

ORDINANCE NO.: 28- 2007
INTRODUCED BY: Mayor and Council

AN ORDINANCE ENACTING NEW CHAPTER 1306 OF THE CODIFIED ORDINANCES OF THE CITY OF RICHMOND HEIGHTS, “CERTIFICATE OF AUTHORIZED OCCUPANCY,” TO BE APPLIED TO ALL RENTAL PROPERTIES IN THE CITY; AND DECLARING AN EMERGENCY.

WHEREAS, the City needs to adopt a procedure for the issuing of certificates of authorized occupancy for rental units in the City.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Richmond Heights, Ohio, that:

Section 1: That new Chapter 1306 of Part Thirteen, “Building Code,” of the Codified Ordinances of the City of Richmond Heights be and the same hereby is enacted to read as follows:

“Chapter 1306

CERTIFICATE OF AUTHORIZED OCCUPANCY

1363.01 DEFINITIONS.

For the purposes of this chapter, and unless stated otherwise, the following terms shall have the meaning herein indicated:

(a) **Dwelling.** “Dwelling” means a building intended or designed to be occupied by not more than two families living separately and independently of each other.

(b) **Dwelling Structure.** “Dwelling structure” means a building or structure used or designed to be used, all or in part, for residential purposes.

(c) **Dwelling Unit.** “Dwelling unit” means a group of rooms arranged, maintained or designed to be occupied by a single family and shall consist of a complete bathroom with toilet, lavatory and tub or shower facilities; one, and one only, complete kitchen or kitchenette with approved cooking, refrigeration and sink facilities and approved living and sleeping facilities, all of which are in contiguous rooms and are used exclusively by such family and by any authorized persons occupying such dwelling unit with the family. The words “dwelling unit,” “apartment” and “suites” are synonymous.

(d) **Double House.** “Double house” means a detached dwelling arranged, intended or designed to be occupied by but two families living side by side with a party wall between.

(e) **Multiple Dwelling.** “Multiple dwelling” means a building containing three or more dwelling units, or two or more dwelling units above the first or ground floor, or one or more dwelling units if the building contains a use other than a dwelling use. For the purpose of applying this definition, any building which is being operated as a rooming house pursuant to a valid Richmond Heights license shall not be classed as a multiple dwelling. The words “multiple dwelling,” “dwelling house” and “apartment house” are synonymous.

(f) **Multi-family Dwelling.** “Multiple family or multi-family dwelling” means a building, or portion thereof, designed exclusively for occupancy by three or more families, living independently of each other with each unit having a separate entrance or at least one entrance to a common hall leading to the exterior.

(g) **Single-family Dwelling.** “Single-family dwelling” means a building designed exclusively for and occupied exclusively by one family, which is not physically attached to any other dwelling unit. The word “one-family dwelling” is synonymous.

(h) **Two-family Dwelling.** “Two-family dwelling” means a building designed exclusively for occupancy by two families living independently of each other.

(i) **Rental Unit.** “Rental unit” means any dwelling unit; or any rented room within a single-family or two-family dwelling or duplex; or the third floor of a two-family dwelling or duplex, where either money or other valuable consideration is paid for occupancy of such unit, or a person, not the record owner, is occupying the unit, whether or not such person pays money or other valuable consideration therefor. “Rental unit” does not include a room for rent in a hotel.

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 a certificate of authorized occupancy issued by the Commissioner of Building, Zoning and Housing (“Building Commissioner”) for the rental unit, which certificate has not expired, been revoked or otherwise become null and void, or unless 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 application shall be made annually by December 31 of the calendar year 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;
- (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) Inspection. The Building Commissioner shall inspect or cause to inspect 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 and once every three (3) years thereafter except the interior of any owner occupied dwelling unit.

(c) Issuance. If it is found that a rental unit is in compliance with the provisions of this Code and all other laws, ordinance, 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 or 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 until a change or alteration of the premises alter the authorized occupancy, or until there is a change in the ownership of the premises.

1306.04 FEES.

Unless otherwise indicated, an application for a certificate of authorized occupancy shall be accompanied by a nonrefundable fee of one hundred fifty dollars (\$150.00) for each dwelling unit. In the case of a multiple family dwelling, the application fee shall be the greater of either three hundred dollars (\$300.00) or fifteen dollars (\$15.00) per dwelling unit or apartment.

1306.05 REVOCATION.

The Building Commissioner shall have the power to revoke a certificate of authorized occupancy if any false statement is made by the applicant in connection with the issuance of such certificate, or for noncompliance of a structure or its use with the requirements of this Code, or if the owner, agent or person in charge of a structure refuses to comply with any provisions of this Code required to be observed by him.

1306.06 POSTING OF CERTIFICATE.

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.

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.

Any new or remodeled dwelling structure must also comply with chapter 1305.

1306.08 CHANGES, NEW CERTIFICATE REQUIRED.

In the event there is a change in the resident agent or nonresident agent as shown by the certificate of authorized occupancy, the owner shall notify the Building Commissioner in writing within thirty (30) days of such change, giving the name and address of the new resident agent or nonresident agent. Failure to so notify the Building Commissioner within the specified time shall constitute a violation of this chapter.

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 Code to the former owner shall become null and void within thirty (30) days of the recorded date of such change of ownership and 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.

1306.11 SALE OF DWELLING STRUCTURE.

Before an owner enters into an agreement for the sale of a dwelling structure containing rental unit(s), he shall exhibit to the prospective buyer of such premises a copy of the certificate of authorized occupancy for the premises being sold. As evidence of the owner's compliance with the requirements of this Code, the owner shall obtain the signature of the prospective buyer, or his agent, on the certificate of authorized occupancy for such premises or on a copy thereof, in the space indicated on the certificate together with the date of such signing.

1306.99 PENALTY; EQUITABLE REMEDIES.

(a) Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the first degree and shall be fined or imprisoned or both for each offense in accordance with Section 501.99 of the General Offenses Code. Unless otherwise provided, a separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The application of the penalty provided in subsection (a) shall not be deemed to prevent the enforced removal of prohibited conditions of the application of any other equitable remedy."

Section 2: 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 3: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the

citizens of the City of Richmond Heights, and for the further reason that it is immediately necessary in order to ensure that all dwelling structures used, in whole or in part, as rental units conform with all applicable laws, ordinances, rules and regulations. Therefore, provided this Ordinance receives the affirmative vote of five members of Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.

PASSED: _____

Daniel J. Ursu, Mayor

APPROVED: _____

ATTEST: _____

Betsy Traben
Clerk of Council

David H. Roche
President of Council