

ORDINANCE NO. 261

**NEW GARDEN TOWNSHIP
CHESTER COUNTY**

AN ORDINANCE PROVIDING FOR THE INSPECTION OF AND PERMITS FOR RESIDENTIAL RENTAL UNITS, REQUIRING LANDLORDS TO FILE REPORTS LISTING ALL RESIDENTIAL RENTAL UNITS, AUTHORIZING THE CODE ENFORCEMENT OFFICER TO INSPECT THE CONDITION AND USE OF SUCH UNITS AND TO ENFORCE COMPLIANCE WITH APPLICABLE ORDINANCES AND REGULATIONS, AUTHORIZING REGULATIONS TO IMPLEMENT AND ADMINISTER THIS ORDINANCE, THE PERMITS AND FEES TO BE ESTABLISHED BY RESOLUTION, PROVIDING PENALTIES FOR VIOLATIONS.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of New Garden Township :

Section 1. Title.

This Ordinance shall be known as the “New Garden Township Residential Rental Units Inspection Ordinance”.

Section 2. Definitions and Interpretation.

A. In this Ordinance, the following terms shall have the meanings indicated in this Section:

1) **Application:** An application for a Permit, filed with the Township by the property owner pursuant to this Ordinance.

2) **Board:** The Community Maintenance Review Board established pursuant to this Ordinance.

3) **Bedroom:** A room furnished with a bed and intended to be used primarily for sleeping.

4) **Board of Supervisors:** The Board of Supervisors of New Garden Township

5) **Building Code:** The Township’s Building Code, as the same may be amended from time to time.

6) **Building Permit:** The building permit required by the Township's then-current Building Code.

7) **Code Officer:** The Township Zoning Officer/Building Inspector or any authorized representative of that Officer, and/or any other person authorized by the Board of Supervisors to inspect pursuant to and to enforce this Ordinance.

8) **Dwelling Unit:** One or more rooms let for rent, in a building, designated, used or intended to be used as a single and separate unit, with its own sleeping area(s), and cooking and sanitation facilities, occupied or to be occupied by one or more persons as a rental housekeeping unit.

9) **Landlord:** A lessor or Owner or Person who acts as agent for the lessor, of any Residential Rental Unit located in New Garden Township..

10) **Notice of Appeal:** A Notice of Appeal filed with the Township pursuant to this Ordinance.

11) **Notice of Violation ("NOV"):** Any Notice of Violation given by the Code Officer pursuant to this Ordinance.

12) **Occupant:** An individual who resides in a Residential Rental Unit, whether or not he or she is the Owner thereof. Occupant shall not include a person who is visiting an Occupant of a Residential Rental Unit for a period of seven (7) days or less.

13) **Owner:** Any individual, firm, corporation, association, partnership, limited liability company or other legal entity which alone, or jointly or severally with others, holds legal title or equitable title to the Residential Rental Unit (the plural use includes each and every Owner).

14) **Permit:** A Residential Rental Occupancy Permit issued by the Code Officer pursuant to this Ordinance.

15) **Person:** any individual, partnership, association, firm or corporation.

16) **Police:** the Southern Chester County Regional Police Commission or any properly authorized member or officer thereof or any law enforcement agency having jurisdiction within the Township of New Garden..

17) **Premises:** any parcel of real estate within the Township of New Garden including land and all buildings and appurtenant structures on which one or more Residential Rental Units are located.

18) **Property Maintenance Code:** The International Property Maintenance Code of 2015, and amendments, supplements, updates or replacements, as herein or hereafter made.

19) **Regulations:** Regulations, adopted pursuant to this Ordinance, to implement this Ordinance (the use of “regulations” in the lower case is not this term).

20) **Rental Investigation Report:** The report prepared by the township official tasked with the inspection of rental properties outlining violations and/or compliance with the requirements of this ordinance.

21) **Residential Rental Unit:** A Dwelling Unit or Rooming Unit or other residential unit located within the Township of New Garden with one or more rooms used for living and sleeping purposes arranged for occupancy by one family or by one or more Persons which is leased to a Tenant by a Landlord.

22) **Rooming House:** A building or part of a building with two or more Rooming Units let for rent.

23) **Rooming Unit:** Any room or group of rooms occupied or intended to be occupied by one or more persons for sleeping or living, but not a Dwelling Unit.

24) **Tenant:** A Person who has the use, either by himself or with others, of a Residential Rental Unit owned by a Person other than himself.

25) **Violation(s):** A violation and/or non-compliance with the requirements of this Ordinance, the Regulations and/or any other applicable Borough regulation.

B. Whenever an “Owner” is required to do something pursuant to this Ordinance, all Owners shall have the duty jointly and severally.

C. Whenever the phrase “pursuant to this Ordinance” is used with respect to a requirement, it shall mean, unless the context clearly indicates otherwise, pursuant to this Ordinance, the Regulations and any determination and/or order of the Code Officer.

Section 3. Residential Rental Occupancy Permits

A. Permits Required.

A current valid Permit for a Residential Rental Unit(s) is required:

- 1) Prior to each and every occurrence of the following:

a) The transfer of title to any building containing one or more Residential Rental Units;

b) The occupancy (either new or continued) of any Residential Rental Unit which has been enlarged or reduced in size for which any access way to the outside has been changed;

2) On or before the issuance of each occupancy certificate, pursuant to the Building Code, after work requiring a Building Permit is completed;

3) For the continued occupancy after January 1, 2024, of each Residential Rental Unit;

4) For each Residential Rental Unit, prior to the expiration of the current valid Permit; and

5) For conditioned occupancy of any Residential Rental Unit after the Permit for that Unit has been revoked and any period for obtaining a new Permit for that Unit, as established by the Code Officer, has elapsed.

B. Duration of Permit.

1) Each Permit for a Residential Rental Unit shall expire automatically one year after it is issued.

2) A Permit shall become void automatically when the Residential Rental Unit for which it is issued is changed or used in any way which requires a new Permit.

3) A Permit shall become void if and when revoked, by the Code Officer, pursuant to the Code Officer's written determination issued to the Owner, that the Residential Rental Unit for which the Permit was issued is non-compliant with the Property Maintenance Code and/or the Building Code.

C. Application for Permit.

1) The Owner(s) of the property where a Residential Rental Unit requiring a Permit is located is/are responsible, jointly and severally, for filing an Application for a Permit with the Township, which Application must comply with all the requirements established pursuant to this Ordinance and any applicable Regulation or other Township regulation for such Application.

2) All Applications shall be in writing, shall be submitted upon the Township's form for such Application, shall provide all the information required pursuant to this Ordinance and shall be accompanied by the required fee. The Township shall have no duty to process any Application that is determined to be incomplete or not accompanied by the required fee.

3) The information to be provided by the Owner with the Application shall include:

a) The street address of the property where the Residential Rental Unit is located, the Chester County uniform parcel identifier number for that property and any street address separately identifying the Residential Rental Unit itself;

b) The number of Residential Rental Units located on the property;

c) The name and mailing address of the Owner(s) and Landlords of the property to which notices should be sent pursuant to this Ordinance;

d) The number of occupants of each Residential Rental Unit who will occupy the Unit pursuant to the requested Permit; and

e) All other information required pursuant to the Regulations.

4) Requirements for Issuance of Permit.

The Code Officer shall issue the Permit for the Residential Rental Unit when:

a) The required Application has been filed with the Township;

b) All the required fees have been paid in full;

c) The Code Officer has inspected the Residential Rental Unit and any and all common areas and facilities serving the Unit and determined that, to the extent observed by the Code Officer, the Residential Rental Unit and all such common areas and facilities inspected appear to be in compliance with all applicable Regulations and other Township regulations;

5) Denial of Permit.

If, upon inspection, the Code Officer determines that a Permit should not be granted, due to any condition(s) that does/do not comply with applicable Regulations or other Borough regulations, the Code Officer shall issue to the Owner a written determination identifying the non-compliant condition(s) and ordering that compliance be achieved in a timely manner. The Owner shall comply with all such orders; provided, however, that the Owner may appeal any such order to the Board, but only as provided in this Ordinance. No such appeal shall relieve the Owner of the immediate duty to correct dangerous and/or nuisance conditions.

D. Effect of Permit.

The issuance of a Permit for a Residential Rental Unit which is not new construction is based upon inspection of conditions readily observable. A Permit does not constitute a representation of the Township that there is no condition at the inspected premises which violates

applicable Regulations or other Township regulations. The Township's ability to enforce compliance with its Regulations or other applicable regulations with respect to conditions existing at the time of issuance of a Permit is not limited by the issuance of the Permit or any reliance thereon.

Section 4. Other Duties of Landlords/Owners.

1. Any Person who is or becomes a Landlord or other Owner of any Residential Rental Unit located in New Garden Township by agreement of sale, by deed, lease or by any other means, shall, within ten (10) days thereafter, report to the township, on a report form supplied by the township, the following information:

A. List of all Residential Rental Units owned or managed by the Landlord, located within New Garden Township, whether occupied or not occupied.

B. Address of each Residential Rental Unit.

C. Whether or not the Residential Rental Unit is inhabited by a Tenant or Tenants.

2. The Landlord or Owner of each Residential Rental Unit shall file a Permit Application annually no less than sixty (60) days prior to the expiration of the then-current Permit.

3. Every Landlord, Owner and occupant of a Residential Rental Unit shall permit the Code Officer access thereto for the purpose of inspection pursuant to this Ordinance. The Landlord or Owner is responsible for scheduling inspection with the Code Officer, at such times as the Code Officer's schedule permits. The Landlord or Owner is responsible for scheduling and coordinating, with the Occupants of the Residential Rental Unit to be inspected, so that the Code Officer shall have prompt access as scheduled. The Landlord or Owner shall schedule the inspection within the sixty (60) day period preceding the expiration of the current Permit and/or the occupancy of any event requiring a new Permit.

4. The Owner or Landlord of each Residential Rental Unit shall maintain the Unit and all common areas used by the Occupants of the Unit and all facilities servicing the Unit and the building in which and the property on which the Unit is located in compliance with all applicable Regulations and other Township regulations at all times.

Section 5. Occupant Duties.

A. General. The Occupant shall comply with all obligations imposed upon Occupants by this Ordinance, all applicable codes and Ordinances of New Garden Township and all applicable provisions of Law.

B. Health and Safety Regulations.

The Occupant shall deposit all rubbish, garbage and other waste from his or her Residential Rental Unit into containers provided by the Landlord in a clean and safe

manner and shall separate and place for collection all recyclable materials, in compliance with New Garden Township's Recycling Ordinance and all other applicable Regulations or other township regulations.

C. Residential Use. The Occupant shall, unless otherwise permitted by applicable law or Ordinance or regulation, occupy or use his or her Residential Rental Unit for no other purpose than as a residence.

Section 6. Overcrowding.

Residential Rental Units shall not be occupied by more Occupants than permitted by Property Maintenance Code.

Section 7. Duties of New Garden Township.

The township shall:

A. Maintain on file at the township office the names of the Landlords and Owners owning and managing Residential Rental Units in the township.

B. Maintain a supply of forms for Landlords to use in making reports to the township as required by Sections 3, 4 and 5 above.

Section 8. Administration, Inspection and Enforcement.

A. The Code Officer shall administer and enforce this Ordinance and the Regulations.

B. The Code Officer is hereby authorized under this Ordinance to inspect to determine the condition, occupancy, use and/or compliance, of any and all Residential Rental Units pursuant to this Ordinance, the Regulations and any and all other applicable township regulations.

C. The Code Officer is hereby authorized to issue Permits, revoke Permits and issue determinations of non-compliance with this Ordinance, the Regulations and other applicable township regulations, to issue orders compelling such compliance and to file and process legal and equitable actions to compel such compliance.

D. Search Warrants.

If entry to any property, building or Residential Rental Unit, for the purpose of inspection, is denied to the Code Officer, the Code Officer may apply to the appropriate authority for an administrative search warrant. Without limitation, when denied access, the Code Officer may request a warrant for the following reasons:

1) The inspection is part of a systematic inspection permitting and enforcement program;

2) The affiant has knowledge of or probable cause to believe that there is an existing or potential violation of the Regulations or other applicable township regulations, in the Residential Rental Unit; and/or

3) The entry is necessary for the purpose of re-inspecting a violation of a township regulation previously observed by the Code Officer and which the Code Officer ordered to be corrected.

No search warrant is required if an imminent danger to health and safety exists, or the Code Officer has probable cause to believe that a dangerous condition exists and an inspection is required to determine if an imminent danger to health or safety exists.

E. Emergency Order

If the Code Officer determines that, within any residential premises, an emergency condition exists which requires immediate action to protect the public health, safety and/or welfare, the Code Officer may issue a determination declaring the existence of such emergency condition and an order requiring the action necessary to be undertaken by any Owner to correct such condition effectively and immediately. The Owner may file an appeal of any such order with the Board, but any such appeal shall neither serve as or have the effect of a supersedeas.

Section 9. Exclusions.

A. Any rental unit that is under and subject to the inspection and permitting jurisdiction of the Pennsylvania Department of Agriculture and/or the United States Department of Labor or any other applicable State or Federal department or agency shall be exempt from the requirements of this ordinance, provided that the owner of such property shall supply a copy of the State or Federally-issued certificate of occupancy to the New Garden Township Building Inspector within ten (10) business days of the owner's receipt of the certificate. If a State or Federally-issued certificate of occupancy is not supplied to the New Garden Township Building Inspector within ten (10) business days of the owner's receipt thereof, it shall be presumed that the rental units are not under the jurisdiction of the State or Federal government(s), and the owner shall be required to obtain a rental license from New Garden Township as otherwise required by this article.

B. Hotels, motels, bed and breakfasts, nursing homes, continuing care facilities, assisted living facilities, boarding houses, and similar places of business for which a fee is charged for overnight stays are excluded from the requirements of this article.

Section 10. Enforcement, Service of Notices and Orders.

C. Whenever the Code Officer believes, or has cause to believe, that a violation of this Ordinance, any Regulation or any other township regulation exists, the Code Officer shall give written notice to the Owner that an inspection is required and the Owner shall promptly schedule the inspection.

D. If the Code Officer determines that a Violation exists, the Code Officer shall issue an NOV, which NOV shall:

- 1) State the nature of the violation;
- 2) Identify the Regulation or regulation violated;
- 3) Identify the date the notice is issued; and
- 4) Include an order requiring correction within a specified time.

The NOV may contain other requirements for compliance as well as any other pertinent information or statements which the Code Officer deems appropriate under the circumstances.

E. Service of Notice.

1) Service of an NOV, issued by the Code Officer, shall be made by both regular first class mail, postage prepaid, and certified mail return receipt requested, requiring a receipt signed by any person identified as the Owner or the Owner's authorized agent as identified on the Application or by subsequent written notice from the Owner to the township. Service of the NOV shall be complete upon delivery; provided, however, that if an NOV served by certified mail is returned with the notification by the U.S. Postal authorities that the addressee failed to claim the NOV, refused to accept the NOV or that the NOV was undeliverable, and the NOV mailed by first class mail has not been returned within fifteen (15) days of mailing, the NOV shall be deemed effectively served at the end of said fifteen (15) day period.

2) If both mailed NOV's are returned as either unclaimed, unaccepted or undeliverable, the township shall attempt to serve the NOV personally upon any adult Occupant of the Residential Rental Unit which is the subject of the NOV and the NOV all also be affixed to the exterior of the room or building which the Residential Rental Unit is located.

3) An NOV personally served on the Owner shall be effective immediately for all purposes.

D. Administration of Ordinance in Accordance with State Law.

Notwithstanding any other term or provision of this Ordinance, the Code Officer shall at all times comply with the Pennsylvania Municipal Code and Ordinance Compliance Act and all other applicable state laws and regulations.

Section 11. Regulations.

A. All Residential Rental Units shall comply with the following Regulations:

- 1) All exterior property and premises shall be maintained in a clean, safe and sanitary condition, including all maintenance and repairs to sidewalks and curbs. Residential Rental Units shall have a walking surface to a public right-of-way, maintained in good condition.
- 2) All exterior stairways shall be in good condition and equipped with handrails in good condition.
- 3) The exterior of Residential Rental Units shall be maintained with all grass trimmed under six (6) inches.
- 4) House numbers on all Residential Rental Units must be installed and visible from the street.
- 5) All exterior electric receptacles must comply with the Property Maintenance Code and any other applicable electrical code.
- 6) Any sump pump located in a Residential Rental Unit or any common area serving one or more Residential Rental Units shall be piped to the outside and shall not be connected to the sanitary sewer system.
- 7) The furnace or heater for each Residential Rental Unit shall be in working condition and must have an emergency switch at the stairway entrance.
- 8) The Residential Rental Unit shall be equipped with working smoke detectors, one on each floor and one in each bedroom.
- 9) The hot water heater for each Residential Rental Unit shall be equipped with a blow off valve piped 8 – 10 inches from the floor.
- 10) Each Residential Rental Unit shall have GFI outlets in the kitchen and each bathroom. Electrical pan circuit breakers shall be identified.
- 11) All doors and locks in the Residential Rental Unit shall be operable.
- 12) All windows in the Residential Rental Unit shall be in good condition.
- 13) All interior stairways shall be in good condition and equipped with handrails in good condition.
- 14) Any new electrical service installation being inspected shall bear an electrical underwriter certification.

15) Any Residential Rental Unit which has either an attached garage, one or more fuel-fired appliances and a basement, or any of the foregoing, shall be equipped with a working carbon monoxide alarm.

16) All Residential Rental Units shall comply with all applicable provisions and requirements of the Property Maintenance Code.

Section 12. Fees and Charges.

Fees, the time for their payment, and interest for non-payment for Applications, Permits, inspections, re-inspections and other matters pursuant to this Ordinance and the Regulations shall be as established, from time to time, by the Board of Supervisors, by written Resolution.

Section 13. Appeal

A. An Owner to whom a Notice of Violation has been issued by the Code Officer may appeal the NOV to the Board, as provided in this Ordinance.

B. Any such Appeal shall be commenced by filing a Notice of Appeal with the township within fifteen (15) days after service of or deemed service of the NOV on the appellant. At the time of filing the Notice of Appeal, the appellant shall pay to the township a filing fee, the amount of which shall be established by Resolution of the Board of Supervisors. The Notice of Appeal shall state specifically all the grounds and facts on which the Code Officer's determination and/or order is challenged and shall identify the mailing address of the appellant for purposes of all communications concerning the appeal.

C. Within thirty (30) days after the township's receipt of the Notice of Appeal, the Board shall hold a public hearing thereon. Written notice of the hearing shall be given not less than fifteen (15) days prior to the date of the hearing to the following individuals:

- 1) The appellant;
- 2) The Board of Supervisors;
- 3) The Code Officer; and
- 4) The township Solicitor.

D. The Board shall issue an Adjudication of the appeal within fifteen (15) days after the conclusion of the Board's hearing. The Adjudication shall be in writing, shall contain findings of fact, reasons for the Adjudication, conclusions of law and an Order. The Adjudication and Order shall be served upon all parties or their attorney of record by first class regular mail, postage pre-paid, or by personal service, within three (3) business days of the issuance of the Adjudication.

E. During the hearing the Board shall review the NOV, the notice of appeal, applicable rules and regulations, take such testimony and hear such witnesses as the Board deems appropriate. Strict rules of evidence shall not apply, but irrelevant, immaterial and repetitive evidence may be excluded. The scope of the Board's review shall be limited to the specific issues raised by the notice of appeal.

F. The Board's hearing and any Adjudication rendered shall be in accordance with the provisions of the Pennsylvania "Local Agency Law" (2 Pa.C.S.A. §551, *et seq.*), as amended.

G. Any appeal from the Board's Adjudication and Order shall be filed with the Court of Common Pleas of Chester County within thirty (30) days after the date the Adjudication and Order are mailed to or served personally upon the party appealing or the attorney of record for the party appealing, whichever occurs first.

Section 14. Community Maintenance Review Board

A. The Community Maintenance Review Board shall consist of three (3) members ("Members") who shall be appointed by Board of Supervisors. The Members shall serve initially for staggered terms, as designated by the Board of Supervisors , of one (1), two (2) and three (3) years; thereafter, the term of office shall be for a period of three (3) years for all Members.

B. If a vacancy occurs on the Board, the Board of Supervisors shall fill such vacancy by appointment; any person so appointed shall hold that position until the end of the unexpired term to which that person was appointed.

C. Members shall elect a Chairperson from among their Members and may adopt such rules, procedures and regulations, consistent with this Ordinance and the Local Agency Law, as the Board deems necessary and appropriate to perform its duties.

Section 15. Penalty for Violation

Any person violating any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) and the costs of enforcement. Every violation of this Ordinance shall constitute a separate offense, and each day that a violation of this Ordinance occurs shall constitute a separate offense.

Section 16. Severability

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of any other section or provision of this Ordinance other than the one so declared.

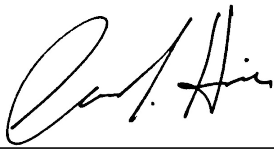
Section 17. Repealer

All ordinances and parts of ordinances inconsistent herewith, including are hereby repealed to the extent of the said inconsistency.

Section 18. Effective Date. This Ordinance shall take effect on January 1, 2024.

ENACTED and **ORDAINED** this 21st day of August, 2023 by the New Garden Township Board of Supervisors.

ATTEST:



Christopher Himes, Township Secretary

NEW GARDEN TOWNSHIP
BOARD OF SUPERVISORS

DocuSigned by:
David Unger
915B18CD3B6F4C9...

David Unger, Chair

DocuSigned by:
Kristie Brodowski
3864B62E09844D7...

Kristie Brodowski, Vice Chair

DocuSigned by:
Stephen Allaband
255873F147C8478...

Stephen E. Allaband

DocuSigned by:
Edward T. Gallivan, Jr.
7E9DAC1591384CD...

Ted Gallivan

DocuSigned by:
Troy Wildrick
E1F75A12B6314FE...

Troy Wildrick