement Officer determines, after a letter of compliance has been issued, that the application for the letter of compliance contained false information, the Code Enforcement Officers may immediately revoke the letter of compliance by providing written notice to the applicant and by posting the notice at the dwelling.
- iii. Complete applications for a letter of compliance shall be filed at least 60 days before a letter of compliance will be needed for occupancy of the dwelling involved in the application.
- iv. Upon receiving an application for a letter of compliance, the Code Enforcement Officer will determine whether the application is complete and notify the applicant in writing either that:
 - More information is required; or
 - The application is complete.
- v. An application will be deemed complete only when it provides all information required by this article and the forms and regulations of the Code Enforcement Officer and is accompanied by the fee prescribed by the current fee schedule published by the City.

c. Inspections.

- i. After receiving a complete application pursuant to Section 4(b), the Code Enforcement Officer will conduct an inspection of the dwelling; provided that the inspection of a single-family owner-occupied dwelling will be limited to the rented area(s) together with the utilities serving them and the means of accessing them. The inspection shall include individuals certified to inspect the dwelling and/or structures for compliance with the Building Code and the Fire Code; except that the Fire Marshal shall determine whether the dwelling is subject to the Fire Code, and, if it is not, provide a written waiver of inspection for compliance with the Fire Code.
- ii. The Code Enforcement Officer will notify the contact person identified on the application of the scheduled inspection at least ten days in advance of said inspection in writing. The Code Enforcement Officer may enter the dwelling and/or structure to perform an inspection with the permission of any occupant or with the permission of the contact person identified on the application, if the contact person represents that s/he has the authority to grant entry to the dwelling/structure. If the Code Enforcement Officer cannot obtain permission to enter for inspection, the Code Enforcement Officer may apply for a search warrant to conduct the inspection from any judicial officer having jurisdiction to issue such a warrant.
- iii. The Code Enforcement Officer shall promptly attempt to inspect any dwelling at the written request of the owner, or upon receipt of a written complaint from a person with demonstrable interest as an owner, occupant, tenant, or lessee of the dwelling unit and/or a rental/leased structure, the dwelling, structure, or an abutting property, which states the nature of the noncompliance with this article or the Building Code or Fire Code and includes evidence that the subject matter of the complaint has been reported to the operator in writing and that five working days have since passed without the operator having made an effort to correct the alleged problem. In addition, the Code Enforcement Officer may inspect any dwelling as frequently as necessary to ensure correction of any violation of this article or the Building Code or Fire Code. The fact that a complaint of nonconformance with this article is made by the occupant shall not be used

as a ground, cause or basis for termination of the tenancy or reduction of services by the owner. However, at the end of any lease, the owner may change occupants.

- iv. The Code Enforcement Officer will prepare a written report of each inspection performed under this article. Each report should document any violation of this article and any order to an owner or operator to correct the violation together with the time period given for correction.
 - v. If the Code Enforcement Officer identifies a violation of this article, the Code Enforcement Officer shall notify the contact person for the dwelling and/or structure in writing within 3 days of the inspection and shall post notice of the violation at the property. The written and posted notice may be copies of the inspection report.
 - vi. If a violation noted in an inspection report is corrected, or if it is determined in accordance with any process established pursuant to the Building Code or the Fire Code that the condition does not constitute a violation, the Code Enforcement Officer shall notify the contact person for the dwelling or structure in writing and shall post notice of the corrected violation at the property. The written and posted notice may be copies of the inspection report if the determination is based on an inspection.
- d. Letter of compliance; term.
- i. The Code Enforcement Officer will issue a letter of compliance for each dwelling unit upon a determination that:
 - The application is complete;
 - An inspection has been completed documenting compliance with this article;
 - The owner and applicant have paid all outstanding fees and penalties due under this article; and
 - The operator of the dwelling unit has a valid license to do business in the City.
 - ii. If the Code Enforcement Officer determines that any of these conditions is not met, the Code Enforcement Officer shall deny the application and notify the applicant of the reason for denial in writing. The letter of compliance shall be issued within two business days of the Code Enforcement Officer's

determination that the required conditions for issuance of the letter of compliance are satisfied.

- iii. If dwelling units of a dwelling or rental/leased structures of a structure are not all in compliance, or if the Code Enforcement Officer determines that occupancy of a dwelling unit will not endanger the occupants despite a violation of this article, the Code Enforcement Officer may, but shall not be required to, issue a temporary letter of compliance for each dwelling unit and/or rental/leased structure conforming to the provisions of this article, which shall be valid for 90 days from the date it is issued, or any shorter period stated on the temporary letter of compliance. No more than two consecutive temporary certificates of occupancy may be issued for a dwelling or dwelling unit without the issuance of a letter of compliance.
- iv. A copy of the letter of compliance shall be available for inspection at City Hall.
- v. Each letter of compliance for a newly registered dwelling unit shall be valid for three years from the date it is issued. Each letter of compliance for a previously registered dwelling unit and/or rental/leased structure shall be valid for three years from the date of expiration of the previous letter of compliance, unless the dwelling unit was not rented or offered for rent for a period of more than two years, in which case it shall be treated as a newly-registered dwelling unit for purposes of this paragraph.
- vi. The letter of compliance shall include at least:
 - The information contained in the application,
 - the date of inspection,
 - the name of the Inspector,
 - the date of issue, and
 - date of expiration.
- vii. If there is a change in ownership of a dwelling unit that has been issued a letter of compliance, including a transfer to a third party, a transfer or change of controlling interest in the owner, or a change in name of the owner, the owner shall register with the City within 30 days of the change of ownership event upon such forms as designated by the City. The fee for

administrative processing of any such change shall be as provided in the current fee schedule published by the City.

- viii. For dwellings with multiple dwelling units, the Code Enforcement Officer may, but shall not be required to, issue a letter of compliance for the entire dwelling that includes all the required information and that lists the address for each dwelling unit.
- ix. The Code Enforcement Officer may revoke a letter of compliance upon determination that a dwelling unit is in violation of this article. The revocation shall be effective upon delivery to the contact person of record on the application for the dwelling unit, or at a later time stated in the written notice. The Code Enforcement Officer may, but shall not be required to, issue a temporary certificate of occupancy in connection with the revocation notice that allows occupancy of the dwelling unit to continue while the violation is corrected. The temporary certificate of occupancy shall be subject to the conditions for temporary certificates of occupancy pursuant to this section.

5. **Minimum health and safety standards for occupants.**

- a. Maximum occupancy shall be determined by the requirements of the Building Code, Fire Code, and the City zoning ordinance. A structure that does not have required Fire Code protections for the permitted maximum occupancy is in violation of this article. Upon discovery of a violation of this section and an initial citation being issued, the property owner shall, in addition to any other penalty or remedy provided by law, be required to reduce the occupancy level to that established by ordinance of this City within 20 days or be subject to additional citation(s).
- b. An operational single station carbon monoxide detector with a suitable alarm or a combination smoke detector and carbon monoxide detector, which shall be alternating current (AC) powered, either plugged directly in to an electrical source, with battery backup, shall be installed, maintained, tested, repaired or replaced, if necessary, in accordance with manufacturer's direction as follows:
 - In the sleeping rooms of any existing one- and two-family dwelling unit, apartment or lodging and rooming house intended to be rented or leased

which has fuel-burning, heating or cooking sources including, but not limited to, furnace, stove, or hot water heater;

- In the sleeping rooms of any existing one- and two-family dwelling unit, apartment or lodging and rooming house that is connected to a garage, storage shed or barn, which has fuel-burning heating or cooking sources, including, but not limited to, a furnace, stove, or hot water heater;
 - All single station carbon monoxide detectors with a suitable alarm or combination smoke detector and carbon monoxide detectors shall be hardwired into alternating current (AC) electrical source, with battery back-up when installed in newly constructed one- and two-family dwelling units whether owned or intended to be rented or leased, apartment or lodging and rooming houses.
- c. Any person installing a carbon monoxide detector in a residential unit shall inform the owner, lessor or the occupant or occupants of the residential unit of the dangers of carbon monoxide poisoning and instructions on the operation of the carbon monoxide detector installed.
- d. When repair or maintenance work is undertaken on a fuel-burning heating or cooking source or a venting system in an existing residential unit, the person making the repair or performing the maintenance shall inform the owner, lessor or the occupant or occupants of the unit being served by the fuel-burning heating or cooking source or venting system of the dangers of carbon monoxide poisoning and recommend the installation of a carbon monoxide detector.
- e. No person other than the owner, operator, owner/operator's licensed contractor, or owner/operator's maintenance personnel when performing maintenance or other work upon a dwelling regulated by this article, other than a single-family owner-occupied dwelling, shall be on the roof, or any portion of a roof, of any structure for any reason. Should the owner or operator of a structure desire to convert a roof area so that it may be legally occupied by persons, a building permit from the City shall be required. When applying for the building permit, the owner or operator shall provide to the City a written document, prepared and signed by a structural engineer, stating that the proposed structural modification to the roof will result in the roof area in question meeting both live and dead loads established by the then-current State Building Code for a deck or any elevated surface.

Engineer or architect signed and sealed construction plans shall be required. All current State Building Code requirements including, but not limited to, construction requirements, railing requirements, height requirements, fastening requirements, and live and dead load requirements shall be met. A certificate of occupancy issued pursuant to the Building Code for the roof area shall be required before the roof area can be used or occupied. Any person who is on a roof regulated by this paragraph for purposes other than those authorized in this paragraph shall be guilty of a misdemeanor and subject to a fine of not less than \$100.00 nor more than \$500.00.

- f. Any landlord renting or leasing a dwelling unit and/or rental/leased structure with heating systems, water systems, electrical systems, and the like, shall be required to maintain those systems and the rental unit or structure shall, at all times, remain habitable for the resident, occupant, etc., of the unit or structure, as defined by the West Virginia Code.

6. **Penalty.**

- a. In addition to any other penalty provided in this article, a violation of any provision of this article shall constitute a misdemeanor punishable by a fine of up to \$500.00. Each day a violation continues shall constitute a separate offense.

7. **Severability.**

- a. The provisions of this article are severable. If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provisions or application.

This Ordinance shall be adopted upon passage and approval by the Hinton City Council.

Mayor, Jack Scott

Council President, James Leslie

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