

CHAPTER 10

HOUSING

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ARTICLE I

RENTAL PROPERTY MAINTENANCE

Section 101. Licensing of Residential Rental Units

- A. No person hereafter shall offer to occupy, to be or offer to occupy or lease to another person for occupancy any residential rental property within the Township of Ontelaunee unless a license application has been properly completed and filed with the Township of Ontelaunee and all fees paid therefore.
- B. No person shall allow another to occupy or to lease to another person for occupancy residential rental property within the Township of Ontelaunee unless the property owner lives within fifty (50) miles of the rental property or has designated a property manager who resides within fifty (50) miles of the rental property.
- C. Exceptions.
 - 1. A property occupied by a member of the family of the owner as defined herein upon the Township's receipt of an affidavit of the owner on a form provided by the Township identifying and affirming the occupants of the property relationship to the owner.
 - 2. A property that is not occupied by an owner or occupied by a tenant or lessee and is vacant upon the Township's receipt of an affidavit of the owner on a form provided by the Township identifying and affirming the property is not occupied provided that upon occupancy of the property an application for a license shall be submitted to the Township no later than thirty (30) days from date of occupancy.

Ord. 2009-09, 12/03/2009, §1; as repealed and replaced by Ord. 2017-10, 9/7/2017, §1; as amended by Ord. 2018-10, 9/6/2018, §1.

Section 102. Manner of Licensing

- A. Application for the residential rental unit license shall be made upon forms furnished by the Township of Ontelaunee or its designated representative for this purpose and shall include such information as the Township shall direct, including but not limited to the following:
 - 1. The name, address and telephone number of the property owner(s).
 - 2. The name, address and telephone number of a designated property manager who resides or has an office within fifty (50) miles of the rental property if the property owner lives more than fifty (50) miles from the rental property.

3. The street address of the rental property.
 4. The number and type of units within the rental property.
 5. Statement to be signed by the property owner agreeing that upon receipt of a notice of from the Code Enforcement Officer scheduling an inspection or reinspection of the property to give tenants' notice of an inspection or reinspection and obtain the tenants' authorization to grant a code official entry to their unit and to advise the Code Enforcement Office if the tenant(s) object(s) to entry.
- B. The fee for the annual license of each residential rental property shall be set by resolution of the Township Board of Supervisors as may be amended from time to time.
- C. Except as provided in Subsection E, application for the annual license accompanied by the fee required by Subsection B, shall be made on or before December 1 of the calendar year with respect to the following calendar year. If approved, the annual license shall be valid for the applicable calendar year.
- D. Every new owner of residential rental property within the Township of Ontelaunee shall be required to furnish to the Township of Ontelaunee the information required by Subsection A within thirty (30) days of the date of purchase and thereafter as required by Subsection C.. If approved, the annual license shall be valid from the date of issue to the standard renewal date in Subsection C. The fee required by Subsection B shall not be collected from a new owner during the year in which he acquires ownership of the rental property if the prior owner has paid all license fees and all applicable inspection fees and has complied with all requirements of this Ordinance.

Ord. 2009-09, 12/03/2009, §2; as repealed and replaced by Ord. 2017-10, 9/7/2017, §1.

Section 103. Information to be Provided by Owners or Landowners

- A. Every owner, landlord, manager or agent for an owner who rents or leases or offers for occupancy any property or portion thereof in the Township of Ontelaunee to any tenant or occupant for a period of time in excess of thirty (30) days shall supply the following information to the Township of Ontelaunee Code Enforcement Officer:
1. The dwelling unit or room unit number or street address.
 2. The name or names of all tenants and occupants over the age of 18 to occupy such property.
 3. Contact information for the tenants and occupants of the property.

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4. The mailing address of the dwelling unit or rooming unit.
- B. The above information shall be provided to the Township Code Enforcement Officer at the time of application for licensing and as needed due to any changes of the renting, leasing, subleasing or occupancy of any property in the Township of Ontelaunee for a period of time in excess of thirty (30) days.

Ord. 2009-09, 12/03/2009, §3; as repealed and replaced by Ord. 2017-10, 9/7/2017, §1.

Section 104. Inspection of Residential Rental Units

- A. All residential rental units shall be inspected by the Township Code Enforcement Officer for compliance with this Ordinance and other Township ordinances on a bi-ennial basis. Nothing in this section shall prohibit additional inspections in response to a tenant complaint or if the property is suspected of being in violation of any Township ordinance or any State or Federal law(s).
- B. The fee for the bi-ennial inspection and re-inspection of each residential rental property shall be set by Resolution of the Township Board of Supervisors as may be amended from time to time.

Ord. 2009-09, 12/03/2009, §4; as repealed and replaced by Ord. 2017-10, 9/7/2017, §1.

Section 105. Inspection Certificates

No person shall rent, lease or allow to be occupied any dwelling subject to this Ordinance without having a valid and current certificate of inspection for the dwelling.

Ord. 2009-09, 12/03/2009, §5; as repealed and replaced by Ord. 2017-10, 9/7/2017, §1.

Section 106. Procedures for Inspections

- A. The Township Code Enforcement Officer shall inspect every residential rental unit within the Township of Ontelaunee at the intervals specified in this Ordinance. An inspection may also be conducted if the Township receives a complaint. The criteria for inspection shall be whether the property is in compliance with the Township of Ontelaunee ordinances, including but not limited to the Property Maintenance Code and Building Codes.
- B. If a property is found to be in compliance with Township of Ontelaunee ordinances and the checklist items and if the inspection fee has been paid, the Code Enforcement Officer shall issue a certificate of inspection for the property.
- C. Violations.

1. If a property is found to be in violation of any Township ordinance, the Code Enforcement Officer shall provide written notice of such violation to the property owner, and the local property manager designated by the property owner, and shall set a reinspection date before which such violations shall be corrected. The reinspection date shall be as stated by the Code Enforcement Officer in the written notice but except in emergency circumstances shall be no less than thirty (30) calendar days after the date of the inspection.
2. If the violation(s) cited by the Code Enforcement Officer are not corrected upon reinspection, the Officer shall not issue the certificate of inspection. The Code Enforcement Officer may provide a time extension for the violations to be corrected. Upon granting of additional time to correct the violations, the Code Enforcement Officer shall advise the owner or property manager present of the time extension, schedule a subsequent reinspection and the required fee as established by Resolution of the Township Board of Supervisors for performance of the subsequent reinspection.
3. If the violation(s) cited by the Code Enforcement Officer are corrected upon reinspection or subsequent reinspection and the annual license fee and inspection fees have been paid, the Code Enforcement Officer shall issue a certificate of inspection for the property.
4. If the violations are not corrected within any time extension provided by the Code Enforcement Officer, the Code Enforcement Officer shall not issue a certificate of inspection and shall notify the property owner and/or manager in writing of the denial of a certificate of inspection.

Ord. 2009-09, 12/03/2009, §6; as repealed and replaced by Ord. 2017-10, 9/7/2017, §1.

Section 107. Certificate of Inspection

- A. The owner of a residential rental unit may request inspection of a dwelling at any time. Any such request shall be made in writing and shall be accompanied by the inspection fee as set by the Township Board of Supervisors.
- B. The certificate of inspection issued by the Code Enforcement Officer shall be valid until the next inspection.
- C. A certificate of inspection shall be transferable to new owners.
- D. The tenant of a residential rental unit may request from the Township a copy of a certificate of inspection for the property in which the he resides. The Township shall furnish a copy of the certificate of inspection upon the payment of the fee therefore to be set by resolution of the Township Board of Supervisors from time to time.

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Ord. 2009-09, 12/03/2009, §7; as repealed and replaced by Ord. 2017-10, 9/7/2017, §1.

Section 108. Suspension or Revocation of Licenses

- A. The Township shall have the authority to revoke or suspend the license of any dwelling or building that it determines within the reasonable exercise of its discretion to be uninhabitable by humans, and in noncompliance with any state or local code or ordinance adopted, enacted or in effect in and for the Township or has failed an inspection after a reasonable opportunity to correct the violation. A rental license may also be revoked if it is determined that the registration was filed upon material misrepresentations, errors or omissions set forth in the application.
- B. The Township may revoke a housing registration if the applicant (or in the case of a corporate or similar entity, its owners or affiliates) has a record of chronic codes violations and currently has unresolved codes violations, delinquent property maintenance fees or has any tax delinquency.
- C. A notice of a revocation of a rental license shall set forth the reason for the revocation and shall be provided in writing to the last known owner of record.
- D. Upon the suspension or revocation of a rental license, the Township shall notify the tenant(s) in writing to vacate the unit within forty-five (45) calendar days of receipt of the notice. Occupancy of the unit shall not be allowed until the violations are corrected and the unit passes an inspection.
- E. The failure of any tenant to move after having been given the forty-five (45) day notice to vacate shall constitute a violation of this Ordinance against the Owner.

Ord. 2009-09, 12/03/2009, §8; as repealed and replaced by Ord. 2017-10, 9/7/2017, §1.

Section 109. Appeal from the Decision of the Code Enforcement Officer

- A. If the Code Enforcement Officer denies the issuance of a certificate of inspection for the property or suspends or revokes the property owner's license, the property owner or the property owner's representative or an affected tenant shall have the right to appeal the decision to Township Board of Supervisors by filing a notice of appeal with the Township Code Enforcement Officer no later than ten (10) days after the decision is served. An application for appeal shall be based on a claim that the true intent of this Ordinance or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Ordinance do not fully apply, or the requirements of this Ordinance are adequately satisfied by other means. A notice of appeal form may be obtained from the Township Code Enforcement Officer.

- B. The Board of Supervisors shall conduct a hearing and make a determination of whether the denial or revocation or suspension should be upheld. The hearing shall be scheduled within forty-five (45) days from notice of appeal filed with the Township Code Enforcement Officer. The Board of Supervisors shall have the power to administer oaths and require the attendance of any Township employees. The Board of Supervisors shall make written findings of fact and issue a written decision, which shall be promptly mailed to the individual who filed the appeal.

Ord. 2009-09, 12/03/2009, §9; as repealed and replaced by Ord. 2017-10, 9/7/2017, §1.

Section 110. Access to Rental Property

- A. Failure to provide access to the rental property shall constitute a violation of this Ordinance, provided that at least forty-eight hours' notice of an upcoming inspection has been provided to the owner. The aforesaid notice is not needed if the Code Enforcement Officer has evidence of a clear and present danger in the residential rental unit or in response to a complaint from the tenant.
- B. For the purpose of enforcing this Ordinance, the Code Enforcement Officer or his designee may obtain an administrative search warrant from any competent authority, in accordance with applicable legal standards, for the purpose of compelling access and inspection of a residential rental unit.

Ord. 2009-09, 12/03/2009, §10; as repealed and replaced by Ord. 2017-10, 9/7/2017, §1.

Section 111. Penalties and Remedies

- A. Unless the property owner or the property owner's representative or the affected tenant has timely filed a notice of appeal and the appeal is pending, failure to correct the violations by the time of the reinspection or subsequent reinspection as provided by the Code Enforcement Officer will result in the Code Enforcement Officer issuing a non-traffic citation to the property owner or owners in accordance with the applicable Pennsylvania Rules of Criminal Procedure.
- B. If, in the opinion of the Code Enforcement Officer, there is evidence that a tenant or tenants are responsible for part or all of the violations in accordance with the applicable Ordinances which resulted in the violation, the Code Enforcement Officer shall have the ability to cite either the property owner or the tenant(s) or both.
- C. Any person who violates any provision of this Ordinance shall, upon conviction thereof, be guilty of a summary offense and subject to a sentence of a fine of not less than One Hundred Dollars (\$100) but not more than One Thousand Dollars (\$1,000) and, in default of payment, to imprisonment for a term not to exceed thirty (30) days.

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- D. A separate offense shall be deemed to have been committed for each and every day during or on which a violation occurs.
- E. In addition, if the Code Enforcement Officer has issued a notice to vacate the unit and if any tenant still remains, the Township or its designated representative including but not limited to the Code Enforcement Officer and/or its Solicitor is authorized to commence the appropriate legal action to obtain a court order requiring vacation of the unit until such time as the unit passes an inspection provided no timely filed notice of appeal was filed and is pending.

Ord. 2009-09, 12/03/2009, §11; as repealed and replaced by Ord. 2017-10, 9/7/2017, §1.

Section 112. Exemptions

This Ordinance shall not apply to hospital units, nursing units or retirement home units located within the Township of Ontelaunee.

Ord. 2009-09, 12/03/2009, §12; as repealed and replaced by Ord. 2017-10, 9/7/2017, §1.

Section 113. Definitions

As used in this Article the following terms shall have these meanings:

- A. **FAMILY** – A person related to the property owner by blood, marriage, adoption or other decree of legal custody in the first degree, parent, child or sibling.
- B. **OFFICER** – Ontelaunee Township Code Enforcement Officer or its designated agent.
- C. **OWNER** – any person who, either alone or jointly or severally with others, who has legal title to any rental property or residential rental unit, agent of the owner or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner or mortgagor pursuant to a mortgage recorded with the Recorder of Deeds of the County of Berks where the legal title owner is the mortgagee.
- D. **PERSON** – any natural individual, partnership, association, corporation, joint venture, receiver, executor, trustee or personal representative or guardian appointed by order of any court.
- E. **RESIDENTIAL RENTAL PROPERTY** – includes properties where the tenant has an option or other contractual right to purchase the property.
- F. **RESIDENTIAL RENTAL UNIT** – a room or group of rooms for one or more persons with independent living facilities, providing for living, sleeping, cooking and disposal of human waste, that are not occupied by the owner of the property

and for which the owner receives compensation, either in-kind or monetary. Residential rental units include but are not limited to single-family dwellings, two-family dwellings or duplexes, multifamily dwellings, apartments, boardinghouses, guest houses, rooming houses, lodging houses, hotels, and tourist houses.

G. **TOWNSHIP** – Ontelaunee Township, Berks County, Pennsylvania.

Ord. 2009-09, 12/03/2009, §13; as repealed and replaced by Ord. 2017-10, 9/7/2017, §1.