

Home Rule Resolution No. 18-03

AMENDING HOME RULE RESOLUTION 18-01 FOR BOARDMAN TOWNSHIP REGARDING LANDLORD REGISTRATION AND RENTAL UNIT MAINTENANCE STANDARDS.

The Board of Trustees of Boardman Township, Mahoning County, Ohio met in Regular Session at the Boardman Township Administration Building, 8299 Market Street, on the 14th day of May, 2018, with the following members present: Thomas P. Costello, Brad Calhoun, Larry Moliterno.

Moved by Mr. Moliterno, seconded by Mr. Costello, to approve and adopt the First Reading of Home Rule Resolution 18-03 as follows and to dispense with a Second Reading of Home Rule Resolution 18-03:

WHEREAS, the Boardman Township Board of Trustees adopted a Limited Home Rule government in accordance with Ohio Revised Code Section 504.01 by Resolution duly adopted and approved October 12, 1999; and

WHEREAS, Boardman Township constitutes an Urban Township with Limited Home Rule Authority as provided in the Ohio Revised Code Section 504.01, vested with the powers rights, and immunities granted therein; and

WHEREAS, it is the desire of the Boardman Township Trustees to protect the integrity of our neighborhoods through the registration of landlords and establishment of rental unit standards, which is necessary for the general health, safety and welfare of the general public;

WHEREAS, the Boardman Township Board of Trustees adopted limited Home Rule Resolution 14-01 on November 10, 2014, as amended by Home Rule Resolution 15-01 on January 12, 2015 and Home Rule Resolution 18-01 on April 9, 2018, to accomplish those goals;

WHEREAS, the Mahoning County Court of Common Pleas on June 30, 2015 (*Hiznay v. Boardman Township*, Case No. 2014 CV 02949) upheld Home Rule Resolution 14-01, as amended by Home Rule Resolution 15-01, as a constitutional and legal exercise of authority by the Boardman Township Board of Trustees with the exception of Article I, Section 3(A)(5)'s requirement that landlords provide solid waste disposal facilities or containers for all rental units, which it found to be in conflict with the Landlord-Tenant Act; the Seventh District Court of Appeals affirmed this decision on March 29, 2017 (Case No. 15 MA 0122); and the Ohio Supreme Court declined to accept jurisdiction over the case (No. 2017-0555) on December 6, 2017;

WHEREAS, Ohio Revised Code Section 504.12 authorizes the Boardman Township Board of Trustees to revise and amend a previously enacted home rule resolution;

WHEREAS, Ohio Revised Code Section 504.10 authorizes the Boardman Township Board of Trustees to dispense with a second reading of a home rule resolution and to authorize the adoption of a home rule resolution upon its first reading;

WHEREAS, a majority of the Boardman Township Board of Trustees agrees to dispense with a second reading of this home rule resolution and to authorize its adoption upon its first reading;

WHEREAS, in Home Rule Resolution 18-01, the Boardman Township Board of Trustees desired to amend and to revise Article I, Sections 3(B) and (D) of Home Rule Resolution 15-01 to bring the Resolution in accord with the *Hiznay* decision by deleting the requirement that landlords provide solid waste disposal facilities or containers for all rental units and renumbering the provisions in Section 3(B) therein and to adjust the deadlines for owners to apply for a Rental Unit Certificate, but Home Rule Resolution 18-01 inadvertently did not omit requirement for the solid waste disposal facilities or containers, and the Board of Trustees desires to correct that oversight in this resolution;

WHEREAS, Home Rule Resolution 15-01, which went into effect on February 12, 2015, committed the Boardman Township Board of Trustees to review the fee schedule established in Home Rule Resolution 15-01 within three years of the Resolution's effective date and then at least every five years thereafter, but the Board of Trustees stayed the implementation of any its provisions during the pendency of the *Hiznay* case;

WHEREAS, the Boardman Township Board of Trustees desires to begin implementation of the Landlord Registration and Rental Unit Maintenance Standards, so it adopted Home Rule Resolution 18-02 on April 9, 2018;

WHEREAS, in accordance with the intent of Home Rule Resolution 15-01, the Boardman Township Board of Trustees will review the fee schedule within three years of beginning to collect the fee and then at least every five years thereafter; and

WHEREAS, the Boardman Township Board of Trustees finds and determines that all formal actions of this Board concerning and relating to passage of this resolution were taken in an open meeting of this Board and that all deliberations of this Board and of any of its committees that resulted in such formal action were taken in meetings open to the public and in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

NOW THEREFORE, BE IT RESOLVED, THAT THE FOLLOWING REGULATIONS BE AND HEREBY ARE APPROVED AND ADOPTED, AS AMENDED, TO BE EFFECTIVE 30 DAYS FROM THE DATE OF FIRST READING UPON FIRST READING (WITH THE SECOND READING HAVING BEEN DISPENSED WITH), PUBLICATION AND CODIFICATION:

ARTICLE I. RENTAL UNIT REGISTRATION AND MAINTENANCE STANDARDS

Section 1: Definitions

(A) Rental Unit, is any dwelling unit or rooming unit as defined in this resolution for let or rented for one or more individuals to reside in, held out to be let or rented as a residence, or resided in by any occupant other than the owner of record.

(B) Dwelling Unit, is a single, self-contained unit providing independent living facilities for one or more individuals and which contains eating, living, sanitary and sleeping areas.

(C) Rooming Unit, is a single, self-contained unit providing independent living facilities for one or more individuals which contains living, sanitary, and sleeping areas only.

(D) Apartment Community, is one parcel containing two or more buildings, each consisting in excess of six units.

Section 2: Scope

(A) Owners and occupants of any rental unit located in Boardman Township shall be cognizant of and comply with the responsibilities of their positions as set forth in these regulations governing landlord registration and rental unit standards.

Section 3: Responsibilities

(A) The owner of the rental unit shall:

1. maintain it, including the interior, exterior property areas, and exterior structure, in good repair and in a safe and sanitary condition;
2. maintain in a clear and sanitary condition the shared public or common areas;
3. provide all utilities, facilities, equipment and services required by this resolution;
4. provide for the extermination of insects in an acceptable means not injurious to human health; and
5. comply with all regulations and rules of the township to enforce and interpret this section.

(B) The occupant of the rental unit shall:

1. keep the part of the rental unit and premises which he or she occupies, controls or uses in a clean and sanitary condition;
2. dispose of all solid waste material in a clean and sanitary manner by placing it in the disposal facilities or containers provided, or to provide such facilities or containers for disposal of solid waste material when required by the owner;
3. keep all plumbing fixtures in a clean and sanitary condition and be responsible for the exercise of reasonable care in their proper use;
4. exercise reasonable care in the use of designated parts of the rental and premises which he or she occupies, controls or uses, including all parts and equipment supplied; and

5. maintain in good and safe working order the equipment, appliances and fixtures which he or she owns.

(C) The Boardman Township Zoning Inspector or his/her designee is charged with the enforcement of this home rule resolution including but not limited to, conducting inspections and issuing notices, orders and penalties and, in so doing, acts as the authorized representative of Boardman Township.

(D) Rental Unit Certificate

1. No owner of property nor any person, corporation or other business entity shall rent, lease or let any rental unit unless it holds an authorized Rental Unit Certificate issued by the Boardman Township Zoning Inspector which has not expired, or otherwise become null and void. Said conduct is unlawful and a violation of this resolution. The occupation of a premises by a person other than the titled owner combined with the fact that said owner lists a different address as his/her own in the records of the Office of the Mahoning County Auditor shall be prima facie evidence that the premises is a rental unit being rented, leased or let.

2. Rental Unit Certificate requests are processed in January and February of each calendar year.

3. From March 1 through December 31 of each calendar year, a provisional Rental Unit Certificate may be requested along with receipt of a completed application and payment of the fees set forth in this section. Said provisional Certificate shall not be issued by the Boardman Township Zoning Inspector until the rental unit is found to be in compliance with the requirements of this Resolution. This can be verified by inspection or by the filing of a notarized statement of compliance by the property owner that is in a form acceptable to the Boardman Township Zoning Inspector.

4. All applications for a Rental Unit Certificate shall include a completed application form(s) as provided by Boardman Township Zoning Department and fee. No Certificate shall be issued unless the form is filled out entirely and the required fee described in Section (D)(6) is paid.

5. A Rental Unit Certificate or Provisional Certificate, if issued, is valid from the date it is issued through March 1 of the following calendar year, at which time an applicant must submit an application for either a renewed Rental Unit Certificate, if there are no changes in ownership or to the necessary information from the previously-issued certificate, or a new Rental Unit Certificate.

6. The fee for a Rental Unit Certificate application received between January 1 and March 1 of any calendar year is \$40 per rental unit. For a building containing in excess of 6 rental units, or an apartment community, the fee shall be \$150 plus \$15 per unit. All applications received between March 2 and December 31 of the current calendar year, are provisional and shall be charged a late fee of \$20 per rental unit or \$50 per each building containing an excess of 6 rental units or an apartment community.

7. The fees for a Rental Unit Certificate that are collected from applicants in accordance with this home rule resolution will be deposited into an interest-bearing Rental Unit account that is hereby created and that shall only contain these fees and any interest that may accrue from time to time on such account, which shall be subject to the same restrictions as other funds in this account. The funds in this account shall be used to pay for the expenses and costs associated with implementing and enforcing this home rule resolution, including, but not limited to, staff salaries and benefits, inspections, mailings, abatement and enforcement actions, and legal fees.

8. Upon the transfer of any rental unit, building containing a rental unit, or an apartment community, the new owner must update its information within thirty (30) days of the transfer being recorded with the Mahoning County Recorder. There is no additional fee to provide this update to the then-current certificate, which shall remain in effect as noted thereon. The owner must then submit a new application for a Rental Unit Certificate.

(E) Each rental unit shall, at a minimum, conform to the following standards:

1. Exterior areas shall be free of any accumulation of refuse and debris.
2. Windows shall not be cracked or broken or boarded and shall not admit moisture.
3. Exterior doors shall be free of holes and splits and shall be firmly secured with operable locking mechanism.
4. Interior premises shall be free of any accumulation of refuse and debris.
5. Interior premises shall be free of dampness or standing water that creates unsafe or unsanitary living conditions.
6. All toilets shall be in operable condition.
7. Any heating system in the rental unit shall be in operable condition.
8. Interior and exterior of the rental unit shall be free of insects, rodents, and other pests and their droppings.

(F) Inspections

1. Upon presentation of proper credentials, the Zoning Inspector and/or his or her duly authorized agents or inspectors or the Fire Chief and/or his or her duly authorized agents or inspectors may enter at reasonable times, or at such other times as may be necessary in an emergency, any dwelling, rental unit, building, structure or premises in Boardman Township to perform any duty imposed upon him or her by this or any other Home Rule Resolution or Fire Code, provided that permission to enter is obtained from the occupant, or in the case of unoccupied property, from the owner or his or her agent.
2. If such permission is refused or is otherwise unobtainable, a search warrant shall be obtained before such entry or inspection is made, except in the case of an existing emergency in which case entry may be made by the Fire Chief or his or her duly authorized agents or inspectors at any time and no search warrant is

necessary. No person shall in any way obstruct, hinder, delay or otherwise interfere with such entrance under this section.

ARTICLE II PENALTIES, SEVERABILITY, AND EFFECTIVE DATE OF RESOLUTION

Section 1: Penalties

(A) A violation of Article I, Section 3 (A), (B) and (E) of this resolution shall constitute an unclassified civil misdemeanor punishable by a civil fine as follows:

1. First Offense - \$250.00
2. Second Offense - \$500.00
3. Third Offense - \$750.00
4. Fourth and Subsequent Offenses - \$1000.00

(B) A violation of any other portion of this resolution shall constitute an unclassified civil misdemeanor punishable by a civil fine as follows:

1. First Offense - \$25.00
2. Second Offense - \$50.00
3. Third Offense - \$75.00
4. Fourth and Subsequent Offenses - \$100.00

Section 2: Severability

If any paragraph, provision, or section of this Resolution is held to be invalid by the final decision of any court of competent jurisdiction, then that decision will not affect the validity of the remaining paragraphs, provisions, or sections of this Resolution. The Boardman Township Board of Trustees declares that it would have adopted this Resolution and each paragraph, provision, or section thereof despite the fact that one or more paragraphs, provisions, or sections would be declared invalid.

Section 3: Effective Date

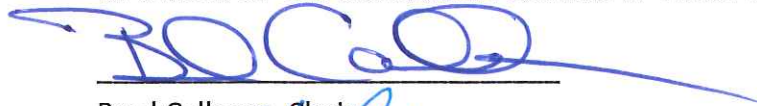
This Resolution shall be effective thirty (30) days from the date of adoption upon this First Reading and Publication thereof.

Home Rule Resolution 18-03 (amending Resolution 18-01)
Landlord Registration and Rental Unit Maintenance Standards

ROLL CALL

	<u>Aye</u>	<u>Nay</u>
Mr. Brad Calhoun, Chair	✓	
Mr. Larry Moliterno, Vice-Chair	✓	
Mr. Thomas Costello, Member	✓	

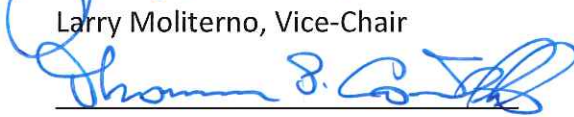
BY ORDER OF THE BOARDMAN TOWNSHIP TRUSTEES:



Brad Calhoun, Chair

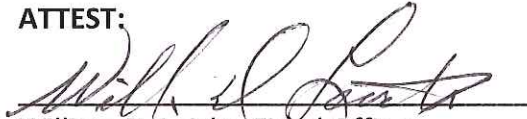


Larry Moliterno, Vice-Chair



Thomas Costello, Trustee

ATTEST:



William D. Leicht, Fiscal Officer

Approved as to Form:

Matthew G. Vansuch, Special Legal Counsel

CERTIFICATION

I, William D. Leicht, Clerk of Boardman Township, do hereby certify that the foregoing Resolution is taken from the Minutes of Boardman Township at a meeting duly-held on that the same has been compared by me with the original Resolution of said Minutes, and that said Resolution is a true and correct copy thereof.



William D. Leicht
Fiscal Officer