

CITY OF BROOKLYN, OHIO

ORDINANCE NO. 2005-55

INTRODUCED BY: *Balbier, Pucci, Brown, Gallagher, G. Frey, Patton, J. Frey*

**AN ORDINANCE ENACTING CHAPTER 1360 OF THE
CODIFIED ORDINANCES OF THE CITY OF BROOKLYN, OHIO,
ENTITLED "CHAPTER 1360 – Property Maintenance and Rental
Licensing Code"**

WHEREAS, the Council and the Administration have determined that it is in the best interest of the City of Brooklyn, to protect the public health, safety and welfare in all existing structures, residential and non-residential, and on all existing premises by establishing minimum standards necessary to make all dwelling and occupiable structures safe, sanitary, free from fire and health hazards and fit for human habitation and beneficial to the public welfare; and to establish minimum standards governing the maintenance of dwellings, occupiable structures and exterior property areas in such condition as will not constitute a blighting or deteriorating influence on the neighborhood and the community; to protect property values and to maintain the character and appearance of the community and neighborhoods within the community; to fix responsibilities for owners and occupants of structures with respect to sanitation, repair and maintenance; and

WHEREAS, it is in the best interest of the City of Brooklyn to establish additional standards for rental dwellings; to authorize the inspection of structures; to establish enforcement procedures; to authorize the vacation or condemnation of structures unsafe or unfit for human habitation and to fix penalties for violations.

WHEREAS, it is in the best interest of the City of Brooklyn to establish rental dwelling unit licensing fees to defray the costs of inspection of rental structures by the City of Brooklyn Building Department and the Bureau of Fire Prevention.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
BROOKLYN, COUNTY OF CUYAHOGA AND STATE OF OHIO:**

SECTION 1. Chapter 1360 of the Codified Ordinances of the City of Brooklyn reading as follows is hereby adopted:

**PART THIRTEEN - BUILDING CODE
TITLE ONE - STANDARDS ADOPTED**

CHAPTER 1360 – Property Maintenance and Rental Licensing Code

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1360.02 PURPOSE.

Within the scope of this Code as hereinafter defined, the purpose of this Code is to establish minimum standards necessary to make all dwelling and occupiable structures safe, sanitary, free from fire and health hazards and fit for human habitation and beneficial to the public welfare; to establish minimum standards governing the maintenance of dwellings, occupiable structures and exterior property areas in such condition as will not constitute a blighting or deteriorating influence on the neighborhood and the community; to protect property values and to maintain the character and appearance of the community and neighborhoods within the community; to fix responsibilities for owners and occupants of structures with respect to sanitation, repair and maintenance; to establish additional standards for rental dwellings; to authorize the inspection of structures; to establish enforcement procedures; to authorize the vacation or condemnation of structures unsafe or unfit for human habitation and to fix penalties for violations.

1360.03 GENERAL SCOPE.

The provisions of this Code shall supplement any and all laws of the State of Ohio and City ordinances, and specifically shall include all rules and regulations promulgated by authority of such laws or ordinances applicable to buildings and other structures.

1360.04 APPLICATION.

(a) This Code shall apply to all buildings and other structures or portions thereof which are used, designed or intended to be used for dwellings, dwelling units, structures or occupiable structures.

(b) Existing buildings may continue to be occupied for dwellings, dwelling units or occupiable structures if:

(1) The building or structure complies with the provisions of this Code except as to any variance heretofore specifically granted by the Board of Zoning Appeals.

(2) The use and occupancy of the building or structure is not in violation of any of the provisions of City ordinances and applicable statutes of the State of Ohio, including any rules or regulations adopted pursuant to such ordinances or statutes.

(c) The provisions of this Code shall apply to all such buildings and other structures or portions thereof which are in existence or which may come into existence after the effective date of this Code.

(d) The appropriate official from the Division of Building, Engineering, and Inspection, or the Division of Fire of the City of Brooklyn and their authorized agents or representatives are designated to enforce this Code unless otherwise stated.

1360.05 CONFLICT WITH OTHER ORDINANCES.

In the event of conflict between any provisions of this Code, including any rules and regulations adopted pursuant to this Code, and any provisions of City ordinances, including any rules and regulations adopted pursuant to such ordinances, that provision or ordinance which establishes the higher standard for the promotion or protection of the health or safety of the people shall govern.

1360.06 SEVERABILITY.

Sections and subsections of this Code and the several parts and provisions thereof are hereby declared to be independent sections, subsections, parts and provisions, and the holding of any such section, subsection, part or provision thereof to be unconstitutional, void or ineffective for any cause shall not effect nor render invalid any other such section, subsection, part or provision thereof.

1360.07 DEFINITIONS.

For the purposes of this Code, the following words and phrases shall have the meaning set forth in the following sections:

(a) "Approved" means approved by the Building Commissioner of the City of Brooklyn pursuant to this Code, or approved by any other authority designated by City ordinances to give approval to the matter in question.

(b) "Building Commissioner", "Building Official": Building Commissioner means the appropriate official from the Division of Building, Engineering, and Inspection. Building Official means the appropriate official from the Division of Building, Engineering, and Inspection or the Division of Fire of the City of Brooklyn and includes their authorized agents or representatives.

(c) "Building" means any roofed structure designed or used or intended to be used for the shelter or enclosure of persons, animals, chattels or property of any kind or a combination of such uses.

(d) "Dwellings":

(1) Dwelling unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

(2) Hotel/Motel: Any building containing guestrooms, intended or designed to be occupied, or which are rented or hired out to be occupied, for sleeping purposes by guests not to exceed 30 days.

(3) One-family dwelling: A building arranged, intended, designed, or redesigned to contain one dwelling unit.

(4) Two-family dwelling: A building arranged, intended, designed, or redesigned to contain two dwelling units.

(5) Three-family dwelling: A building arranged, intended, designed, or redesigned to contain three dwelling units.

(6) Multi-family dwelling: A building arranged, intended, designed, or redesigned to contain four or more dwelling units.

(e) "Exterior property" means the open space on the premises and tree lawn areas and on the adjoining property and the accessory structure(s) under the control of the owner or operator of such premises.

(f) "Family" means an individual or two or more persons living together as a single housekeeping group in a dwelling unit. A single housekeeping group exists where the group of individuals share expenses and labor related to the maintenance of the dwelling unit and are living and eating together as a household.

(g) "Occupiable structure" means a building, structure or enclosed space that is used for purposes other than residential occupancy, including, but not limited to, the following: theaters, dance halls and nightclubs, businesses, retail stores, industrial, storage garages and sheds.

(h) "Operator" means any person who has charge, care or control of a building or part thereof in which dwelling units or rooming units are let.

(i) "Owner" means the owner(s) or occupant(s) of the premises, including a purchaser in possession, a mortgagee or receiver in possession, a life tenant, a lessee or joint lessees of the whole thereof or any other person, firm, corporation or fiduciary in control of the premises.

(j) "Person" means a natural person, firm, partnership or corporation.

(k) "Premises" means a lot, parcel or plot of land including the buildings or structures thereon.

1360.08 COMPLIANCE REQUIRED.

No owner, operator or agent shall occupy, maintain, lease, or offer for rental or lease, any dwelling, dwelling unit or occupiable structure which does not comply with the provisions of this Code.

1360.09 SAFETY AND SANITATION.

No owner, operator or agent shall occupy, maintain or lease or offer for rental or lease any dwelling or dwelling unit or any part thereof which does not comply with the minimum requirements of the City of Brooklyn Property Maintenance Code.

1360.10 MAINTENANCE OF EXTERIORS OF DWELLINGS AND OCCUPIABLE STRUCTURES.

(a) All exterior parts of every dwelling and occupiable structure and all accessory buildings shall be maintained weather-tight and shall be maintained so as to resist decay or deterioration from any cause. This includes exterior walls, parapet walls, chimneys and all other exterior structures either above or below the roofline in accordance with the minimum requirements of the City of Brooklyn Property Maintenance Code.

1360.11 EXTERIOR PROPERTY AREAS.

No owner or operator of any premises shall maintain or permit to be maintained at or on the exterior property areas of such premises any condition which deteriorates, or blights the neighborhood; or creates a fire, safety or health hazard; or which is a public nuisance; or which adversely alters the appearance and general character of the neighborhood and shall keep such premises of any debris, object, material or condition which may create a health, accident or fire hazard or which is a public nuisance. Furniture used on open porches, decks and patios shall be of the type and style designed and intended for exterior use. Lawns, landscaping, trees and driveway shall also be maintained so as not to constitute a blighting or deteriorating effect in the neighborhood. All parking surfaces, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition.

1360.12 MAINTENANCE RESPONSIBILITIES.

(a) Owner. Whenever any habitable or occupiable structure or part thereof, or any accessory building or structure or part thereof, is in such state of disrepair, or whenever the light or ventilation, or any other condition in or about such buildings or structures or part thereof, or in or about the lot on which they are situated, is, in the opinion of the Building Commissioner, in a condition or in its effect dangerous to life or health, the Building Commissioner may order or cause repairs to be made, or may order or cause the light or ventilation to be improved, or take such other action as he may deem necessary to remove such danger to life or health. If the occupant of a dwelling unit in any dwelling structure and/or the occupant of an occupiable structure fails to maintain in a clean and sanitary condition that part of the dwelling unit, dwelling structure, occupiable structure or premises which he occupies and controls as required by 1360.12 (b), the owner shall take necessary action to maintain the structure in a clean and sanitary condition.

(b) Occupant. The occupant of a dwelling unit in any dwelling structure and the occupant of an occupiable structure shall be responsible for maintaining in a clean and sanitary condition that part of the dwelling unit, dwelling structure, occupiable structure or premises which he occupies and controls. In addition, such occupant shall be responsible for maintaining in good and safe working order the equipment and appliances which he owns.

1360.13 APPLICABILITY TO MOTELS AND HOTELS.

The provisions of this Code shall apply to all motels and hotels that are legally in existence on or which may come into existence after the effective date of this Code.

1360.14 REGULATIONS.

No person shall rent, lease, conduct, operate, occupy, maintain or own any interest in any motel or hotel except in compliance with every applicable provision of this Code.

1360.15 RENTAL DWELLING LICENSE.

No person shall let, rent, lease, conduct, operate, occupy, maintain or own any building or portion of any building in which there is one or more rental dwelling units or rooming units, or own any interest therein, unless a rental dwelling license as provided in this chapter has been issued and is in force.

1360.16 LICENSE APPLICATION FORM AND FEE.

(a) Every application for a rental dwelling license shall be on a form approved by the official charged with the enforcement of this Code. It shall state the name and address of the applicant, the nature and extent of his interest in the building for which the license is required, the name and address of the owner of the building, the location of the building, the number of dwelling units therein, the number of rooming units therein and such other information as may be required by the official charged with the enforcement of the Code.

(b) The rental dwelling license fees shall be as follows for all structures requiring rental dwelling licenses pursuant to Section 1360.15 - fifty dollars (\$ 50.00) for the annual license, for the purpose of subsidizing the cost of periodic inspections.

(d) No rental dwelling license shall be required for lawful one and two-family structures occupied by the owners as the owner's principal residence.

(e) Any rental dwelling license required pursuant to Section 1360.15 not secured by the applicable dates stated in Section 1360.16(a) and (b) shall incur a late fee of fifty dollars (\$50.00) per structure for which the rental dwelling license is required.

1360.17 ISSUANCE OF LICENSE.

The Building Commissioner shall issue the rental dwelling license applied for if the building and the uses to which it is intended to be put are found to comply in all respects with this Code and all other laws and ordinances. Such license shall be posted at the main entrance of the building for which it is issued. The Building Official may inspect and require compliance in all respects with this Code and all other laws or ordinances prior to the issuance of the rental dwelling License.

1360.18 CONTENTS OF LICENSE.

Every rental dwelling license shall clearly specify the name and address of the person to whom it is issued, the name and address of the owner of the building for which it is issued, the location, the number of dwelling units therein, the number of rooming units therein, the maximum number of roomers permitted therein at any one time and such other information as may be required by the official charged with the enforcement of this Code.

1360.19 LICENSE EXPIRATION.

Every rental dwelling license shall be secured by and expire not later than the following:

(a) One, two-family, three-family, multiple-family, condominium and rooming units - Secured by July 1st, and expires June 30th following for the twelve-month period for which it was issued; irrespective of the date of its issuance, and shall not be transferable.

(b) Whenever the interest of the licensee in the building, for the occupancy of which the license was issued, shall cease, or such building shall have been brought within one of the other grades defined by law or ordinance by reason of a change of use, such license shall immediately become void. When the property for which a rental dwelling license is required is sold, the new owner, if required pursuant to 1360.15, shall secure such license within 15 days after transfer of title. However, upon the death of the licensee, the license shall nevertheless be valid for thirty days from the date of the death in favor of the legal representatives of the licensee, or of the person or persons to whom the interest of the licensee passes by law, but in no case shall such thirty days extend such license beyond the end of the calendar year for which it was issued.

1360.20 VOIDING LICENSE.

Any rental dwelling license shall be null and void if:

(a) The building for which the license was granted and the use to which it is put do not comply in all respects with this Code and with all other applicable laws and ordinances;

(b) Any false statement or representation has been made by the applicant in connection with the application or issuance of the rental dwelling license;

(c) The owner of the license does anything or causes anything to be done or omits to do anything or causes the omission of anything required or prohibited by this Code or by any other law or ordinance relating to such building or its use;

(d) In the building for which the license was applied for, more dwelling units or more rooming units are used than were stated in the application; or if more roomers are permitted at any one time than stated in the application; or

(e) In the building for which the license was issued, more dwelling units or more rooming units are used than permitted by the license; or if more roomers are permitted at any one time than the number specified in the license.

1360.21 INSPECTION.

(a) The Building Commissioner is hereby authorized to make or cause to be made inspections to determine the condition of dwellings, dwelling units, occupiable structures and premises located within the City in order that he may perform his duty of safeguarding the health and safety of the occupants of dwelling units and occupiable structures and of the general public and to determine whether they conform to the provisions of this Code. Such inspections may also be made whenever the Building Commissioner has reasonable cause to believe that a violation of this Code exists therein or thereon.

(b) The Building Commissioner is authorized to revoke the rental dwelling license of any property to which the Building Commissioner is denied access to make an inspection.

1360.22 RIGHT OF ENTRY.

(a) For the purpose of making such inspections, the Building Commissioner, upon presentation of proper credentials is authorized to enter, examine and survey at all reasonable times all dwelling, dwelling units, rooming units, occupiable structures, structures and premises provided for in this Code. The owner and occupant of every such dwelling, dwelling unit, rooming unit, occupiable structure and premises and the person in charge thereof shall give such official free access to such dwelling, dwelling unit, rooming unit, occupiable structure and premises at all reasonable times for the purpose of such inspection, examination and survey.

(b) Every occupant of a dwelling, dwelling unit or occupiable structure shall give the owner thereof or his agents and employees access to any part of such dwelling, dwelling unit, occupiable structure or their premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Code.

(c) Except in emergency situations, no penalty under the penalty provisions of this Code shall apply against any owner or occupant who refuses the right of entry hereunder until a search warrant is obtained.

(d) Building Commissioner shall give landlord a minimum of 24 hours notice in order to inspect occupied rental units. In emergency situations said notice shall not be necessary. Notice shall not be necessary to inspect any common areas.

1360.23 RESPONSIBILITY FOR COMPLIANCE.

The owner as defined in this Code shall be responsible for compliance with all of the provisions of this Code except where the responsibility thereof is specifically placed elsewhere.

1360.24 REPAIR OF CODE VIOLATIONS.

(a) Examination by Building Commissioner. The Building Commissioner shall examine or cause to be examined every dwelling structure, occupiable structure, appurtenant structure and/or premises reported to be in violation of any of the provisions of the Code and shall make a written record of such examination.

(b) Notice of Violation and Order to Repair to Owner or Person in Control. Whenever the Building Commissioner determines that any dwelling structure, occupiable structure, appurtenant structure and/or premises in violation of any of the provisions of this Code, but that such violations do not result in such structure or premises being a public nuisance, he shall give written notice of violation and order to repair to the owner or person in control thereof.

(c) Contents of Notice of Violation and Order to Repair. Such written notice of violation and order to repair shall specify the structure and/or premises deemed to be in violation of this Code, shall specify which section or sections of this Code are being violated, shall include an order to repair defects therein or thereon to allow the owner or person in control to make required repairs, and shall specify a reasonable period of time and/or date by which such repairs shall be completed so as to bring such structures and/or premises into conformity with this Code.

(d) Service of Notice and Order. Whenever the Building Commissioner finds any dwelling structure, occupiable structure or premises, or any part thereof, to be in violation of the provisions of this Code, the Building Commissioner shall give or cause to be given or mailed to the owner or person in control of such structure or premises a written notice stating the violations therein. Such notice shall order the owner or person in control within a stated reasonable time to repair, improve or demolish the structure or premises concerned. Such delivery or mailing shall be deemed legal service of notice. If the person to whom a notice of violation is addressed cannot be found within Cuyahoga County after reasonable and diligent search, then notice may be sent by certified mail to the last known address of such person, and a copy of such notice shall be posted in a conspicuous place on the structure or premises to which it relates. Such mailing and posting shall be deemed legal service of notice.

(e) Duty to Inform Purchaser. It shall be the duty of any owner or person in control of such structure and/or premises who has received a notice of violation and order to repair to inform any purchaser thereof of such notice and order. No owner or person in control of such structures and/or premises shall transfer to any vendee any interest in such structures and/or premises after receiving such notice and order without first providing the vendee with a copy of such notice and order.

1360.25 REINSPECTION OF CODE VIOLATIONS.

If more than two (2) reinspections of a code violation notice are required due to the owner's failure to comply with the notice, a twenty-five dollar (\$25.00) reinspection fee may be imposed for each subsequent reinspection until the code violations are abated.

1360.26 SEPARATIONS BETWEEN DWELLING UNITS AND FIRE PROTECTION OF HABITABLE ROOMS.

Apartments, suites of rooms or dwelling units in buildings and parts of buildings of multi-family dwellings shall be separated from each other and from adjacent rooms or spaces with walls or partitions and floor and ceiling construction have a fire-resistance rating of not less than one hour, and all openings in such walls or partitions shall be protected with self-closing Class C opening protectives or other approved self-closing doors having a fire-resistance rating of not less than 3/4 hour unless approved otherwise by the Building Code.

1360.27 STOP ORDERS.

Upon notice from the Building Commission that work on any building or structure is being done contrary to the provisions of this Code or other applicable Codes of the City or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property or to his agent or to the person doing the work, and shall state the conditions under which work may be resumed; provided, however, that in instances where immediate action is deemed necessary for public safety or in the public interest, the Building Commissioner may require that work be stopped upon verbal order pending the issuance of a written order.

1360.28 FOR MISREPRESENTATION.

Whoever perpetrates a fraud or misrepresents a material fact by reason of which any permit or approval required under the provisions of this Code or other applicable Ordinances of the City is obtained, or pursues any trade or business or performs any work or service without possessing a License or Certification of Registration which may be required under the provisions of this Code or other applicable Ordinances of the City, shall be guilty of a misdemeanor of the first degree.

1360.29 RELIEF FROM PERSONAL RESPONSIBILITY.

The code official, officer or employee charged with the enforcement of this code, while acting for the jurisdiction shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of any act required or permitted in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in any action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any officer of the department of building inspection, acting in good faith and without malice, shall be free from liability for acts or omission in the performance of official duties in connection therewith.

1360.30 DUTIES OF THE BUILDING OFFICIAL.

The Building Official shall as needed submit recommendations for amendments or deletions to this Code to the Director of Public Safety.

1360.31 RIGHT OF APPEAL

All persons shall have the right to appeal any and all sections of this code, and decisions of the Building Commissioner pertaining to this code, to the City of Brooklyn Board of Zoning Appeals.

1360.99 FOR FAILURE TO COMPLY WITH A NOTICE OR NEGLECT OF MAINTENANCE.

a) No person, firm or corporation, whether as owner, lessee, sub-lessee or occupant shall erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any one, two or three-family dwelling in the City or cause or permit the same to be done, contrary to or in violation of any provision of this Code. Whoever violates any provision of this Chapter or any Code adopted herein or fails to comply with any lawful order issued pursuant thereto is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six months, or both. Each day during which non-compliance or a violation continues shall constitute a separate offense. The City may also employ civil remedies including but not limited to seeking an injunction to abate nuisances and/or violations.

(b) The imposition of any penalty shall not preclude the Director of Law from instituting an appropriate action or proceeding in a court of proper jurisdiction to prevent an unlawful repair or maintenance; or to restrain, correct or abate a violation, or to prevent the occupancy of a building, structure or premises, or to require compliance with the provisions of this Code, or other applicable laws, ordinances, rules or regulations, or the orders or determinations of the Building Commissioner, the Mayor, or the Board of Zoning Appeals.

SECTION 2. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, safety and welfare, and the further reason that the same is necessary for the daily operation of a municipal department of the City; and provided it receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

ADOPTED: 5/8/06

ATTESTED:

Mary Jo Barish
ASST. CLERK OF COUNCIL

APPROVED:

Kenneth E. Patton
MAYOR

Filed with the Mayor: 5/9/06

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2ND READING: 1/9/06

TABLED: 1/23/06

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