

ORDINANCE NO. 271

AN ORDINANCE OF THE TOWNSHIP OF SOUTH HEIDELBERG (“TOWNSHIP”) ESTABLISHING RULES, REGULATIONS AND A LICENSING PROCESS FOR RESIDENTIAL RENTAL UNITS WITHIN THE TOWNSHIP.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of South Heidelberg, Berks County, Pennsylvania, and it is hereby ENACTED AND ORDAINED by the authority of the same as follows:

Section 1. Licensing of Residential Rental Units

A. No person hereafter shall occupy, allow to be occupied or lease to another person for occupancy any residential rental unit within the Township unless a license application has been properly completed and filed with the Township and all fees paid therefore and such license has been approved by the Township hereunder and issued to such person.

B. No person shall allow another to occupy or to lease to another person for occupancy any residential rental unit within the Township unless the property owner lives within fifty (50) miles of the residential rental unit or has designated a property manager who resides within fifty (50) miles of the residential rental unit.

Section 2. Manner of Licensing

A. Application for the residential rental unit license shall be made upon forms furnished by the Township for this purpose and shall include such information as the Township Supervisors, by resolution, 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 residential rental unit if the property owner lives more than fifty (50) miles from the residential rental unit.
3. The street and mailing address of the residential rental unit.
4. The number and type of units within the residential rental unit.
5. The name or names of all tenants and occupants who occupy such residential rental unit together with contact information for such tenants and occupants.
6. Statement to be signed by the property owner or designated property manager ensuring that the residential unit is occupied by not more than one (1) family as defined in the federal Fair Housing Act, as amended, and its regulations.

7. Statement to be signed by the property owner authorizing the Township Code Enforcement Officer to inspect any residential rental unit with notice to the property owner or his designated agent, if any, except in an emergency situation where an inspection may occur without notice. A copy of this statement shall be provided to the tenant(s) by the property owner or property manager.

B. The fee for the annual license of each residential rental unit shall be set by resolution of the Township Board of Supervisors from time to time.

C. The fee for the biennial inspection of each residential rental unit shall be set by resolution of the Township Board of Supervisors from time to time.

D. During the first year of registration in 2018, all existing owners of residential rental units within the Township shall make applications for the initial annual license accompanied by the fees required by Subsections B and C shall be made on or before February 28, 2018 for a license applicable to 2018. If approved, the annual license shall be valid through April 30th of 2019. Thereafter, an application for a renewal of the license must be made every year on or before January 31 for a license applicable to the following rental year. If approved, the annual license shall be valid through April 30th.

E. Every new owner of residential rental unit within the Township shall be required to furnish to the Township the information required by Subsection A within thirty (30) days of the date of purchase and thereafter as required by Subsection D. If approved, the annual license shall be valid from the date of issue for the remaining term of the license. The fees required by Subsections B and C shall not be collected from a new owner during the year in which he acquires ownership of the residential rental unit if the prior owner has paid all license fees and all inspection fees and has complied with all requirements of this Ordinance.

Section 3. Inspection of Residential Rental Units. All residential rental units shall be inspected by the Township Code Enforcement Officer for compliance with this Ordinance and other Township ordinances at the time of application for a license hereunder and, thereafter, on a biennial basis. Nothing in this section shall prohibit additional inspections in response to a tenant complaint or if the property is reasonably suspected by the Township Code Enforcement Officer of being in violation of any Township ordinance or any State or Federal law(s).

Section 4. Inspection Certificate Requirement. No person shall rent, lease or allow to be occupied any residential rental unit subject to this Ordinance without having a valid and current certificate of inspection for the residential rental unit.

Section 5. Procedures for Inspections

A. The Township Code Enforcement Officer shall inspect every residential rental unit within the Township at the intervals specified in this Ordinance. The criteria for inspection shall be whether the residential rental unit is in compliance with the Township ordinances, including but not limited to the applicable Property Maintenance Code and Building Codes.

B. If a residential rental unit is found to be in compliance with Township ordinances and if the inspection fee has been paid, the Code Enforcement Officer shall issue a certificate of inspection for the residential rental unit.

C. Violations.

1. If a residential rental unit is found to be in violation of any Township ordinance, the Township Code Enforcement Officer shall provide written notice of such violation to the property owner, the local property manager designated by the property owner, and upon request to the tenant(s), and shall set a reinspection date before which such violations shall be corrected. The reinspection date shall be as stated by the Township Code Enforcement Officer in the written notice but shall be no more than ninety (90) calendar days after the date of the inspection provided that the Township Code Enforcement Officer, in his discretion, may provide 30, 60 or day periods for the re-inspection.

2. If the violation(s) cited by the Township Code Enforcement Officer are corrected upon reinspection and the license fees have been paid, the Township Code Enforcement Officer shall issue a certificate of inspection for the residential rental unit.

3. If the violation(s) cited by the Township Code Enforcement Officer are not corrected upon reinspection, the Officer shall not issue the certificate of inspection and the residential rental unit license shall also be suspended as noted in Section 7 of this Ordinance.

Section 6. Certificate of Inspection.

A. The owner of a residential rental unit may request inspection of a residential rental unit at any time. Any such request shall be made in writing and shall be accompanied by the inspection fee as set by resolution of the Township Board of Supervisors.

B. The certificate of inspection issued by the Township Code Enforcement Officer shall be valid for two (2) years until April 30th.

C. Upon prior written request to the Township Code Enforcement Officer, 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 residential rental unit in which he/she resides through the submission of a PA Right to Know Request to the Township Right to Know officer. 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.

Section 7. Denial, Suspension or Revocation of Licenses

A. If violations are found during an inspection of a residential rental unit, the property owner or his/her designated property manager shall be notified of the violations, and the license of the residential rental unit shall be suspended after an opportunity for compliance pursuant to

Section 5 of this Ordinance.

B. If the violations found during the inspection are not corrected within the designated time frame, the license shall be immediately revoked.

C. Residential rental unit licenses shall be suspended when tenants or their guests violate any Township ordinance, or violate any section of the Crimes Code of Pennsylvania, more than two (2) times in any rolling six (6) month period.

D. If the violations found during the inspection are not corrected within the designated time frame, the tenant(s) shall be notified to vacate the residential rental unit within forty-five (45) calendar days of the receipt of the notice. Occupancy of the residential rental unit shall not be allowed until the violations have been corrected and the residential rental unit passes an inspection by the Township Code Enforcement Officer.

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.

Section 8. Appeal from the Decision of the Code Enforcement Officer

A. If the Township Code Enforcement Officer denies the issuance of a certificate of inspection for the residential rental unit or suspends or revokes the property owner's license, the property owner or the property owner's property manager or an affected tenant shall have the right to appeal the decision to the 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 Township 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.

Section 9. Access to residential rental unit

A. Failure to provide access to the residential rental unit shall constitute a violation of this Ordinance, provided that twenty four (24) hours' notice of an upcoming inspection has been provided to either the owner or tenant. The twenty four (24) hours' notice is not needed if the Township Code Enforcement Officer has evidence of a clear and present danger in the residential rental unit or other emergency situation.

B. If access is denied, for the purpose of enforcing this Ordinance, the Township Code Enforcement Officer or his designee must 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 provided that the owner shall reimburse the Township for all legal fees, court costs and administrative costs incurred for obtaining the administrative search warrant. If the owner fails to so reimburse the Township, the Township may file a municipal lien against the residential rental unit or any other real property owned by the property owner within the Township.

Section 10. 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 will result in the Township Code Enforcement Officer or the Township Police Department issuing a non-traffic citation to the property owner or owners.

B. If, in the opinion of the Township Code Enforcement Officer or a police officer of the Township Police Department, there is evidence that a tenant or tenants are responsible for part or all of the violations which resulted in the suspension of the residential rental unit's license, the Township Code Enforcement Officer or a police officer shall have the ability to cite either the property owner or the tenant(s) or both. All parties cited shall be required to appear before the local Magisterial District Judge.

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.

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 Township Code Enforcement Officer has issued a notice to vacate the residential rental unit and if any tenant still remains after the forty-five (45) day time frame, the Township has the right to seek the following from the local Magisterial District Judge or from a Court of Common Pleas Judge: a break and enter order; an order giving the Township the authority to forcibly remove any remaining tenant from the residential rental unit; and an order giving the Township the authority to padlock the residential rental unit until the violations have been corrected and the residential rental unit passes an inspection by the Township Code Enforcement Officer. After the residential rental unit has been padlocked, only the owner, the owner's property manager, and the Township Code Enforcement Officer shall have access to the residential rental unit. The Township is prohibited from seeking such a judicial order if and only if 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.

Section 11. Exemptions This Ordinance shall not apply to hospital units, nursing units or retirement home units located within the Township.

Section 12. Definitions

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

A. OFFICER – Township Code Enforcement Officer or its designated agent.

B. OWNER or PROPERTY OWNER – any person who, either alone or jointly or severally with others, who has legal title to any rental property or residential rental unit, with, or without accompanying actual possession thereof, or who has charge, care, or control of any rental property or residential rental unit as an owner or agent of the owner or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such agent shall present to the Township a court order or notarized document affirming such agent status including, but not limited to, a Property Management Agreement with the owner or a Power of Attorney from the owner. Such agent thus representing the actual owner shall be bound to comply with the provisions of this Ordinance, and to the rules and regulations adopted pursuant thereto, to the same extent as if he/she was the owner.

C. PERSON – any natural individual, partnership, association, corporation, joint venture, receiver, executor, trustee or personal representative or guardian appointed by order of any court.

D. 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.

E. TOWNSHIP – South Heidelberg Township, Berks County, Pennsylvania.

Section 13. REPEAL OF ORDINANCES. Any ordinance or part of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance's provisions.

Section 14. SEVERABILITY. If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance, is, for any reason declared to be illegal, unconstitutional or invalid, by any Court of competent jurisdiction, this decision shall not affect or impair the validity of the Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word, or remaining portion of the within Ordinance. The Board of Supervisors of the Township of South Heidelberg, Pennsylvania, hereby declares that it would have adopted the within Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the limitations, restrictions, sentences, clauses, phrases, or word that may be declared illegal, unconstitutional or invalid.

SECTION 15. EFFECTIVE DATE. This Ordinance shall become effective five (5) days from the date of enactment.

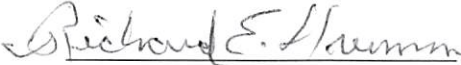
DULY ENACTED AND ORDAINED this 14 day of December, 2017 to be effective as of January 1, 2018.

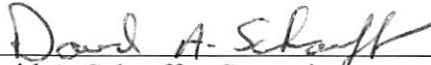
TOWNSHIP OF SOUTH HEIDELBERG

Attest:

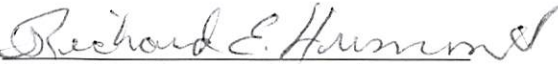


Tom Byrne, Chairman

 (SEAL)
Secretary



David A. Schaeffer, Supervisor



Richard E. Hummel, Supervisor