

ORDINANCE 2017-01-L&R

ORDINANCE AMENDING SECTION 1335 OF THE GREENHILLS CODE OF ORDINANCES REGARDING RENTAL DWELLINGS AND UNITS

WHEREAS, the Village of Greenhills has had a rental inspection program in place since 2007; and

WHEREAS, the decision of a recent court case in the State of Ohio requires that the Greenhills program be updated accordingly;

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Greenhills, Ohio.

SECTION 1. Section 1135 of the Greenhills Code of Ordinances shall be amended to read as follows:

1335.01 PERMITS.

(a) No owner of residential real property located within the Village shall rent, or seek to rent, any dwelling or dwelling unit in such real property for any form of consideration unless he or she holds a valid Conditional Rental Permit or Rental Permit issued by the Office of the Municipal Manager in the name of the Owner and for the specific dwelling or dwelling unit for rent. The term "Owner" shall have the same meaning as defined in Section 1321.011.

(b) (1) A Rental Permit shall be valid for a three (3) year period except as provided hereinafter. An Owner shall be required to obtain a new Rental Permit at the expiration of the three (3) year period. Except as provided hereinafter, a Conditional Rental Permit shall be valid for the period specified in the Conditional Rental Permit as set forth in subsection (i)(2) herein.

(2) If, during the time period specified above, the occupancy of the dwelling or dwelling unit for which the Rental Permit or Conditional Rental Permit has been issued transfers from one tenant to another ("Transfer of Occupancy"), the issued Rental Permit or Conditional Rental Permit shall expire and the Owner shall be required to obtain a new Rental Permit or Conditional Rental Permit. The Owner shall have two (2) weeks after the transfer of the occupancy of the dwelling or dwelling unit to apply for a new Rental Permit or Conditional Rental Permit. If an Owner fails to notify the Office of the Municipal Manager of a Transfer of Occupancy within two (2) weeks, the Rental Permit or Conditional Rental Permit for the dwelling or dwelling unit in which the occupancy

has changed shall be deemed revoked and the Owner shall be subject to the penalties contained in subsection (o) herein. A submitted application and payment of fees by an Owner for the renewal of a Rental Permit or Conditional Rental Permit shall operate as authority for the Owner to rent the dwelling or dwelling unit for which the Renewal Application has been made, until such time as the office of the Municipal Manager denies or issues a subsequent Rental Permit or Conditional Rental Permit.

(3) A residential property will not be required to be inspected for a new Rental Permit or Conditional Rental Permit upon a Transfer of Occupancy if the dwelling or dwelling unit has been inspected and approved for occupancy within the three hundred sixty-five (365) days prior to the transfer of occupancy. In such event, the Rental Permit or Conditional Rental Permit shall expire at the end of the period specified in the prior Rental Permit or Conditional Rental Permit. Notwithstanding the foregoing, a dwelling or dwelling unit shall be required to be inspected if written complaints about the condition of the dwelling or dwelling unit have been filed with the Village, by the occupants of the dwelling or dwelling unit during the preceding one sixty (60) days prior to the Transfer of Occupancy.

(c) An Owner shall apply for Rental Permit or Conditional Rental Permit by filing a written application with the Office of the Municipal Manager which contains the following information:

(1) Name of Owner;

(2) address of Owner;

(3) address of property to be inspected;

(4) date of change of ownership or Transfer of Occupancy, if applicable;

(5) any other information reasonably requested by the office of the Municipal Manager including all information required by subsection (d) herein.

(d) The application for a Rental Permit or Conditional Rental Permit shall be in affidavit form, and the Owner shall be required therein to answer, to the best of his/her knowledge, all pertinent questions with respect to the conformance of the subject property to this chapter and to all other applicable ordinances, rules, and regulations related to the construction, condition and appearance of the dwelling or dwelling unit. Within two (2) weeks of the effective date of this section, any Owner currently renting or seeking to rent a dwelling or dwelling unit within the Village must submit an application as required by this section. The initial Rental Permit or Conditional Rental Permit shall be issued by the office of the Municipal Manager as soon as feasible after the Village ~~Housing Inspector~~ Code Official has had an opportunity to conduct an on premises inspection and the office of the Municipal Manager has determined that the dwelling or dwelling unit complies with the applicable provisions of this Chapter.

(e) (1) Prior to issuing a Rental Permit or Conditional Rental Permit, the Office of the Municipal Manager shall request ~~require~~ an inspection of the dwelling or dwelling unit by the ~~Village Building Official~~ Code Official or his/her designee (except as provided under subsection (b)(3) herein). If the property owner, after being given seven (7) calendar days to ~~comply with~~ voluntarily consent to a request to make the subject property available for inspection, refuses to allow voluntarily consent to an inspection, the ~~Building Official~~ Village Code Official may seek an administrative search warrant for the premises in order to complete the inspection, prior to the issuance of the permit. For the purposes of this administrative search warrant, probable cause in the criminal law sense is not required. Probable cause justifying the issuance of an administrative search warrant may be based not only on specific evidence of an existing violation, but also on a showing that reasonable legislative or administrative standards for conducting an inspection have been satisfied with respect to the particular property, including but not limited to the passage of time, the nature of the building, or the condition of the entire area.

(2) A dwelling or dwelling unit shall not be required to be inspected by the Office of the Municipal Manager in the event that the dwelling or dwelling unit has not had any violation during the two (2) previous inspections required under this subsection (e). In such event, the owner shall be entitled to receive a new Rental Permit for the period specified in subsection (b) herein without an inspection. Thereafter, the dwelling or dwelling unit will again be required to be inspected as provided herein.

(f) The ~~Building~~ Village Code Official shall inspect the dwelling or dwelling unit for compliance with all ordinances, rules and regulations applicable to the construction, condition and appearance of the subject property, including specifically the dwelling or dwelling unit's compliance with Sections 1321.20, 1321.21, 1321.22, 1321.23, 1321.26 and 1321.27 of the Village Uniform Housing Code and Chapters 909, 1311, and 1511 ~~and Sections 1311.01 and 1511.03~~ of the Village Codified Ordinances and the provisions of this Section. If the Building Official determines, after inspection, that the property is in compliance with the applicable Code sections, he/she shall certify the same to the Office of the Municipal Manager.

(g) The Owner shall pay an application ~~and~~ inspection fee as set forth herein. For any dwelling or dwelling unit, an Owner shall pay an application fee of thirty ~~twenty~~ -five dollars (\$325.00), or as determined by Council from time to time pursuant to the most current fee schedule. For a structure in which there are multiple dwellings or dwelling units, the application fee shall be five dollars (\$5.00) for each dwelling or dwelling unit with a minimum application fee of ~~twenty~~ thirty-five dollars (\$325.00). Any owner-occupied dwelling or dwelling unit shall not be subject to an application fee, but each additional dwelling unit in a structure will be charged a five dollars (\$5.00) application fee with a minimum application fee of thirty ~~twenty~~-five dollars (\$325.00). The application fee shall cover the cost incurred by the office of the Municipal Manager in reviewing any application as well as the initial inspection which is required under subsection (f) herein. In the event that any violation of the rules, regulations and ordinances set

forth in subsection (f) herein are found by the building official and/or his designee, an additional inspection will be required. This fee structure shall be reviewed annually ~~prior to the submittal of the Village's annual budget~~ by the Village Council and adjusted if necessary and appropriate.

(h) The Office of the Municipal Manager or his/her designee shall issue a Rental Permit to an Owner who:

(1) Pays the permit fee required in this section;

(2) Files a written application in accordance with this chapter;

(3) Secures the endorsements required by this section;

(4) Complies with this chapter and the rules, regulations and ordinances applicable set forth in subsection (f) herein;

(5) Demonstrates that he/she does not have any outstanding fees due and owing pursuant to this section and does not have any delinquent fines as the result of a conviction for the failure to comply with Chapter 1335 of the Greenhills Codified Ordinances.

(i) (1) When an Owner has applied for a Rental Permit, and upon inspection, the Building Official is unable to certify that the dwelling or dwelling unit for which a Rental Permit is sought conforms to the requirements of this chapter or the rules, regulations and Ordinances in the Condition for Occupancy Checklist of subsection (f), the Office of the Municipal Manager may, when the nonconformity in his/her opinion does not constitute an immediate threat or danger to the health, safety, or public welfare of the community or the inhabitants or potential inhabitants of the dwelling or dwelling unit, issue a Conditional Rental Permit to the applicant. The office of the Municipal Manager shall not grant a Conditional Rental Permit if the dwelling or dwelling unit constitutes an immediate threat or danger to the health, safety or public welfare of the community or the inhabitants or potential inhabitants of the dwelling or dwelling unit. The denial of any such application shall be subject to the appeal procedure provided for in this chapter.

(2) A Conditional Permit shall set forth the reasons why the dwelling or dwelling unit do not conform to this chapter and the Condition for Occupancy Checklist, and the time allowed for the Owner to secure conformity (which time shall not exceed ninety (90) days). The Office of the Municipal Manager and/or his/her designee may give notice of its intent to revoke the Conditional Permit at any time if he/she determines that the continued nonconformity constitutes an immediate threat or danger to the health, safety, or public welfare of the community, or the inhabitants or potential inhabitants of the dwelling or dwelling unit, or he/she may extend the period for securing conformity, if, in his/her opinion, the continued nonconformity does not constitute a threat or danger, which extensions shall not exceed an additional sixty (60) days ("Extension Period"). If the Owner has not fulfilled the requirements under the Conditional

Rental Permit within the time specified in the Conditional Rental Permit and/or the Extension Period, the Conditional Rental Permit shall expire. If an Owner fulfills the requirements under a Conditional Rental Permit within the time specified, the Owner shall be granted a Rental Permit which shall be valid for a three (3) year period.

(j) Whenever, upon inspection of any dwelling or dwelling unit requiring a Rental Permit or Conditional Rental Permit, the Building Inspector finds that conditions or practices exist which are in violation of any provision set forth in subsection (f) herein, the office of the Municipal Manager shall give notice in writing to the owner of such violations. If the owner has not corrected the violations within thirty (30) days of receiving notice from the office of the Municipal Manager, the Municipal Manager shall give written notice to the owner that the issued Rental Permit or Conditional Rental Permit shall be revoked subject to the appeal process provided for in this chapter.

(k) Any decision by, or issue raised by action of, the Office of the Municipal Manager under this chapter is subject to appeal to the Village Council by filing a written notice of appeal within fifteen (15) days after receipt of a written notice or letter by the Office of the Municipal Manager of noncompliance or refusal to issue a permit. Village Council shall provide the owner with written notice at least ten (10) days' prior to when it will review the decision of the Municipal Manager, and such appeal hearing shall take place at a regularly scheduled meeting of the Village Council within thirty (30) days after receipt of the written notice of appeal. The final decision of Village Council shall be stayed for thirty (30) days to allow the owner to seek judicial review.

(l) Upon the proper filing of a written notice of appeal pursuant to subsection (k) hereof, an administrative stay shall be issued such that no Rental Permit or Conditional Rental Permit may be revoked until the conclusion of the appeal process provided for in subsection (k) hereof.

(m) An owner may seek judicial review of an adverse decision by Village Council in the Hamilton County Court of Common Pleas pursuant to the provisions of Section 2506 of the Ohio Revised Code governing administrative appeals.

(n) A Conditional Rental Permit or Rental Permit as provided in this section is transferable only by notification to the Office of the Municipal Manager. When an Owner transfers his or her interest in or control of a dwelling or dwelling unit, he/she shall notify the Office of the Municipal Manager in writing within five (5) days after the transfer. The notice shall include the name and address and telephone number of the person who has succeeded to his or her interest or control.

(o) An Owner who rents or seeks to rent, any dwelling or dwelling unit for any form of consideration without a valid Conditional Rental Permit or Rental Permit as provided herein shall be guilty of a minor misdemeanor. Each day of such violation shall be considered a

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separate violation. It shall not be a violation of this Chapter to refuse to give voluntary consent to a requested inspection.

SECTION 2. This ordinance shall be in full force and take effect from and after the earliest date allowed by law.

Passed this 28th day of February, 2017.

David Moore, MAYOR /s/

Kathryn L. Lives, CLERK OF COUNCIL /s/