

# **BOROUGH OF MOUNT POCONO**

MONROE COUNTY, PENNSYLVANIA

## **ORDINANCE NO. 3 OF 2016**

AN ORDINANCE AMENDING CHAPTER 154 OF THE CODE OF THE BOROUGH OF MOUNT POCONO CODE.

It is hereby Ordained by the Borough Council of Borough of Mount Pocono, County of Monroe, Commonwealth of Pennsylvania, that Chapter 154 of the Borough Code of Mount Pocono is amended to read as follows:

### **Chapter 154 RENTAL PROPERTY**

#### **ARTICLE I General Provisions**

- §154-1. Intent.
- §154-2. Scope.
- §154-3. Responsibility.
- §154-4. Definitions.
- §154-5. Local Contact Person.
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#### **ARTICLE II Long-Term Rental**

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- §154-9. Reporting of Departure.

#### **ARTICLE III Short-Term Rental**

- §154-10. License Required; Zoning.
- §154-11. License Renewal.
- §154-12. Separate License Required.
- §154-13. Issuance to Owner.
- §154-14. Application.
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#### **ARTICLE IV Code Official**

- §154-16. Appointment.
- §154-17. Duties.
- §154-18. Consultation.

#### **ARTICLE V Inspections; Occupancy Requirements**

- §154-19. Inspections.
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#### **ARTICLE VI Violations, Penalties and Costs**

- §154-21. Compliance.
- §154-22. Fine.
- §154-23. Other Remedies.
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- §154-25. Repealer.
- §154-26. Severability.
- §154-27. Interpretation.
- §154-28. Effective Date.

## ARTICLE I General Provisions

### §154-1. Intent.

This Chapter shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of residential structures and premises.

### §154-2. Scope.

The provisions of this Chapter shall apply to all existing residential, conversions of nonresidential structures to residential dwellings, all existing premises and shall constitute the minimum requirements and standards for said premises for the occupancy, life safety, safety from fire and other hazards.

### §154-3. Responsibility.

The owner of the rental property shall be responsible for compliance with the provisions of this chapter and the failure of an owner, agent, managing agency, local contact person or short-term renting occupants to comply with this chapter shall be deemed noncompliance by the owner.

### §154-4. Definitions.

For the purpose of this Part, certain terms, phrases and words are defined as follows:

- A. Tense, Gender and Number. Words used in the present tense include the future; words in the masculine gender include the feminine and the neuter; the singular number includes the plural and the plural singular.
- B. General Terms. The words "shall," "will" or "must" are always mandatory; the words "should" or "may" are permissive. The words "used for" includes "designed for," "arranged for," "intended for," "maintained for" or "occupied for." The word "building" includes "structure" and shall be construed as if followed by the phrase "or part thereof." The word "person" includes "individual," "profit or nonprofit organization," "partnership," "company," "incorporated association" or other similar entities.
- C. Terms, Phrases and Words Not Defined. When terms, phrases or words are not defined, they shall have their ordinarily accepted meaning or such as the context may imply.
- D. Specific Terms. Terms or words used herein, unless otherwise expressly stated, shall have the following meanings:

APPROVED - Approved by the Code Official, Zoning Officer or Code Enforcement Officer

BEDROOM - Any room or space used or intended to be used for sleeping purposes.

CODE OFFICIAL - The official who is charged with the administration and enforcement of this Code, or any duly authorized representative.

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.

HABITABLE SPACE - Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

LET FOR OCCUPANCY OR LET - To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

LOCAL CONTACT PERSON - A local property manager, owner, or agent of the owner, who is available to

respond to tenant and neighborhood questions or concerns, or any agent of the owner authorized by owner to take remedial action and respond to any violation of this chapter.

LONG-TERM RENTAL - Any dwelling unit owned or managed by a person, firm or corporation which is leased or rented-for a period of 30 days or more.

OCCUPANCY - The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT - Any individual living or sleeping in a building, or having possession of a space within a building.

OPERATOR - Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER - Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the State, County or Borough as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON - An individual, corporation, partnership or any other group acting as a unit.

PREMISES - A lot, plot or parcel of land including any structures thereon.

SHORT-TERM RENTAL - Any dwelling unit on a lot of 0.5 acres or more owned or managed by a person, firm or corporation which is rented or leased for a period of less than 30 days.

STRUCTURE - That which is built or constructed or a portion thereof.

TENANT - A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

TOILET ROOM - A room containing a water closet or urinal but not a bathtub or shower.

#### **§154-5. Local Contact Person.**

Each owner of a long-term or short-term rental shall designate a local person, property manager or agent as a local contact person who has access and authority to assume management of the unit and take remedial measures. An owner who resides within 40 miles of premises may designate himself as the local contact person. The local contact person shall respond to the Code Official within one (1) hour after being notified by the Code Official or other Borough official of the existence of a violation of this chapter or any disturbance requiring immediate remedy or abatement. If the local contact person is not the owner, the local contact person shall immediately advise the owner of any notification of a violation.

#### **§154-6. Fees.**

Fees for the administration of this chapter shall be charged in accord with the fee schedule adopted by Resolution of the Borough Council.

#### **§154-7. Forms and Procedures.**

Registration and application forms and procedures shall be as required by this chapter or as otherwise amended or adopted by Resolution of the Borough Council.

## **ARTICLE II Long-Term Rental**

#### **§154-8. Reporting of Occupancy.**

- A. Registration of Long-Term Residential Tenants Required Upon Occupancy. Any person, firm or corporation owning or managing long-term rental property, upon leasing or renting such property, shall furnish to the Code Official the names and address of the tenants within ten (10) days from the date of execution of the lease or in the event no written lease is executed, then within ten (10) days from the date of occupancy of the said property by the tenant or tenants. An administrative fee will be charged according to the fee schedule for any initial renters or any change of occupancy.
- B. Annual Registration of Long-Term Residential Tenants Required. Commencing on or before June 1<sup>st</sup> and annually thereafter any person, firm or corporation owning or managing long-term rental property which property at the present time is rented, leased, sub-leased, or otherwise occupied for a period of 30 days or more a year shall furnish to the Code Official the names and address of the tenants residing there. Such report shall be on a form as prescribed by Resolution of the Borough Council.
- C. Number of Occupants. The number of occupants in a long-term rental shall be governed by Chapter 215 (Zoning); see definition of “dwelling unit” and “family.”

**§154-9. Reporting of Departure.**

Within 14 days of any tenant departing any long-term rental, the owner shall report such departure to the Code Officer in writing, including the name of any departing tenant, and the new address of such departing tenant, if known.

**ARTICLE III  
Short-Term Rental**

**§154-10. License Required; Zoning.**

- A. License. A license under this chapter shall be required when any dwelling unit is used as a short-term rental. A license application for any property presently used as short-term rental shall be filed within ninety (90) days of the effective date of this chapter.
- B. Zoning District. Short-term rentals shall only be allowed in those Districts where permitted by Chapter 215 (Zoning).
- C. Lot Size. Applicant must demonstrate that the dwelling unit is situated on at least a .50 acres’ lot in a R-2 Zoning District only.

**§154-11. License Renewal.**

Each permit shall be renewed annually and at the time any of the conditions of the rental which are governed by this chapter are changed.

**§154-12. License Required.**

A separate license shall be required for each individual short-term rental unit.

**§154-13. Issuance to Owner.**

The license shall be issued only in the name of the owner of the short-term rental.

**§154-14. Application**

An application for a short-term rental license shall be filed with the Code Official. The application shall contain the following information:

- A. The name, address, telephone number and email address of the owner. If the owner does not have a managing agency, agent or local contact person, then the owner shall provide a 24-hour telephone number.

- B. The name, address, and 24-hour telephone number of the managing agency, agent or local contact person.
- C. A diagram or photograph of the premises showing and indicating the number and location of designated on-site parking spaces and documentation detailing the number and location of available off-site parking spaces.
- D. If not on a central sewer system, the location, approximate age and capacity (if known) of the sewage disposal system.
- E. Acknowledgment that the owner, agent, and/or local contact person have read all regulations pertaining to the operation of the short-term rental.
- F. Acknowledgment that the owner, agent, or local contact person will post and maintain the short-term rental with the notice required in §154-15A.(7).
- G. A copy of a current Monroe County Hotel Room Excise Tax Certificate and current Pennsylvania Sales Tax License if such Certificate and/or License as required by the applicable regulations.
- H. Any other reasonable information deemed necessary by the Code Official.

**§154-15. Standards and Conditions.**

A. Standards - All licenses issued pursuant to this chapter are subject to the following standards:

- (1) The owner shall limit overnight occupancy of the short-term rental to the specific number of occupants designated in the license and determined as follows:
  - (a) 2 people per bedroom plus an additional 2 people.

Number of Bedrooms	Maximum Number of Occupants
2	6
3	8
4	10
5	12
6	14

- (b) Every bedroom shall contain not less than seventy (70) square feet and every bedroom occupied by more than one (1) person shall contain not less than one hundred (100) square feet.
- (c) Bedrooms shall not be less than seven (7) feet in any plan dimension.

- (2) The owner shall limit the number of all vehicles to the number of parking spaces designated in the license.
  - (a) All parking for overnight guests and day guests shall be designated in the license and shall be located on the short-term rental property. This may include spaces in the property's garage which can accommodate vehicles, but shall not include spaces in any private, community or public right-of-way.

- (b) A minimum of one (1) parking space per bedroom shall be provided.
  - (c) All parking spaces shall be improved to a mud-free condition with paving, stone or similar material and shall count as part of the maximum lot coverage established by Chapter 215 (Zoning).
  - (d) If the short-term rental is accessed directly by a Borough or State road, all parking spaces shall be accessed from the driveway serving the short-term rental unless the unit is served by a common parking area.
- (3) The owner shall use best efforts to assure that the occupants or guests of the short-term rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this chapter or any state law pertaining to noise or disorderly conduct by notifying the occupants of the rules regarding short-term rentals and responding when notified that occupants are violating laws regarding their occupancy.
  - (4) The owner shall, upon notification that occupants or guests of the short-term rental have created unreasonable noise or disturbances, engaged in disorderly conduct or violated provisions of this chapter or state law pertaining to noise, or disorderly conduct, promptly use their best effort to prevent a recurrence of such conduct by those occupants or guests.
- (5) Occupancy of recreational vehicles, camper trailers and tents shall not be allowed.
  - (6) The owner shall post a copy of the license and a copy of the conditions set forth in this §154-15 in a conspicuous place within the short-term rental.
  - (7) Each short-term rental shall have a clearly visible and legible notice conspicuously posted within the unit containing the following information:
    - (a) The name of the managing agency, agent, property manager, local contact, or owner of the unit, and a telephone number at which that party may be reached on a 24-hour basis.
    - (b) The 911 address of the property
    - (c) The maximum number of occupants permitted to stay in the unit
    - (d) The maximum number of all vehicles allowed to be parked on the property and the requirement that parking is not permitted in any public road right-of-way unless such designated right-of-way is not parking restricted.
    - (e) Notification that trash and refuse shall not be left or stored on the exterior of the property except in secure, water-tight metal or plastic cans or similar containers designed for such storage with a limit of three (3) secured containers.
    - (f) Notification that an occupant may be cited and fined for creating a disturbance or for violating other provisions of this chapter; and
    - (g) Notification that failure to conform to the parking and occupancy requirements of the structure is a violation of this chapter subject to a citation and fines.
  - (8) It shall be unlawful for any occupant or person to maliciously and willfully disturb the peace of any

neighborhood, person, or family by loud or unusual noises or by tumultuous and offensive conduct, public indecency, threatening, traducing, quarreling, challenging to fight, or fighting.

- B. License Conditions - The Code Officer shall have the authority to impose additional reasonable conditions on any license or renewal in the event of any prior violation of the conditions of the license or the provisions of this chapter to address any such past violations.
- C. Marketing. The marketing of a short-term rental in which the advertised occupancy exceeds the maximum occupancy requirements permitted by this chapter or which promotes any other activity which is prohibited by this chapter shall be a violation of this chapter subject to the penalties and costs in Article VI. The owner or local contact person shall provide to the Code Official a copy of all advertisements relating to the short-term rental.

#### **ARTICLE IV Code Official**

##### **§154-16. Appointment.**

The Borough Council may appoint one (1) or more Code Officials, who may be the Borough Zoning Officer or Code Enforcement Officer, a Pocono Mountain Regional Police or a contracted individual, firm or agency, to conduct inspections, make reports and administer this chapter.

##### **§154-17. Duties.**

The administrative, inspection and enforcement responsibilities established by this chapter may be delegated to different Code Officials appointed in accord with §154-16.

##### **§154-18. Consultation.**

The Code Official, with the authorization of the Borough Council, may engage the services of competent engineers or other consultants to determine the nature and extent of any violation.

#### **ARTICLE V Inspections; Occupancy Requirements**

##### **§154-19. Inspections.**

- A. Authorization. All long-term and short-term rental units shall be subject to inspection and approval by the Code Official to verify registration, application, license, operating and/or occupancy requirements or if there is reason to believe that any provision of this chapter is being violated.
- B. Long-Term Rentals. Prior to the initial letting of a long-term rental, the owner shall arrange for an inspection by the Code official to confirm that the minimum occupancy requirements in §154-20 are satisfied.
- C. Short-Term Rentals. Prior to the initial letting of a short-term rental and prior to the license renewal, the owner shall arrange for an inspection semi-annually by the Code Official to confirm that the minimum occupancy requirements in §154-20 are satisfied.

##### **§154-20. Occupancy Requirements.**

In order to be approved for letting, each long-term rental and each short-term rental must comply with the following:

- A. Smoke detector in each bedroom,
- B. Smoke detector outside each bedroom in the common hallway,
- C. Smoke detector on each floor,
- D. GFI outlet required if outlet located within six feet of water source (all sinks, sump pumps, etc.),
- E. Aluminum or metal exhaust from dryer,
- F. Carbon monoxide detector if open flame (oil or gas) furnace or gas fireplace,
- G. Carbon monoxide detector if garage is attached,
- H. Fire extinguisher in kitchen,
- I. Stairs (indoor and outdoor) in good condition,
- J. Covers on all outlets, and
- K. Any other occupancy requirements which may be added by resolution of Borough Council.

## **ARTICLE VI**

### **Violations, Penalties and Costs**

#### **§154-21. Compliance.**

Failure to comply with any provision of this chapter, and/or failure to comply with an order to abate an activity, use and/or condition, shall be a violation of this chapter and subject to criminal prosecution and the revocation of a license.

#### **§154-22. Fine.**

Any person who has violated or permitted the violation of any provisions of this chapter shall upon judgment thereof by any Magisterial District Judge be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00) per day of violation, together with the costs of suit including reasonable attorney fees. Each day of violation shall constitute a separate offense, for which a summary conviction may be sought. All judgments, administrative, enforcement, security firm or police response, and other costs, interest and reasonable attorney fees collected for the violation of this chapter, shall be paid over to the Borough.

#### **§154-23. Other Remedies.**

The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment. The Borough shall also have the right to seek injunctive relief for violations of this chapter.

#### **§154-24. Short-Term License Revocation.**

If an owner of a short-term rental commits two (2) or more offenses resulting in convictions within one year, the short-term rental license may be revoked.

## **ARTICLE VIII**

### **Miscellaneous Provisions**

#### **§154-25. Repealer.**

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed. Ordinance No. 3-2007 is specifically repealed.

#### **§154-26. Severability.**

If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions,

sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**§154-27. Interpretation.**

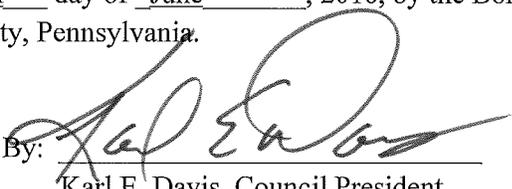
The object of interpretation and construction of this Ordinance and/or the provisions there of shall be, if possible, to give effect to all of its provisions. Whenever a provision in this Ordinance shall be in conflict with another provision in the same section or another part of this Ordinance or another Ordinance or part thereof, the two (2) shall be construed, if possible, so that the effect may be given to both.

**§154-28. Effective Date.**

This Ordinance shall become effective five (5) days following adoption.

**ADOPTION**

ORDINANCE ORDAINED AND ENACTED this 6th day of June, 2016, by the Borough Council of the Borough of Mount Pocono, Monroe County, Pennsylvania.

By: 

Karl E. Davis, Council President

ATTEST:

  
Lori Noonan, Secretary

APPROVED this 6th day of June, 2016

By: 

Frederick T. Courtright, Mayor

