


Date: October 24, 2019

To: Councilmember Greg Landsman
From: Paula Boggs Muething, City Solicitor 
Subject: **Ordinance – New Chapter 874 “Residential Rental Registration” – B Version**

Transmitted herewith is an ordinance captioned as follows:

ORDAINING new Chapter 874, “Residential Rental Registration,” of the Cincinnati Municipal Code to enhance and update registration requirements for residential rental properties and increase the penalties for failure to comply with such requirements; and **AMENDING** Sections 1501-3, “Class A Civil Offenses,” and 1501-9, “Class D Civil Offenses,” of Title XV, “Code Compliance and Hearings,” of the Cincinnati Municipal Code.

PBM/EEF/(lnk)
Attachment
299097

City of Cincinnati

EEF/B

PBM

An Ordinance No. _____ - 2019

ORDAINING new Chapter 874, "Residential Rental Registration," of the Cincinnati Municipal Code to enhance and update registration requirements for residential rental properties and increase the penalties for failure to comply with such requirements; and **AMENDING** Sections 1501-3, "Class A Civil Offenses," and 1501-9, "Class D Civil Offenses," of Title XV, "Code Compliance and Hearings," of the Cincinnati Municipal Code.

WHEREAS, the vast majority of residential rental properties are owned by individuals or corporations who do not reside at their rental properties, and, in many cases, owners of residential rental properties live out-of-state and, in some cases, reside in foreign countries; and

WHEREAS, existing Ohio law does not require owners of residential rental property to provide contact information for the individuals or companies responsible for maintaining or responding to emergencies at residential rental properties; and

WHEREAS, the City has a compelling interest in ensuring that it can contact an individual who is responsible for the maintenance and/or management of residential rental properties, especially in the case of emergencies such as fires, floods, and loss of power and/or heat; and

WHEREAS, there are approximately 80,000 residential rental units in the City of Cincinnati, which constitutes half of all of the City's housing stock; and

WHEREAS, the actual number of residential rental properties and rental units in the City of Cincinnati is unknown, in part, because owners of residential rental property often fail to register their rental properties; and

WHEREAS, the City seeks to reduce barriers to registration and make the registration process highly accessible to owners of residential rental properties by providing for on-line, internet-based registration; and

WHEREAS, the City frequently responds to complaints involving immediate health and safety concerns and code violations at residential rental properties and is often unable to locate the owner or property manager because the information provided to the state has not been provided as required, is incorrect and/or outdated, or does not include contact information for the individuals actually responsible for the maintenance of the property; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That new Chapter 874, "Residential Rental Registration," of Title VIII, "Business Regulations," of the Cincinnati Municipal Code is hereby ordained to read as follows:

Chapter 874 – RESIDENTIAL RENTAL REGISTRATION

Sec. 874-1. - Definitions.

For the purposes of this chapter, words and phrases shall have their ordinary meaning unless defined herein.

- (a) "Director of Buildings and Inspections or Director" shall be construed to include authorized employees appointed to perform specific duties of the Department of Buildings and Inspections in the enforcement of the provisions of the Ohio Building Code and the Cincinnati Building Code.
- (b) "Person in control" shall mean:
 - (1) The person, persons, or entity holding title to the freehold estate of the premises; or
 - (2) Any individual designated by the owner of a Residential Rental Property as having the duty, responsibility, and authority to operate, maintain, and manage the Residential Rental Property; or
 - (3) A mortgagee or vendee in possession; or
 - (4) A receiver; or
 - (5) An executor; or
 - (6) A trustee; or
 - (7) Any person, public or private entity, lessee or holder of a lesser estate in the premises, and/or its duly authorized agent(s), with the authority to bring a building or premises into compliance with the provisions of this code, including but not limited to any mortgagee that has filed an action in foreclosure on the particular premises at issue, based on breach or default of a mortgage agreement, until title to the premises is transferred to a third party.
- (c) "Property" shall mean real property located in the city of Cincinnati improved by virtue of a dwelling having been erected on the real property.
- (d) "Residential Rental Property" shall have the same meaning as Ohio Revised Code 5323.01(E). In addition, the Director may consider the following criteria in

identifying whether real property constitutes residential rental property for purposes of this Chapter:

- (1) The property does not receive an owner occupancy tax credit based on the records of the Hamilton County Auditor;
- (2) The property contains a dwelling unit registered as a rental property with the Hamilton County Auditor pursuant to Ohio Revised Code Chapter 5323;
- (3) The property is owned by a corporate entity and not individually;
- (4) For single-family homes, the water records kept by greater Cincinnati water works reflect third-party billing;
- (5) The Hamilton County Auditor has applied any of the following land use codes to the property:

CATEGORY	DESCRIPTION	DEPT. OF TAX EQUALIZATION	HAMILTON COUNTY
COMMERCIAL	APARTMENTS - 4 TO 19 UNITS	401	401
COMMERCIAL	APARTMENTS - 20 TO 39 UNITS	402	402
COMMERCIAL	APARTMENTS - 40+ UNITS	403	403
COMMERCIAL	RETAIL - APARTMENTS OVER		404
COMMERCIAL	OFFICE - APARTMENTS OVER		431
RESIDENTIAL	TWO FAMILY DWELLINGS	520	520
RESIDENTIAL	THREE FAMILY DWELLINGS	530	530
RESIDENTIAL	LOW INCOME HOUSE TAX CREDIT (residential)	569	569
RESIDENTIAL	OTHER STRUCTURES	599	599

- (6) The property has been registered as a residential rental property with the Hamilton County Auditor as required by Ohio Revised Code 5323.02;
- (7) Other reasonable indicators that real property has been rented to tenants for residential purposes, for example, the existence of a lease agreement.

Sec. 874-3. - Scope.

- (a) The provisions of this Chapter apply to all Residential Rental Properties.
- (b) Real property or a portion thereof used exclusively for the following purposes shall be exempt from the requirements of this section:
 - (1) Hotels or motels;
 - (2) College or university dormitories that are state-owned and are inspected for code compliance under other procedures or licensure;
 - (3) Properties that are currently unoccupied because they have been ordered vacated by the director;
 - (4) Properties that are available to the public for rental for a period of thirty days or less;
 - (5) Non-residential purposes when separate and distinct from a portion used as a residential rental property, e.g. first floor retail in a multi-story mixed-use apartment building.
- (c) In the event of a dispute over whether a property is subject to the application and inspection provisions of this ordinance, owners may submit evidence to the Director demonstrating that their property is not “Residential Rental Property” for purposes of this section.

Sec. 874-5. - General Obligations of Owners and Persons in Control of Residential Rental Properties.

- (a) The owner or person in control of a Residential Rental Property must file a Residential Rental Property registration with the director within 60 calendar days of the effective date of this ordinance or within 60 calendar days of assuming ownership, whichever is later.
- (b) All Residential Rental Property registrations shall be made on forms and in the manner prescribed by the director, and shall include the following information:
 - (1) The name, address, and telephone number of the owner;
 - (2) If the Residential Rental Property is owned by a trust, business trust, estate, partnership, limited partnership, limited liability company, association, corporation, or any other business entity, the name, address, and telephone number of the following:

- a. A trustee, in the case of a trust or business trust;
 - b. The executor or administrator, in the case of an estate;
 - c. A general partner, in the case of a partnership or a limited partnership;
 - d. A member, manager, or officer, in the case of a limited liability company;
 - e. An associate, in the case of an association;
 - f. An officer, in the case of a corporation;
 - g. A member, manager, or officer, in the case of any other business entity.
- (3) The name, address, and telephone number for any and all persons in control of the Residential Rental Property, including, but not limited to, a professional property management company or on-site maintenance personnel, who have been designated by the owner as the party responsible for responding to emergency or maintenance issues for the Residential Rental Property and who can be reached 24 hours a day, 7 days a week, 365 days a year. At least one person in control must reside within 100 miles of the registered Residential Rental Property.
- (4) The street address and permanent parcel number of the residential rental property.
- (5) The monthly rent charged and the number and size of each rental unit located in each residential rental property, including the number of bedrooms, bathrooms, and approximate square footage of the unit.
- (c) The owner and any designated person in control of a registered Residential Rental Property have a continuing obligation to notify the director in writing of any changes, including, but not limited to:
- (1) Any change in information on the Residential Rental Property registration form.
 - (2) Any change in ownership.
 - (3) Any change in use of the Residential Rental Property, including, but not limited, to the property becoming and remaining vacant for a period of sixty days or more.
- (d) All Residential Rental Registrations shall be accompanied by the applicable fee necessary to recover the cost and expense of the administering the registry, which fee shall not exceed \$1.00 per registered rental unit.

Sec. 874-7. - Penalties.

- (a) Failure to register a Residential Rental Property shall constitute a Class D civil offense. Each additional day that the property remains unregistered after receiving under CMC Section 1501-13, "Notice of Civil Offense and Civil Fine; Procedures," shall constitute a separate, subsequent Class E civil offense.
- (b) Failure to maintain accurate information once having registered a Residential Rental Property shall constitute a Class A civil offense. Each additional day that the information remains inaccurate after receiving under CMC Section 1501-13, shall constitute a separate, subsequent Class B civil offense.

Sec. 874-9. - Severability.

If any provision or section of this chapter or the enforcement of any such provision or section is held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect or render invalid or unenforceable any other provision or section of this chapter. To this end, each of the provisions and sections of this chapter are severable.

Sec. 874-11. - Appeals.

Any person who has a bona fide controversy with the interpretation, application, or enforcement of this Chapter may submit a written petition for reconsideration to the Director under CBC Section 1101-80, "Director's Actions."

Sec. 874-13. - Effective Date.

This Chapter shall take effect 183 days after it becomes law.

Section 2. That existing Sections 1501-3, "Class A Civil Offenses," and 1501-9, "Class D Civil Offenses," of Title XV, "Code Compliance and Hearings," of the Cincinnati Municipal Code are hereby amended as follows:

Sec. 1501-3. - Class A Civil Offenses.

A person who violates a standard of conduct set forth in a section or chapter of the Cincinnati Municipal Code listed below is liable for the civil fine specified in § 1501-99 for a Class A Civil Offense. If a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine specified in § 1501-99 for the first violation of a Class B Civil Offense.

a.	§ 511-1	Advertising on Vehicles.
b.	§ 511-33	Front Yard Parking.
c.	§ 514-11	Parking Restrictions.
d.	§ 604-17	Unapproved Bird, Fowl or Animal Feeding.
e.	§ 701-19	Order to Muzzle Dogs.
f.	§ 701-27	Loud Dog.
g.	§ 701-30	Dog Excrement Removal.
h.	§ 721-63	Gutter Crossings.
i.	§ 721-65	Obstructing Gutters.
j.	§ 721-93	Temporary Driveway Permits.
k.	§ 723-5	Encumbering Sidewalks.
l.	§ 723-9	Regulations for Wholesale Produce Areas.
m.	§ 723-11	Retail Sidewalk Display.
n.	§ 723-12	Free Standing Business or Identification Signs (Sandwich Boards) on Sidewalk.
o.	§ 723-13	Temporary Encumbrances.
p.	§ 723-17	U.S. Mail Boxes.
q.	§ 723-23	Ground and Debris on Street or Sidewalk.
r.	§ 723-29	Sprinkling Roadways in Congested District.
s.	§ 723-31	Sprinkling Before Sweeping.
t.	§ 723-37	Unloading Heavy Material on Streets or Sidewalks.
u.	§ 723-39	Inscribing Names or Advertising Matter on Sidewalks Unlawful.
v.	§ 723-57	Removal of Snow.
w.	§ 723-59	Ice on Sidewalks.
x.	§ 723-65	Displaying House Numbers.
y.	§ 723-69	Removing House Numbers.
z.	§ 723-79	Fire Kettle Permit.
aa.	§ 729-7	Setting Out Containers.
bb.	§ 729-15	Containers to be Removed from Collection Points.
cc.	§ 729-37	Street Waste Receptacles.
dd.	§ 729-87(a)	Recyclable Materials - Taking Recyclables.
ee.	§ 729-87(b)	Recyclable Materials - Destruction of Container.

ff.	§ 729-87(c)	Recyclable Materials - Relocation of Container.
gg.	§ 729-87(d)	Recyclable Materials - Failure to Remove Container from Collection Point.
hh.	§ 729-88	Yard Waste Materials.
ii.	§ 729-89(c)	Disposal of Unacceptable Waste.
jj.	§ 911-17	Posting Bills on Streets.
kk.	§ 1123-11(b)	Vacant Foreclosed Property Registration - Failure to maintain accurate information.
ll.	§ 1123-11(c)	Vacant Foreclosed Property Registration - Failure to maintain the property in accordance with the maintenance provisions.
mm.	§ 701-2(B)(1)	Leash Required; Responsibility for Injury (<i>Leash</i>).
nn.	§ 874.07(b)	<u>Failure to Maintain Accurate Residential Rental Property Registration.</u>

Sec. 1501-9. - Class D Civil Offenses.

A person who violates a standard of conduct set forth in a provision of the Cincinnati Municipal Code listed below is liable for the civil fine specified in § 1501-99 for a Class D Civil Offense. If the provision is listed under paragraph (a) below, the otherwise applicable civil fine is reduced by 50% if the person charged shows in accordance with § 1501-15 that the violation has been corrected. If a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for the subsequent offense provided below, which fine is specified in § 1501-99 and is not subject to reduction for correction of the violation.

(a) Class D Civil Offenses With Civil Fines Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 720-13	Private Facilities	Class E
(2)	§ 720-45	Notice of Violations	Class E
(3)	§ 720-69	Notice to Correct Drainage	Class E
(4)	Chapter 855	Rooming Houses	Class D
(5)	Chapter 895	Outdoor Advertising Signs	Class D
(6)	Chapter 1101	Administration, Cincinnati Building Code	Class E

(7)	Chapter 1106	General and Specialty Contractors	Class E
(8)	Chapter 1107	Elevator and Conveyer Equipment	Class E
(9)	Chapter 1117	Housing Code	Class E
(10)	Chapter 1119	Building Hazard Abatement Code	Class E
(11)	Chapter 1127	General Inspection Programs Code	Class E
(12)	Title XIV	Zoning Code	Class E
(13)	§ 1201-21	Maintenance	Class D
(14)	§ 1201-33	Evacuation	Class D
(15)	§ 1201-35	Spills and Leaks	Class D
(16)	Chapter 1235	Detectors, Early Fire Warning Systems	Class D
(17)	§ 1123-11(a)	Vacant Foreclosed Property Registration - Failure to register a vacant, foreclosed property.	Class E
(18)	<u>§ 874-07(a)</u>	<u>Failure to Register Residential Rental Property</u>	<u>Class D</u>

(b) Class D Civil Offenses With Civil Fines Not Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 718-25	Secret Street Uses	Class E
(2)	§ 721-59	Taking Material from Streets	Class E
(3)	§ 729-71(c)(2)	Personal Property Left Abandoned on Streets and Sidewalks - 4 or more items	Class D
(4)	§ 761-14	Eviction or Retaliation by Landlord	Class E
(5)	Chapter 891	Home Improvement	Class E
(6)	§ 1201-47	Failure to Comply with Orders	Class D
(7)	§ 1219-21	Causing Fire Through Negligence	Class D
(8)	Chapter 1251	Fire Starting Apparatus	Class D
(9)	§ 759-4	Use of a Motor Vehicle to Facilitate a Drug Related Crime	Class D
(10)	Chapter 722	Management and Control of the Use of the City Right-of-Way	Class E
(11)	Chapter 730	Commercial Waste Franchises	
(12)	§ 856-27(b,c)	Failure to Obtain a Short Term Rental License	Class D

		<i>(after notification of offense)</i>	
(13)	§ 856-27(d)	Failure to Operate a Short Term Rental Within Proper Scope or Type of License <i>(after notification of offense)</i>	Class D
(14)	§ 856-27(e)	Violation of Limitations on Operators or Operation of Short Term Rentals	Class D
(15)	§ 856-27(f)	Dishonestly Holding a Dwelling Unit Out as a Hosted Rental	Class D

Section 3. That existing Sections 1501-3, "Class A Civil Offenses," and 1501-9, "Class D Civil Offenses," of Title XV, "Code Compliance and Hearings," of the Cincinnati Municipal Code are hereby repealed.

Section 4. That the proper City officials are hereby authorized to take all actions necessary and proper to prepare for implementation of the registration procedures established in this ordinance, and they are further authorized to take all actions necessary and proper to implement the registration once it becomes effective.

Passed: _____, 2019

John Cranley, Mayor

Attest: _____
Clerk

New language underscored. Deleted language indicated by strikethrough.