

§ 110-16. Permit required for the operation of a rooming house, boardinghouse, hotel, motel, bed-and-breakfast, online hospitality marketplace rental or the like. [Amended 9-10-2018 by Ord. No. 2018-5]

(As to a trailer camp or a trailer court or mobile home park, see Chapter 148, Mobile Home parks.)

A. Purpose; findings.

- (1) It is the purpose of this section and the policy of the Council of the Borough of Lewistown, in order to protect and promote the public health, safety and welfare of its citizens and residents, to establish rights and obligations of owners and occupants relating to the boardinghouses, rooming houses, hotels, tourist cabin courts, motels, bed-and-breakfasts, and online hospitality marketplace rentals in the Borough of Lewistown and to encourage owners and occupants to maintain and improve the quality of such accommodations within the community. In order to provide for the same, this section provides for inspections and issuance of and renewal of permits and establishes penalties for violations of this section. This section shall be liberally construed and applied to promote its purposes and policies. In considering the adoption of this section, the Borough of Lewistown makes the findings set forth immediately hereinafter.
- (2) The Borough Council of the Borough of Lewistown finds that as the number of boardinghouses, rooming houses, hotels, tourist cabin courts, motels, bed-and-breakfasts, and online hospitality marketplace rentals has increased in the Borough. Some of said accommodations have been permitted to become deteriorated by the owners, some of whom reside at a substantial distance from the Borough, thereby making ordinance and code enforcement more challenging. It is also found that in the Borough there has been an increased incidence of disruptive conduct at said boardinghouses, rooming houses and the like. Further, EMS, fire and police services have been more difficult to deliver to said boardinghouses, rooming houses and the like. It is the purpose of this section to promote the public health, safety and welfare by requiring compliance with Borough codes and ordinances, all so as to promote the health, safety and welfare of the Borough and its citizens and residents.

B. Boardinghouses, rooming houses, hotels, tourist cabin courts, motels and the like.

- (1) Inspection. No person shall operate a boardinghouse, rooming house, hotel, tourist cabin court or motel in the Borough or allow another to occupy any rooming unit in any of the same until the property has been inspected by the Department for compliance with the standards and regulations of the Property Maintenance Code and the Borough Fire Prevention Code in Article II of this chapter and an operations permit has been issued by the Department.
- (2) General duties and responsibilities. Every person permitted to operate a boardinghouse, rooming house, hotel, tourist cabin court or motel in the Borough and the owners of such properties shall keep and maintain such permitted properties in compliance with all applicable state laws and regulations and local ordinances and to otherwise keep and maintain the same in good condition. The permittees and owners shall be responsible for regularly performing all maintenance and making any and all repairs in and around the premises.

- (3) Designation of local manager. Every person permitted to operate a boardinghouse, rooming house, hotel, tourist cabin court or motel in the Borough who is not a full-time resident of the Borough of Lewistown, and/or who does not live within 15 miles of the boundary of the Borough of Lewistown, shall designate, in writing, to the Borough of Lewistown, a local manager who shall reside or have an office duly staffed in an area that is within 15 miles from the Borough of Lewistown. If the permittee is a corporation, a local manager shall be required if an officer of the corporation does not reside within the above-referenced area. The corporate officer shall perform the same function as a local manager if the corporate officer resides within said area. If the permittee is a limited liability company, a local manager shall be required if a duly designated manager or member of the limited liability company does not reside within the above-referenced area. The manager of the limited liability company or member, as applicable, shall perform the same function as a local manager if the manager of the limited liability company or member resides within said area. If the permittee is a partnership, a local manager shall be required if a partner does not reside within the above-referenced area. Said partner shall perform the same function as a local manager if the officer resides in said area. The local manager shall be the agent of the permittee for service of process and receiving of notices and demands, as well as for performing the obligations of the permittee under this section. The identity, address and telephone number(s) of a person who is designated as a local manager shall be provided by the permittee to the Borough, and such information shall be kept current and updated as it changes. Every local manager shall designate a natural person as a contact person who shall reside within 15 miles of the boundary of the Borough and who shall be available as an emergency contact person. For purposes of this section, a local manager is defined as a broker licensed pursuant to the Real Estate Licensing and Registration Act, 63 P.S. §§ 455.101 through 455.902, as amended, or an individual who is a W-2 employee of a permittee who will manage or maintain the property. In the case of a nonbroker local manager, the permittee shall produce for inspection at the time of designation proof of federal, state and local tax withholding, to include federal ID number, Pennsylvania withholding ID number, local withholding ID number, Pennsylvania unemployment compensation ID number, proof of workers' compensation insurance, and completed information regarding local service tax payment or exemption.
- (4) Every person permitted to operate a boardinghouse, rooming house, hotel, tourist cabin court or motel in the Borough shall maintain, for a period of three years, a physical resident register which shows the name, room number, date of arrival and departure of persons staying in each establishment.
- (a) Every resident shall register. A registering resident shall be required by the permittee to produce a valid driver's license or other identification, satisfactory to the permittee, containing a photograph of the resident and setting forth the name of the resident.
- (b) The resident register shall be maintained in full view at the permitted premises in the main lobby or inside the main entrance of the property, or at a location readily available to EMS, fire and police personnel and shall be made available to EMS, fire and police personnel upon request. A list of current residents and their room numbers shall be available to EMS, fire and police personnel in a public area of the

premises at all times.

- (5) The application for an operations permit shall be in such form, require the disclosure of such information, and be accompanied by such plot plans and building plans as the Borough or the Department may from time to time prescribe. These plans shall include a distinct number for each room in any structure which is occupied or intended to be occupied by someone other than the owner of the real estate and for which the owner of the said parcel of real estate received or intends to receive any value, including but not limited to money or the exchange of services.
- (6) Review of application.
 - (a) Within 90 days after the date on which an application for a permit was filed with the Department, the Department shall:
 - [1] Review the application and all accompanying plans which are part of the application;
 - [2] Inspect the property which is the subject of the application for compliance with the standards and regulations of the Property Maintenance Code and the Fire Prevention Code Ordinance and to ascertain that each room which is occupied or intended to be occupied by someone other than the owner of the real estate is clearly marked on the door of said room with a number that corresponds to the number on the plan submitted to the Borough; and
 - [3] Either approve or disapprove the application.
 - (b) In reviewing the application, and in disapproving or approving the application, the Department shall follow the procedures set forth in § 110-13F(2), (3) and (4).
- (7) The operations permit issued by the Department shall constitute full authority to operate the boardinghouse, rooming house, hotel, tourist cabin court or motel until the expiration date of the permit or the revocation of the permit for cause. However, the operations permit issued by the Department shall not take the place of any certificate, license or permit required by another government agency, and the standards and regulations of the Property Maintenance Code and the Fire Prevention Code Ordinance shall not supersede any applicable provisions, requirements, standards or regulations of other pertinent codes, ordinances, resolutions or regulations of the Borough or the applicable rules or regulations of another government agency.
- (8) The permit issued by the Department shall not be transferable, and any change in ownership, interest or control of the boardinghouse, rooming house, hotel, tourist cabin court or motel shall require the issuance of a new operations permit.
- (9) No operations permit shall be issued for a period in excess of one year. All operations permits issued under this section shall uniformly expire on December 31 of each year, and thereafter, a new operations permit for the year (January 1 to December 31) shall be required.
- (10) The Department or a Department officer shall have the right to revoke an operations

permit:

- (a) For the reasons set forth in § 110-13H;
 - (b) If the property for which the permit has been issued is determined to be unfit for occupancy or use or unsafe; or
 - (c) If the owner or person permitted to operate a boardinghouse, rooming house, hotel, tourist cabin court or motel in the Borough fails to comply with the requirements set forth in this section, including but not limited to provisions related to the appointment of a local manager, the numbering of rooms, or the maintenance of a resident register.
- (11) A counterpart of the operations permit, or a permit placard issued by the Department, shall be posted in a conspicuous place in the main lobby or inside the main entrance of the property.
- (12) A permit shall not be issued or renewed until the applicant provides proof that the applicant has complied with the Mifflin County Hotel Room Rental Tax Ordinance. The applicant shall provide proof of payment of said tax for the previous 12 months.
- (13) A permit shall not be issued until the applicant provides proof that the applicant has provided the Borough of Lewistown with a copy of a Pennsylvania sales tax identification number.
- (14) Fees.
- (a) A permit shall not be issued by the Department until the prescribed fees have been paid to the Borough. The fees for the Department's review of an application for a permit, the fees for inspections, and the fee for an operations permit shall be those prescribed by the separate Borough Costs and Fees Schedule adopted by Council.
 - (b) The payment of any fee under this subsection shall not relieve the applicant or the permit holder from the payment of any other fees which may be required under other ordinances, resolutions or regulations of the Borough or under the laws, rules or regulations of another government agency.

C. Bed-and-breakfasts, online marketplace rentals and the like.

(1) Definitions.

- (a) For purposes of this section a "bed-and-breakfast" is a dwelling, or that part of a dwelling, in which one or more rooming units are rented by the owner or operator to one or more individuals who generally remain on the premises for not more than seven consecutive days (but which individuals are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator) and in which no dining room or eating place is open to the public or available for the use of the public.
- (b) For purposes of this section an "online marketplace rental" is a dwelling, or that part of a dwelling, in which one or more rooming units are rented through an online

marketplace (such as Airbnb) by the owner or operator to one or more individuals who generally remain on the premises for not more than seven consecutive days (but which individuals are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator) and in which no dining room or eating place is open to the public or available for the use of the public.

- (2) Inspection. No person shall operate a bed-and-breakfast or online marketplace rental in the Borough or allow another to occupy any rooming unit in any of the same until the property has been inspected by the Department for compliance with the standards and regulations of the Property Maintenance Code and the Borough Fire Prevention Code in Article II of this chapter and an operations permit has been issued by the Department.
- (3) General duties and responsibilities. Every person permitted to operate a bed-and-breakfast or online marketplace rental in the Borough and the owners of such properties shall keep and maintain such permitted properties in compliance with all applicable state laws and regulations and local ordinances and to otherwise keep and maintain the same in good condition. The permittees and owners shall be responsible for regularly performing all maintenance and making any and all repairs in and around the premises.
- (4) Every person permitted to operate a bed-and-breakfast or online marketplace rental in the Borough shall maintain, for a period of three years, a physical resident register which shows the name, room number, date of arrival and departure of persons staying in each establishment.
 - (a) Every resident shall register. A registering resident may be required by the permittee to produce a valid driver's license or other identification, satisfactory to the permittee, containing a photograph of the resident and setting forth the name of the resident.
 - (b) The resident register shall be maintained in full view at the permitted premises in the main lobby or inside the main entrance of the property, or at a location readily available to EMS, fire and police personnel and shall be made available to EMS, fire and police personnel upon request. A list of current residents and their room numbers shall be available to EMS, fire and police personnel in a public area of the premises at all times.
- (5) The application for an operations permit shall be in such form, require the disclosure of such information, and be accompanied by such plot plans and building plans as the Borough or the Department may from time to time prescribe. These plans shall include a distinct number for each room in any structure which is occupied or intended to be occupied by someone other than the owner of the real estate and for which the owner of the said parcel of real estate received or intends to receive any value, including but not limited to money or the exchange of services.
- (6) Review of application.
 - (a) Within 90 days after the date on which an application for a permit was filed with the Department, the Department shall:
 - [1] Review the application and all accompanying plans which are part of the

application;

- [2] Inspect the property which is the subject of the application for compliance with the standards and regulations of the Property Maintenance Code and the Fire Prevention Code Ordinance and to ascertain that each room which is occupied or intended to be occupied by someone other than the owner of the real estate is clearly marked on the door of said room with a number that corresponds to the number on the plan submitted to the Borough; and

- [3] Either approve or disapprove the application.

- (b) In reviewing the application, and in disapproving or approving the application, the Department shall follow the procedures set forth in § 110-13F(2), (3) and (4).
- (7) The operations permit issued by the Department shall constitute full authority to operate the bed-and-breakfast or online marketplace rental until the expiration date of the permit or the revocation of the permit for cause. However, the operations permit issued by the Department shall not take the place of any certificate, license or permit required by another government agency, and the standards and regulations of the Property Maintenance Code and the Fire Prevention Code Ordinance shall not supersede any applicable provisions, requirements, standards or regulations of other pertinent codes, ordinances, resolutions or regulations of the Borough or the applicable rules or regulations of another government agency.
- (8) The permit issued by the Department shall not be transferable, and any change in ownership, interest or control of the bed-and-breakfast or online marketplace rental shall require the issuance of a new operations permit.
- (9) No operations permit shall be issued for a period in excess of one year. All operations permits issued under this section shall uniformly expire on December 31 of each year, and thereafter, a new operations permit for the year (January 1 to December 31) shall be required.
- (10) The Department or a Department officer shall have the right to revoke an operations permit:
 - (a) For the reasons set forth in § 110-13H;
 - (b) If the property for which the permit has been issued is determined to be unfit for occupancy or use or unsafe; or
 - (c) If the owner or person permitted to operate a bed-and-breakfast or online marketplace rental in the Borough fails to comply with the requirements set forth in this section, including but not limited to provisions related to the numbering of rooms or the maintenance of a resident register.
- (11) A counterpart of the operations permit, or a permit placard issued by the Department, shall be posted in a conspicuous place in the main lobby or inside the main entrance of the property.
- (12) A permit shall not be issued or renewed until the applicant provides proof that the

applicant has complied with the Mifflin County Hotel Room Rental Tax Ordinance. The applicant shall provide proof of payment of said tax for the previous 12 months.

(13) A permit shall not be issued until the applicant provides proof that the applicant has provided the Borough of Lewistown with a copy of a Pennsylvania sales tax identification number.

(14) Fees.

- (a) A permit shall not be issued by the Department until the prescribed fees have been paid to the Borough. The fees for the Department's review of an application for a permit, the fees for inspections, and the fee for an operations permit shall be those prescribed by the separate Borough Costs and Fees Schedule adopted by Council.
- (b) The payment of any fee under this subsection shall not relieve the applicant or the permit holder from the payment of any other fees which may be required under other ordinances, resolutions or regulations of the Borough or under the laws, rules or regulations of another government agency.