

TOWN OF NORTH BRENTWOOD

ORDINANCE NO. 2013-05_____

Introduced by: Councilmember Martha Cuffie

Seconded by: Councilmember Markel Day

Date of Introduction: September 16, 2013

An ordinance amending Chapter IX “Commercial Regulations,” of *The Code of Ordinances of the Town of North Brentwood, Maryland*, as amended, by amending or readopting said Chapter; by adding new Article 3 (Rental Housing), Title 1 (Licensing) requiring that all dwellings, rooms, and other residential structures, units, and premises let or rented for human habitation shall be licensed and regulated in accordance with said Article, and generally relating to licensing of rental housing.

WHEREAS, pursuant to § 601 of the Town Charter, the Council of the Town of North Brentwood (the “Town”) is empowered to, in addition to all the powers granted to the Council by the Charter or any other provision of law, the Council may exercise any power or perform any function which is not now or hereafter denied to it by the Constitution of Maryland, the Charter or any applicable law passed by the General Assembly of Maryland; and

WHEREAS, pursuant to Art. 23A, § 2(b)(33) of the Annotated Code of Maryland, the legislative body of the Town is empowered to pass ordinances, subject to the limitations of Article 24 of the State Code, to establish and collect reasonable fees and charges for franchises, licenses, or permits granted by a municipal corporation; and

WHEREAS, pursuant to § 602(13) of the Town Charter, the Town Council may establish and collect fees and charges for all franchises, licenses, and permits issued by the Town and for all governmental or proprietary functions of the Town; and

WHEREAS, pursuant to § 13-182.01 of the Prince George’s County Code, any property which is located within an incorporated municipality which issues single-family rental facility licenses under its own Housing Code after an inspection to ascertain compliance thereto is thereby exempted from the single-family licensing requirements of the County Code; and

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WHEREAS, the Mayor and Council finds that the Town is in need of or could benefit from a rental license ordinance to supplement existing ordinances whereby the Town's appointed enforcement officials may with greater clarity in the law, with the requisite housing code, and with more sufficient legal basis, effectively work to improve the housing and property maintenance standards of the Town, and thereby further serve as a basis for the inspection and enforcement of rental housing occupancy standards throughout the Town; and

WHEREAS, pursuant to Art. 23A, § 2(a) of the State Code, the Town Council has the authority to pass such ordinances as it deems necessary to assure the good government of the municipality, to protect and preserve the municipality's rights, to secure persons and property from danger and destruction, and to promote the health, comfort and convenience of the citizens of the municipality.

SECTION 1.

NOW THEREFORE BE IT ORDAINED by the Council of the Town of North Brentwood that Chapter IX "Commercial Regulations," of *The Code of Ordinances of the Town of North Brentwood, Maryland* are hereby adopted, amended and re-enacted such that said Chapter and Code shall henceforth read as follows:

* * *

Chapter IX. COMMERCIAL REGULATIONS

* * *

ARTICLE 3. RENTAL HOUSING

TITLE 1. LICENSING

SECTION 9-3101. PURPOSE

IT IS DECLARED TO BE THE POLICY AND INTENT OF THE TOWN OF NORTH BRENTWOOD THAT ALL DWELLINGS, ROOMS, AND OTHER RESIDENTIAL STRUCTURES, UNITS, AND PREMISES LET OR RENTED FOR HUMAN HABITATION SHALL BE REGULATED IN ACCORDANCE WITH THIS ARTICLE FOR THE PURPOSE OF ENSURING THE PROTECTION OF THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE OF ALL TOWN RESIDENTS BY ESTABLISHING REGISTRATION, LIMITED INSPECTION, AND ENFORCEMENT PROVISIONS IN ACCORDANCE WITH THE TOWN'S HOUSING CODE (SECTION 6-2101 *ET SEQ.* OF THE CODE OF ORDINANCES OF THE TOWN OF NORTH BRENTWOOD) AND OTHER APPLICABLE ORDINANCES, FOR RENTAL HOUSING UNITS, FIXING THE RESPONSIBILITIES OF PROPERTY

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OWNERS, OPERATORS, AND TENANTS OF RENTAL HOUSING STRUCTURES AND PREMISES; AND PROVIDING FOR ADMINISTRATION AND PENALTIES.

SECTION 9-3102. INTENT; SCOPE; CONFLICT OF LAW

(A) IT IS HEREBY THE INTENT OF THE COUNCIL TO CAUSE TO BE REGISTERED AND REGULATED ALL RENTAL HOUSING LOCATED WITHIN THE CORPORATE LIMITS OF THE TOWN PURSUANT TO THIS ARTICLE. THE TOWN DOES NOT INTEND TO ASSUME PRIMARY RESPONSIBILITY FROM THE COUNTY FOR ROUTINE INSPECTION OF RENTAL HOUSING UNITS. THE TOWN'S RENTAL HOUSING LICENSING PROGRAM SHALL FOCUS ON REGISTRATION, COORDINATING COMMUNICATIONS, ENSURING CODE COMPLIANCE, ELIMINATING NUISANCES AND IMPROVING PUBLIC SAFETY GENERALLY.

(B) IT IS HEREBY THE INTENT OF THE COUNCIL TO AVOID REPLACING, EXEMPTING FROM APPLICABILITY OR OTHERWISE SUPERSEDING THE RENTAL HOUSING LICENSING AND INSPECTION REQUIREMENTS OF PRINCE GEORGE'S COUNTY, MARYLAND AS FOUND IN SUBTITLE 13, DIVISION 4 OF THE PRINCE GEORGE'S COUNTY CODE. THE COUNTY AND THE TOWN SHALL BE CONSIDERED TO HAVE CONCURRENT JURISDICTION OVER RENTAL HOUSING LOCATED WITHIN THE TOWN. WHEN ADMINISTERING ITS RENTAL HOUSING LICENSING PROGRAM, THE COUNTY THROUGH ITS OFFICIALS SHALL ENFORCE ITS OWN HOUSING CODE ~~(THE INTERNATIONAL PROPERTY MAINTENANCE CODE, 2000 EDITION)~~, AS AMENDED, AND FOUND IN SUBTITLE 13 OF THE COUNTY CODE.

(C) THE HOUSING CODE OF PRINCE GEORGE'S COUNTY, MARYLAND, AS AMENDED FROM TIME TO TIME, IS SUBSTANTIALLY SIMILAR TO THE HOUSING CODE OF THE TOWN OF NORTH BRENTWOOD, AS AMENDED. BOTH JURISDICTIONS HAVE ADOPTED THE INTERNATIONAL PROPERTY MAINTENANCE CODE, 2000 EDITION, AS AMENDED. IN ANY CASE WHERE A PROVISION OF THIS ARTICLE OR THE TOWN'S HOUSING CODE RELATING TO RENTAL HOUSING IS FOUND BY TOWN OFFICIALS TO BE IN CONFLICT WITH A PROVISION OF ANY ZONING, BUILDING, FIRE, SAFETY, OR HEALTH ORDINANCE OR CODE OF THIS TOWN, PRINCE GEORGE'S COUNTY, OR THE STATE OF MARYLAND EXISTING ON THE EFFECTIVE DATE OF THIS ORDINANCE OR THEREAFTER, THE PROVISION WHICH ESTABLISHES THE HIGHER STANDARD FOR THE PROMOTION AND PROTECTION OF THE HEALTH AND SAFETY OF THE PEOPLE SHALL PREVAIL.

(D) THIS ARTICLE SHALL BE CONSTRUED LIBERALLY AND JUSTLY TO PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE INsofar AS THEY ARE AFFECTED BY THE CONTINUED USE AND MAINTENANCE OF RESIDENTIAL HOUSING UNITS, STRUCTURES AND PREMISES.

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SECTION 9-3103. DEFINITIONS

THE TERMS USED IN THIS TITLE ARE DEFINED AS FOLLOWS:

“TOWN” IS THE TOWN OF NORTH BRENTWOOD.

“CODE ENFORCEMENT OFFICER” IS THE CODE ENFORCEMENT OFFICER OF THE TOWN OF NORTH BRENTWOOD.

“HOUSING UNIT” IS A SINGLE UNIT OF A STRUCTURE, INCLUDING BUT NOT LIMITED TO ALL DWELLINGS, ROOMS, AND OTHER RESIDENTIAL STRUCTURES, UNITS, AND PREMISES LET OR RENTED FOR HUMAN HABITATION (WHETHER LOCATED IN A SINGLE DWELLING OR MULTIPLE DWELLING, ROOMING HOUSE, BOARDINGHOUSE, OR OTHER STRUCTURE), PROVIDING OR INTENDED TO PROVIDE COMPLETE LIVING AND SLEEPING FACILITIES FOR ONE OR MORE PERSONS. THE DEFINITION OF "HOUSING UNIT," AS USED IN THIS ARTICLE, DOES NOT INCLUDE ANY SINGLE-FAMILY HOUSING UNITS THAT ARE SOLELY OCCUPIED BY THE PROPERTY OWNER OR BY THE PROPERTY OWNER AND MEMBERS OF THE PROPERTY OWNER'S FAMILY, OR ANY HOTEL, MOTEL, OR BED-AND-BREAKFAST ESTABLISHMENT.

~~“LOCAL AGENT” IS A MARYLAND RESIDENT APPOINTED BY THE OWNER TO SUPERVISE AND/OR CARE FOR THE PROPERTY AND TO RESPOND TO ANY VIOLATIONS CONCERNING THE PROPERTY.~~

SECTION 9-3104. LICENSE REQUIRED PRIOR TO OCCUPANCY; EXCEPTIONS

(A) THE LEGAL OWNER OF RECORD OF ANY HOUSING UNIT LOCATED WITHIN THE TOWN SHALL NOT PERMIT OR ALLOW SUCH UNIT OR DWELLING TO BE OCCUPIED WITHOUT FIRST HAVING OBTAINED A RENTAL LICENSE FROM THE TOWN.

(B) ALL APPLICABLE HOUSING UNITS SHALL BE INDIVIDUALLY LICENSED IN ACCORDANCE WITH THIS ARTICLE. A TOWN RENTAL LICENSE SHALL NOT BE ISSUED UNLESS OR UNTIL PROOF OF A VALID RENTAL LICENSE ISSUED BY THE PRINCE GEORGE’S COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES IS PROVIDED TO THE TOWN.

(C) ANY HOUSING UNIT LEASED BY A LEGAL OWNER TO A RELATIVE RELATED TO THE OWNER TO THE SECOND DEGREE OF CONSANGUINITY OR LESS (THAT IS, GRANDPARENTS, PARENTS, CHILDREN, GRANDCHILDREN, AUNTS AND UNCLES,

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NEPHEWS AND NIECES, AND FIRST COUSINS) SHALL BE EXEMPT FROM THE PROVISIONS OF THIS ARTICLE.

SECTION 9-3105. APPLICATION; FORMS; FEES

(A) WITHIN THIRTY (30) DAYS AFTER THE EFFECTIVE DATE OF THIS ARTICLE, OWNERS OF ALL EXISTING HOUSING UNITS SHALL MAKE WRITTEN APPLICATION TO THE TOWN FOR A RENTAL HOUSING UNIT OR DWELLING LICENSE UPON SUCH FORM OR FORMS AS THE TOWN SHALL, FROM TIME TO TIME, DESIGNATE. ALL NEW RENTALS SHALL BE INITIATED BY APPLICATION THIRTY (30) DAYS PRIOR TO OCCUPANCY, OR IF ALREADY OCCUPIED, UPON THE EFFECTIVE DATE OF THIS ARTICLE WITHIN THIRTY (30) DAYS OF THE EFFECTIVE DATE OF THIS ARTICLE. SUCH APPLICATION(S) SHALL BE SUBMITTED TOGETHER WITH THE LICENSE FEE. THE INITIAL AMOUNT OF SUCH FEE SHALL BE FIFTY DOLLARS (\$50). THE AMOUNT OF SUCH FEE MAY BE REVISED FROM TIME TO TIME BY WRITTEN RESOLUTION OF THE COUNCIL AND SHALL BE PRINTED ON THE FACE OF THE APPLICATION FORM.

(B) A LATE FEE OF TWO DOLLARS (\$2) PER DAY SHALL BE ASSESSED TO THE APPLICANT FOR EVERY DAY THAT THE APPLICATION IS DELINQUENT.

SECTION 9-3106. ISSUANCE OR DENIAL OF LICENSE; INSPECTIONS

(A) UPON RECEIPT OF A COMPLETED APPLICATION FOR A LICENSE WITH TENDER OF THE APPROPRIATE LICENSE FEE FOR EXISTING OR PENDING HOUSING UNIT OCCUPANCY, THE TOWN SHALL ISSUE A LICENSE PROVIDED THAT ALL OTHER REQUIREMENTS OF THIS ARTICLE ARE MET.

(B) THE TOWN MAY WITHHOLD ISSUING A RENTAL LICENSE SHOULD THE HOUSING UNIT BE FOUND TO NOT BE LICENSED IN COMPLIANCE WITH THE PRINCE GEORGE'S COUNTY HOUSING CODE AND ANY APPLICABLE PROVISIONS OF TOWN ORDINANCES. A LICENSE SHALL NOT BE CONSIDERED UNDER ANY CIRCUMSTANCE TO BE A WARRANTY BY THE TOWN AS TO THE SAFETY OR OPERATION OF ANY HOUSING UNIT OR ANY SYSTEMS AND SUBSYSTEMS LOCATED THEREIN.

(C) SHOULD THE TOWN WITHHOLD ISSUING A RENTAL LICENSE PURSUANT TO SUBSECTION (B), ABOVE, THEN THE TOWN SHALL NOTIFY THE APPLICANT IN WRITING, SPECIFYING EACH VIOLATION AND THE RELEVANT CODE SECTION DEEMED TO BE VIOLATED.

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(D) ALTHOUGH THE TOWN DOES NOT INTEND TO CONDUCT ROUTINE INSPECTIONS AS PART OF ITS RENTAL LICENSING PROGRAM, THE TOWN MAY IN ITS SOLE DISCRETION CONDUCT INSPECTIONS BASED ON A COMPLAINT OR OTHER PROBABLE CAUSE THAT A VIOLATION OR UNSAFE CONDITION EXISTS. PERMISSION FOR INSPECTIONS, WITHOUT THE NECESSITY FOR OBTAINING ANY FURTHER PERMISSION OR JUDICIAL WARRANT, IS A CONDITION OF ANY LICENSE. FAILURE, UPON REASONABLE NOTICE, TO ALLOW ENTRY FOR SUCH INSPECTION OR TO REQUIRE ANY TENANT OR OCCUPANT TO ALLOW ENTRY FOR SUCH INSPECTION SHALL CONSTITUTE SUFFICIENT REASON FOR THE DENIAL OR REVOCATION OF THE RENTAL LICENSE AND IS A VIOLATION OF THIS ARTICLE.

(E) FAILURE OF AN APPLICANT TO CORRECT ALL VIOLATIONS WITHIN A 30 DAY PERIOD OR THE TIME ALLOWED SHALL RESULT IN THE APPLICATION FOR THE LICENSE BEING REVOKED. NO FURTHER LICENSES SHALL BE ISSUED UNTIL ALL VIOLATIONS HAVE BEEN CORRECTED.

SECTION 9-3107. EXPIRATION OF LICENSE; RENEWAL; REAPPLICATION

(A) EACH LICENSE ISSUED PURSUANT TO THIS ARTICLE SHALL EXPIRE ONE YEAR FROM THE DATE OF ISSUANCE.

(B) APPLICATION FOR THE RENEWAL OF AN EXISTING LICENSE SHALL BE MADE ~~AT LEAST THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE AND SHALL BE~~ SUBMITTED TOGETHER WITH THE APPROPRIATE LICENSE FEE. THE LATE FEE FOR APPLICATIONS SHALL ALSO BE APPLICABLE TO RENEWALS.

(C) EVERY APPLICANT WHOSE APPLICATION FOR A LICENSE HAS BEEN DENIED OR WHOSE LICENSE HAS BEEN REVOKED MAY NOT REAPPLY FOR THE RENTAL LICENSE WITHIN THIRTY (30) DAYS FROM SUCH DENIAL OR REVOCATION.

(D) WHEN REAPPLYING AFTER A DENIAL, A NEW APPLICATION SHALL BE SUBMITTED TOGETHER WITH ALL APPLICABLE FEES.

(E) NO LICENSE OR REGISTRATION IS TRANSFERABLE TO ANOTHER PERSON, OR TO ANOTHER HOUSING UNIT OR PREMISES. EVERY PROPERTY OWNER SHALL GIVE NOTICE IN WRITING TO THE TOWN WITHIN 72 HOURS OF THE TRANSFER OF ANY LEGAL OWNERSHIP INTEREST OR CONTROL OF ANY REGISTERED OR LICENSED HOUSING UNIT. THE NOTICE SHALL INCLUDE THE NAME AND ADDRESS OF THE PERSON SUCCEEDING TO THE OWNERSHIP INTEREST OR CONTROL OF THE HOUSING UNIT.

SECTION 9-3108. DISPLAY OF LICENSE REQUIRED

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THE LICENSE ISSUED UNDER THIS ARTICLE SHALL BE PROMINENTLY AND PUBLICLY DISPLAYED ON THE PREMISES OF THE STRUCTURE OR PRODUCED ON DEMAND OF THE TENANT OR PROSPECTIVE TENANT AND SHALL BE AVAILABLE AT REASONABLE TIMES FOR INSPECTION BY THE TOWN'S CODE ENFORCEMENT OFFICER OR SUCH PERSON(S) OR FIRM DESIGNATED.

SECTION 9-3109. LOCAL AGENT; SERVICE

(A) REQUIREMENT OF LOCAL AGENT. THE LEGAL OWNER OF RECORD OF ANY HOUSING UNIT REQUIRED BY THIS ARTICLE TO OBTAIN A LICENSE SHALL APPOINT A LOCAL AGENT FOR EACH LICENSED PREMISES. THE LOCAL AGENT SHALL BE OVER THE AGE OF EIGHTEEN (18) AND RESIDE IN THE STATE OF MARYLAND.

(B) FILING OF THE LOCAL AGENT'S NAME AND ADDRESS. THE NAME AND ADDRESS OF THE LOCAL AGENT SHALL BE FILED IN WRITING DURING NORMAL BUSINESS HOURS WITH THE TOWN CLERK UPON THE ISSUANCE OF ANY LICENSE REQUIRED HEREIN. THE LEGAL OWNER OF RECORD SHALL NOTIFY THE TOWN CLERK IN WRITING OF ANY CHANGES WITH RESPECT TO THE LOCAL AGENT WITHIN THIRTY (30) DAYS OF SUCH CHANGES.

~~(C) SERVICE OF COMPLAINT FOR MUNICIPAL INFRACTION. NOTICE OF A COMPLAINT OR MUNICIPAL INFRACTION WITH RESPECT TO PREMISES REQUIRED TO BE LICENSED MAY BE BROUGHT BY SERVICE UPON THE OWNER OF RECORD OF THE PROPERTY OR UPON THE LOCAL AGENT. SERVICE ON THE OWNER OF THE PROPERTY SHALL BE DEEMED APPROPRIATE IF MAILED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE OWNER AT HIS OR HER LAST KNOWN ADDRESS AS PROVIDED ON THE LICENSE APPLICATION. IN THE EVENT THAT THE CERTIFIED MAIL IS RETURNED UNCLAIMED FOR ANY REASON, SERVICE MAY BE AFFECTED BY POSTING THE NOTICE ON THE FRONT DOOR OF THE PREMISES. SERVICE MAY ALSO BE AFFECTED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE LOCAL AGENT AS DESIGNATED BY THE OWNER. PERSONAL SERVICE ON EITHER THE LOCAL AGENT OR THE OWNER SHALL ALSO BE DEEMED APPROPRIATE SERVICE.~~

SECTION 9-3110. PENALTY

(A) IT SHALL BE UNLAWFUL FOR ANY PERSON OR PERSONS, FIRM, OR CORPORATION TO VIOLATE ANY OF THE PROVISIONS OF THIS ARTICLE, WHICH ARE HEREBY DECLARED BY THE COUNCIL TO BE MUNICIPAL INFRACTIONS, AND SHALL BE SUBJECT TO PAY A FINE OF FIVE HUNDRED DOLLARS (\$500) FOR EACH

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OFFENSE. EACH DAY THAT A VIOLATION CONTINUES AFTER ASSESSMENT OF THE INITIAL FINE SHALL CONSTITUTE A SEPARATE OR REPEAT OFFENSE. PAYMENT OF THE FINES WITHOUT CORRECTION OF VIOLATION(S) DOES NOT CONSTITUTE ABATEMENT OF THE VIOLATION(S).

(B) FOR PURPOSES OF ENFORCING THIS ARTICLE, THE TOWN IS AUTHORIZED TO EXERCISE ALL POWERS AVAILABLE TO IT UNDER STATE AND LOCAL LAW TO PROHIBIT OR PREVENT OCCUPANCY OF AN UNLICENSED PREMISES SUBJECT TO LICENSING UNDER THIS ARTICLE FOR WHICH A LICENSE HAS EXPIRED OR BEEN REVOKED, INCLUDING, BUT NOT LIMITED TO, EVICTION OF THE OCCUPANTS AND BARRING ENTRY BY OCCUPANTS TO THE UNLICENSED PREMISES.

* * *

SECTION 2.

AND BE IT FURTHER ORDAINED AND ENACTED, that it is the intention of the Mayor and Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of Ordinances and the sections of this Ordinance may be renumbered to accomplish such intention.

SECTION 3.

AND BE IT FURTHER ORDAINED AND ENACTED, that if any section or part of a section of this Ordinance shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance nor the context in which such section or part of section so held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

SECTION 4.

AND BE IT FURTHER ORDAINED AND ENACTED, that any prior ordinances adopting and enacting any provision of Chapter IX of said Code or any other ordinance or resolution previously adopted pertaining to a subject or subjects embodied by the title of this ordinance or the provisions found herein shall be deemed repealed and superseded by the provisions of this ordinance. Should a previously enacted ordinance cover a provision or subject that is not specifically covered by this ordinance, it shall remain in full force and effect unless it directly conflicts with the express language of this ordinance.

SECTION 5.

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AND BE IT FURTHER ORDAINED AND ENACTED, that this Ordinance shall take effect pursuant to the Charter upon the expiration of eleven (11) calendar days following adoption by the Council and approval by the Mayor or passage by the whole Council over the Mayor's veto, having been initially passed by the required yea and nay vote of the Council of the Town of North Brentwood having at least two (2) Council members present and voting.

SECTION 6.

AND BE IT FURTHER ORDAINED AND ENACTED, that upon adoption of this ordinance, a fair summary shall be published in the Town newsletter or other newspaper of general circulation in the Town and posted on an official bulletin board to be maintained by the Council in a public place for a period of thirty (30) days.

THIS ORDINANCE IS ADOPTED AND ENACTED BY THE COUNCIL OF THE TOWN OF NORTH BRENTWOOD THIS 16th DAY OF September, 2013.

Aye: 2
Nay: 0
Absent: 0
Abstain: 1

Approved: 09/16/2013

TOWN OF NORTH BRENTWOOD

By: 
Petrella Robinson, Mayor

Date: 9/16/2013

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