

**File of Council
No. 6 {2013}**

Mayor Jason C. Klush, In Place

July 17, 2013

An Ordinance of the City Council of the City of Pittston Luzerne County, Pennsylvania, amending Ordinance, File of Council #2 of 2007, An Ordinance Implementing an Annual Fire and Safety Inspection Program of all Commercial, Educational and Institutional Properties Operating Within the City of Pittston, to improve and expand the Fire and Safety Inspection Program for residential rental properties and to revise the fee schedule.

Be it Ordained and Enacted by the City Council of the City of Pittston, and it is hereby Ordained and Enacted that:

Section 1. Amendment and Continuity of Previous Actions. In order to improve compliance with the city property maintenance, zoning, health, and fire prevention ordinances, and ensure safe and sanitary housing for residents of the City of Pittston, and to update the fee schedule contained therein, Ordinance, File of Council #2 of 2007, entitled “**An Ordinance Implementing an Annual Fire and Safety Inspection Program of all Commercial, Educational and Institutional Properties Operating Within the City of Pittston**” and adopted on March 21, 2007, is hereby amended as follows:

Section 2. Sections Repealed. The following sections of Ordinance #2 of 2007 are hereby repealed in their entirety:

“Section 5. Violations & Penalties;” and “Section 6. Fees;”

Section 3. Amendments of Section 4 of Ordinance #2 of 2007. “Section 4 Inspections and Access” of Ordinance #2 of 2007 is hereby amended as follows:

Section 4 (A) Fire Prevention Code Certificate for Commercial, Industrial, Institutional and Educational Structures.

1. **Certificate Required and Applicability.** The owner of each and every structure in the City of Pittston being used for commercial, industrial, institutional and educational purposes, including mixed-use structures, shall, on a bi-annual basis, obtain a Certificate of City of Pittston Fire Prevention Code Compliance from the City Fire Inspector.
2. **Fees.** The City Council shall, by Resolution, set the fees for the certificate and or inspections and re-inspections.

3. **Initial Implementation.** The initial Certificates issued under this Ordinance shall be pro-rated on a calendar year basis and shall expire on December 31, 2014 as specified in the fee Resolution. All subsequent renewals shall be for a two-year, calendar-year based term.

“Section 4 (B): Residential Rental Certificates;

1. Certificate Required. To ensure that housing units in the City of Pittston are safe, sanitary and in compliance with the City zoning, property maintenance and fire prevention ordinances of the City of Pittston, each and every residential unit in the City of Pittston, let out for rent or lease, shall require a Rental Property Maintenance Certificate before occupation, and every two years thereafter.

2. Administration. This Ordinance shall be enforced by the City of Pittston Code Enforcement Officer as directed by the City Administrator. The Code Enforcement Officer shall be assisted by the City of Pittston Fire Code Inspector, Zoning Officer, Health Officer, Board of Health, Sewage Enforcement Officer, City Engineer, and or any other city officer or employee as directed by the City Administrator.

3. Applicability. This ordinance shall apply to any structure within the City of Pittston that includes one (1) or more residential occupancy or sleeping units, offered for rent or lease.

4. Requirements. The owner of each structure containing residential rental units shall be required under this ordinance to obtain from the Code Enforcement Officer a Rental Property Maintenance Certificate for each residential rental unit within a structure. The purpose of this Certificate shall be to ensure the structure and its units are being used in accordance with:

- a) The Zoning Ordinance of the City of Pittston;
- b) The Property Maintenance Code and Property Maintenance Ordinances of the City of Pittston;
- c) The Fire Prevention Code of the City of Pittston;
- d) Applicable city and state health ordinances and codes;
- e) Applicable city and state sewerage ordinances and codes.
- f) Any and all requirements of the Pennsylvania Uniform Construction Code (Act 45 of 1999, as amended)

5. Property Manager. For the purpose of ensuring compliance with this Ordinance, the owner of each structure to which this ordinance is applicable, shall designate a property manager for the structure. The owner may designate themselves as the property manager. The property manager must reside within twenty (20) miles of the City of Pittston, and must provide a telephone number and residence mailing address (no post office boxes), to the Code Enforcement

Officer for the purpose of receiving communications under this ordinance. The property manager may also designate an e-mail address for the purpose of receiving electronic communications under this ordinance. It is the responsibility of the property manager to update contact information as needed, by informing the Code Enforcement Officer of any changes in address or telephone number from what is listed on the application.

6. Application Requirements and Inspection Process.

- A. **Application Form.** For each residential rental unit for which a certificate is required by this Ordinance, the property owner shall make application to the Code Enforcement Officer on a form provided by the Code Enforcement Officer. The application form, shall include, at a minimum:
1. the name, address, telephone number of the property owner;
 2. the name address, and telephone number of the property manager;
 3. the precise address of the rental unit;
 4. the maximum occupancy of the rental unit;
 5. a copy of the property insurance certificate for the rental unit
- B. **Payment of Fees.** Any fees required by this Ordinance shall be required to be paid in full at the time of application. An application will not be considered received and approved until all required fees are paid in full.
- C. **Required Inspections.** Once the application is received and approved, the property owner will then make all necessary arrangements for the Code Enforcement Officer to inspect the interior and exterior of the unit during normal business hours of the city.
- D. **Report of Inspection.** Post inspection, the Code Enforcement Officer will provide the property manager with a report indicating if the property is in full compliance with the city ordinances, or, if there are deficiencies, a list of the deficiencies and a time period for compliance.
- E. **Re-inspections.** One (1) re-inspection will be performed by the Code Enforcement Officer at no additional cost if deficiencies are recorded. The City Council may establish fees by Resolution for additional inspections if required to ensure compliance.

7. Additional Required Inspections. If a rental unit with a current Certificate is subsequently deemed under the City Property Maintenance Code Ordinance as:

- (1) "Unfit for Human Habitation;" or
- (2) "Condemned;" or
- (3) Damaged by fire; or
- (4) Structurally damaged to the point it cannot be inhabited; or
- (5) Found to be infested with rodents, insects or vermin; or
- (6) Is left vacant for more than six (6) months; or

(7) The property owner or occupant is convicted on a citation for a property maintenance code or fire prevention code violation at the property the property will require a full new Certificate including payment of required fees, prior to being reoccupied.

8. Required Fees. The City Council, shall, by Resolution, establish the fee for a Certificate; the fee for re-inspection, and any other fees and costs which may be required to implement this Ordinance.

9. Initial Implementation. The initial Certificates issued under this Ordinance shall be pro-rated on a calendar year basis and shall expire on December 31, 2014. All subsequent renewals shall be for a two-year, calendar-year based term. All fees shall be as set forth by Resolution of the City Council.

Section 4. New Sections.

A. Section 5: A new Section 5 is added to the Ordinance as follows:

Section 5. Fees. The City Council, by means of Resolution, shall adopt a fee schedule for the certificates, inspections, re-inspections and other costs required for enforcement of this ordinance.”

B. Section 6: A New Section 6 is added to the Ordinance as follows:

Section 6. Means of Appeal. Any property owner aggrieved by actions of enforcement under this Ordinance may file a written appeal with the City of Pittston Property Maintenance Code Board of Appeals within twenty (20) days of the date of enforcement action. Any appeals must be made on the form prescribed by the Board and with full payment of any fees required by Resolution of the City Council. The Board will convene a public hearing within thirty (30) days and render a written decision on the appeal within ten (10) days of the conclusion of the hearing.

C. Section 7. A new Section 7 is added to the Ordinance as follows:

Section 7. Indemnification. The Code Enforcement Officer, Fire Prevention Code Inspector, and any city employee, officer, or contractor assigned to assist the Code Enforcement Officer and Fire Prevention Code Inspector in the enforcement of this Ordinance, and members of the Board of Property Maintenance Code Appeals, are fully indemnified by the City of Pittston in the official conduct of their duties while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this Ordinance or other pertinent laws, and they shall not be rendered liable personally, and are hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official

duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under provision of this code shall be defended by the City of Pittston until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of this ordinance.

D. Section 8. A new Section 8 is added to the Ordinance as follows:

Section 8. Severability and Repealer. If any provision of this Ordinance is deemed invalid by a court of law, all remaining provisions shall remain in full force and effect. Any ordinances or resolutions or parts of ordinances and resolutions which are inconsistent with this Ordinance are hereby repealed.

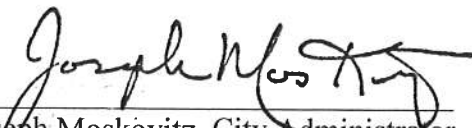
E. Section 9. A new Section 9 is added to the Ordinance as follows:

Section 9. Violations and Penalties. Any property owner found to be in violation of any provision of this ordinance, shall be given written notice by the Code Enforcement Officer to come into compliance with this Ordinance within ten (10) days. If the violation persists, the Code Enforcement Officer shall issue a non-traffic citation to the property owner for each rental unit not in compliance. Upon conviction, a fine of not less than \$500.00 (five hundred dollars) and not more than \$1,000.00 (one thousand dollars) plus all city-incurred legal fees and court costs, shall be imposed. Each day the offense continues shall be deemed a separate offense. Upon failure to pay any fine imposed, a sentence of not more than thirty (30) days in prison may be imposed.


Section 5. Effective date. This ordinance shall take effect immediately upon adoption.

ORDAINED AND ENACTED 17th DAY OF JULY, 2013.

ATTEST:


Joseph Moskowitz, City Administrator

APPROVED:


Jason C. Klush, Mayor