

ORDINANCE NO. 2011- 12
RADNOR TOWNSHIP

AN ORDINANCE OF RADNOR TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, AMENDING CHAPTER 226, RENTAL PROPERTIES, PROVIDING FOR THE LICENSING AND INSPECTION OF ALL RENTAL UNITS IN RADNOR TOWNSHIP, INCLUDING STUDENT HOUSING, MULTIPLE FAMILY DWELLING UNITS, APARTMENT HOUSES, DORMITORIES, AND OTHER UNIVERSITY OR EDUCATIONAL CAMPUS RENTAL UNITS

WHEREAS, Chapter 226 of the Radnor Township Code of Ordinances regulates rental properties with Radnor Township; and

WHEREAS, the purpose of Chapter 226 is to insure the obligations of both owners and tenants of rental units within the township to improve the maintenance and quality in compliance with all applicable codes and ordinances; and

WHEREAS, Ordinance 2010-41 was enacted on December 13, 2010 to include college, university and educational housing within the licensing requirements of Chapter 226; and

WHEREAS, Radnor Township desires to further amend Chapter 226 to clarify that student housing uses are permitted and regulated in accordance with the applicable provisions of the Radnor Township Zoning Ordinance.

NOW, THEREFORE, be it *ORDAINED* and *ENACTED* that the Radnor Township Board of Commissioners does hereby amend Chapter 226, Rental Properties, Article I, Rental Unit Regulations, as follows:

Section 1.

§ 226-1 Intent and objective.

It is the purpose of this Ordinance to protect and promote the public health, safety and welfare of residents within the township and to establish the obligations of both owners and tenants of rental units within the township to improve the maintenance and quality of rental units by compliance with applicable codes and ordinances of the Township, to preserve the residential quality of neighborhoods [by reducing the geographic concentration of college and other students residing within the township], to require the licensing of rental units and to establish procedures for the issuance of formal warnings, the loss of privilege to rent [to student tenants] and the nonrenewal and suspension of

such license.

§ 226-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

RENTAL HOUSING BOARD OF APPEALS -- The Rental Housing Board of Appeals as appointed by the Board of Commissioners.

CODE -- Any code or ordinance adopted, enacted and/or in effect in and for the Township of Radnor concerning fitness for habitation or the construction, maintenance, operation, occupancy, use or appearance of any premises of any dwelling unit under the provisions of this Ordinance. Included herein are the following which are in effect as of the date of this Ordinance: [BOCA National Building Code;] National Fire Code; International Plumbing Code; International Mechanical Code; [BOCA National Fire Protection Code;] Uniform Construction Code; International Property Maintenance Code; National Electrical Code; and any duly enacted amendment thereto.

CODE OFFICIAL -- The Director of Community Development charged with the administration and enforcement of this Ordinance or his duly authorized representative.

COMMON AREA -- Space which is not a part of the rental unit and which is shared with other occupants of a rental unit, whether they reside in the rental unit or not. Common Areas shall be considered part of the premises for the purpose of this Ordinance.

DEPARTMENT -- The Department of Community Development of the Township of Radnor.

DISRUPTIVE CONDUCT -- Any form of conduct, action, incident or behavior perpetrated, caused or permitted by any tenant of a rental unit or guest that is so loud, untimely (as to hour of the day), offensive, riotous or that otherwise disturbs other persons of reasonable sensibility in their peaceful enjoyment of their premises such as that a complaint is made to the police or Code Official. It is not necessary that such conduct, action, incident or behavior constitute a criminal offense, nor that criminal charges be filed against any person in order for a person to have perpetrated, caused or permitted the commission of disruptive conduct as herein defined; provided, however, that no disruptive conduct shall be deemed to have occurred unless the Code Official or police have investigated and determined that such did occur.

DISRUPTIVE CONDUCT REPORT -- A written report of disruptive conduct on a form prescribed by the Code Official or the Superintendent of Police.

DORMITORY -- A college, university, or other educational building containing living and/or sleeping accommodations for students.

DWELLING UNIT -- A single unit providing complete, independent living facilities,

including permanent provisions for living, sleeping, eating, cooking and sanitation.

- A. SINGLE-FAMILY DWELLING UNIT -- A building on a lot designed and occupied exclusively as a residence for one family.
- B. TWO-FAMILY DWELLING UNIT -- A building on a lot designed and occupied exclusively as a residence for two families living independently of one another.
- C. MULTIPLE-FAMILY DWELLING UNIT or APARTMENT HOUSE -- A building on a lot designed and used exclusively as a residence for three or more families living independently of one another.
- D. ROOMING HOUSE -- A building which has a dwelling unit occupied by the owner and which has accommodations for not more than three roomers.

LICENSE -- An annual license issued by the Department to the owner of a rental unit under this Ordinance which is required for the lawful rental and occupancy of dwelling units.

ON-CAMPUS HOUSING -- A college, university, or other educational building containing a rental unit for living and/or sleeping accommodations for students, faculty or guest.

OWNER -- Any person, agent, operator, firm or corporation having a legal or equitable interest in the property, including the guardian of the estate of any person or the executor or administrator of the estate of such person if ordered to take possession of real property by the court.

PREMISES -- A lot, plot or parcel of land, including any structures thereon.

POLICE -- The Police Department of Radnor Township.

RENTAL AGREEMENT -- A written agreement between the owner and tenant, embodying the terms and conditions concerning the use and occupancy of a rental unit.

RENTAL UNIT -- A dwelling unit occupied under a rental agreement and containing living and/or sleeping accommodations with or without cooking and/or individual sanitary facilities including dormitory rooms.

TOWNSHIP SECRETARY -- The Township Secretary or Assistant Secretary of the Township of Radnor.

STUDENT TENANT -- As defined in the Radnor Township Zoning Ordinance. [Any tenant, as defined herein, or proposed tenant attending or enrolled in a post-secondary educational or vocational institution at any time during the period beginning five months prior to the first day of his or her lease and ending on the last day of such lease term or

any extension thereof; provided, however, that a tenant shall not be deemed a student tenant if the aggregate number of academic or vocational equivalent credit hours enrolled in by such tenant during the aforesaid period is less than 12.]

SUPERINTENDENT -- The Superintendent of Police of the Township of Radnor or duly authorized representative.

TENANT -- Any individual who resides in a rental unit governed by this Ordinance with whom a legal relationship with the owner is established by a written rental agreement.

TOWNSHIP -- The Township of Radnor.

§ 226-3 Owner responsibilities.

- A. It shall be the duty of every owner to keep and maintain all rental units in compliance with applicable codes and ordinances of the Township, including the student housing requirements of the Radnor Township Zoning Ordinance.
- B. Every owner shall exercise due diligence in determining whether a tenant is or has become, during the period of the lease term, a student tenant.
- C. Every owner shall be responsible for regulating the proper use and occupancy of rental units, and for regulating the conduct and activities of their tenants and guests, which conduct takes place within the rental unit or on the premises.
- D. This section shall not be construed as diminishing or relieving, in any way, the responsibility of tenants or their guests for their conduct or activity; nor shall it be construed as an assignment, transfer or projection over or onto any owner of any responsibility or liability which tenants or their guests may have as a result of their conduct or activity under any private cause of action, civil or criminal enforcement proceedings; nor shall this section be construed so as to require an owner to indemnify or defend tenants or their guests when such action or proceeding is brought against the tenant based upon the tenant's conduct or activity. Nothing herein is intended to impose any additional civil/criminal liability imposed by existing law.
- E. This Ordinance is not intended to, nor shall its effect be, to limit any other enforcement remedies which may be available to the township against an owner, tenant or guest thereof.

§ 226-4 Tenant responsibilities.

- A. Tenants shall comply with all obligations imposed by this Ordinance and all applicable codes and ordinances of the Township.
- B. A tenant or proposed tenant[s] shall disclose to the owner whether he or she is a student tenant, as defined in the Radnor Township Zoning Ordinance. [herein, and,

upon the owner's request, shall authorize the owner to obtain enrollment information from any educational or vocational institution.]

- C. A tenant shall immediately notify the owner upon a change in such tenant's status [as] to a student tenant.
- D. No tenant shall permit an individual who is or would be a student tenant [if the individual were not a party to such tenant's rental agreement,] to reside in or sublet the rental unit unless the student housing provisions of the Radnor Township Zoning Ordinance have been met.
- E. The tenant shall conduct himself or herself, and require all other persons, including, but not limited to, guests on the premises within his or her rental unit with his or her consent, in a manner that is not disruptive conduct.
- F. The tenant shall, unless otherwise permitted by applicable law or ordinance, occupy or use his or her rental unit for no other purpose than a residence.
- G. The tenant shall not engage in, nor tolerate nor permit others on the premises to engage in, any conduct declared illegal under the Pennsylvania Crimes Code, or Liquor Code, or Controlled Substance, Drug and Device Cosmetic Act.
- H. When the police or the Code Official investigate an alleged incident of disruptive conduct, a report shall be completed upon a determination that the incident did, in fact, occur and constitutes disruptive conduct as defined by this Ordinance. The information filled in on such report shall include, if possible, the identity of the alleged perpetrator(s) and all other obtainable information, including the factual basis for the disruptive conduct. Where the police make such an investigation, a copy of the report shall be forwarded to the Code Official. A copy of the report shall be forwarded to the owner, whether the person making the investigation is the police or the Code Official.
- I. A violation of any of the above provisions by a tenant may be deemed a breach of the tenant's rental agreement, subjecting the tenant to summary eviction by the owner, in accordance with such rental agreement and other applicable laws.

§ 226-5 Enforcement.

- A. Upon a determination by the Code Official that a violation of this Ordinance did occur, a written notice shall be forwarded to the owner advising him of the location of the property in question, code section violated, statement of the violation, a time limit for corrective action, right of appeal and that failure to correct the violation within the time specified constitutes a violation, with possible sanctions clearly described. Such notice shall be forwarded by certified and regular mail. The Code Official shall also include a statement advising the owner if the violation is subject to disciplinary action as set forth in § 226-8 of this Ordinance.

- B. The Code Official may require the owner to submit a written report setting forth what action has or will be taken to remedy the violation and what steps will be taken to prevent a reoccurrence of the violation.
- C. The Code Official shall review the report and, if adequate steps have been taken to address current and future violations, the plan shall be approved. Failure by the owner to enforce the plan shall constitute a violation of this Ordinance.

§ 226-6 Rental agreement.

- A. All rental agreements shall be in writing. No oral leases or oral modifications to a lease shall be permitted. There shall be no more than one rental agreement for each dwelling unit, which shall include the name, permanent address, telephone number, student tenant status of each tenant, as well as any additional persons which may be liable under the agreement, and the duration of said agreement. A copy of the rental agreement shall be provided to the Township when requested by the Code Official.
- B. The owner shall provide the tenant with copies of the rental agreement which shall include the following information:
 - (1) The name, address and telephone number of the owner of the premises; and
 - (2) The name, address, and telephone number of any manager or agent.
- C. The owner and tenant may include in the rental agreement terms and conditions not prohibited by this Ordinance or other applicable ordinances, regulations and laws.
- D. Except as otherwise provided by this Ordinance, no rental agreement may provide that the owner or tenant agrees to waive or forego rights or remedies under this Ordinance. A provision prohibited by this subsection included in the rental agreement is hereby declared unenforceable.
- E. Following the effective date of this Ordinance, a summary or full text of the ordinance and any amendments thereto, shall be attached to each rental agreement when presented to the tenant for signature. If a summary or full text of the ordinance has been provided when the rental agreement was first executed, the summary or ordinance does not have to be provided upon renewal. Where a rental agreement has been entered into prior to the effective date of this Ordinance, the owner shall provide all tenants with a summary or ordinance within 45 days following the effective date of this Ordinance.

§ 226-7 License and inspection of rental units.

- A. As a prerequisite to entering into any rental agreement permitting the occupancy of a rental unit, or extending the time period of any rental agreement, the owner shall be

required to file an application and obtain a license from the Department. The application shall be on a form provided by the Township.

- B. The owner shall disclose on the application the number of student tenants, if any, proposed to reside in the rental unit during the lease term or extension thereof, as applicable.
- C. As a condition of any license, the owner shall immediately notify the Township of any change in the number of student tenants residing in a rental unit.
- D. The Department shall maintain detailed records regarding the residence location of student tenants within the Township.
- E. Upon the effective date of this Ordinance, no license or renewal of a license shall be granted, nor shall any change in occupancy within a rental unit be permitted, if such license, renewal of license, or change in occupancy shall cause the number of student tenants residing within a 1,000 radius of another student tenant rental unit to exceed two students; provided, however, that where such rental unit exists as legal nonconforming use, the owner of that property shall be entitled to apply for renewal of a license until such time as the property is not occupied by student tenants for a period in excess of one year. The provisions of this Subsection shall not apply to rental units located within a multi-family dwelling, apartment house, dormitory, or on-campus housing.
- F. Upon the effective date of this Ordinance, no license permitting the occupancy of a two-family dwelling unit shall be granted, nor shall any change in occupancy be permitted, if such license would cause a student tenant to reside in such unit; provided however, that where such unit exists as a legal nonconforming use, the owner of that property shall be entitled to apply for renewal of a license until such time that the rental unit is not occupied by student tenants for a period of one year.
- G. License fees shall be charged in accordance with the Fee Schedule as set forth in Chapter 162, Fees, of the Code of the Township of Radnor, or by separate resolution of the Board of Commissioners. Fees shall be paid upon the filing of an application and shall expire as of June 30, at or prior to which time a fee shall be paid for an additional 12 months.
- H. All rental unit licenses shall have an annual term and each rental unit shall be subject to a minimum of at least one inspection every three years based upon a schedule established by the department or when an application is submitted for a license. The department shall establish geographic areas and require that rental units in each of these geographic areas be made available for inspection in the designated year.
- I. Upon showing of probable cause that a violation of this Ordinance or any other ordinance has occurred, the Code Official may apply to the District Court having jurisdiction for a warrant to enter and search the premises.

§ 226-8. Grounds for formal warning, [loss of privilege to rent to college students,] nonrenewal or suspension of license.

A. Disciplinary action may be initiated against an owner which may result in a formal warning, [loss of privilege to rent to student tenants,] nonrenewal or suspension of the owner's license, or the filing of an ordinance citation for the violation of any provision that imposes a duty upon the owner, including failing to regulate the breach of duties by tenants, as defined in this Ordinance. In all disciplinary actions, the existence of housing, rental or dormitory rules and regulations, and the effectiveness of their enforcement shall be considered.

B. Definitions of options.

FORMAL WARNING -- Formal written notification of at least one violation of this Ordinance. Upon satisfactory compliance with this Ordinance and any conditions imposed by the Code Official, the formal warning shall be removed when the owner applies for renewal of a license.

LOSS OF PRIVILEGE TO RENT TO STUDENT TENANTS -- Any dwelling units being rented to student tenants as of the date of enactment of student housing regulations in the Radnor Township Zoning Ordinance shall be permitted to continue unless and until the student rental unit is no longer leased to students for a period of one year or more. If the student rental unit has not been leased to students for a period of one year or more, the licensing of new student housing in that rental unit must meet all requirements of the Radnor Township Zoning Ordinance. [The immediate loss of the privilege to rent a dwelling unit to student tenants for a period of time set by the Code Official. Upon loss of such privilege, the owner shall take immediate steps to evict all current student tenants.]

NONRENEWAL -- The denial of the privilege to apply for license renewal after expiration of the current license. Current occupants may be permitted to remain in the premises until the end of the license term upon full compliance with the provisions of this Ordinance. Application for license renewal and occupancy of a dwelling unit shall not be permitted until a time set by the Code Official.

SUSPENSION -- The immediate loss of the privilege to rent a dwelling unit for a period of time set by the Code Official. Upon full compliance with the terms of this Ordinance, the owner may apply for license renewal. Upon suspension of a license, the owner shall take immediate steps to evict the tenants.

C. When applying discipline under this section, the Code Official shall consider the following criteria:

- (1) The effect of the violations on the health, safety and welfare of the tenant of a rental unit and other persons residing within the premises.
- (2) The impact of the violations on the neighborhood.

- (3) Whether the owner has committed prior violations of this Ordinance or has received prior notices of violations.
- (4) Whether the owner has been subject to disciplinary proceedings under this Ordinance.
- (5) Action taken by the owner to correct violations and to prevent future violations.
- (6) The policies and lease language employed by the owner to manage the rental unit to enable the owner to comply with this Ordinance.
- (7) In addition to applying discipline as set forth in this section, the Code Official may impose upon existing or subsequent licenses reasonable conditions related to fulfilling the terms of this Ordinance.

D. Any of the following may subject an owner to discipline as provided for in this section:

- (1) Failure to correct a violation that applies to the premises within a time period set forth by the Code Official.
- (2) Refusal to allow the inspection of the premises as required by this Ordinance.
- (3) Failure to exercise due diligence in investigating whether a tenant meets the requirements of this Ordinance and the Radnor Township Zoning Ordinance with respect to student housing. [is or has become a student tenant.]
- (4) Failure to disclose student tenants to the Township.
- (5) Failure to take steps to remedy and prevent violations of rental units as required by this Ordinance.
- (6) Failure to file and implement an approved plan to remedy and prevent violations as required by § 226-5 of this Ordinance.
- (7) Failure to execute and comply with requirements for rental agreements as set forth in § 226-6 of this Ordinance.
- (8) Failure to evict tenants of a rental unit after being directed to do so by the Code Official or the Rental Housing Board of Appeals.
- (9) Three violations of this Ordinance or other ordinances of the Township that apply to the premises during a license term. For the purpose of this Ordinance, there need be no criminal conviction before a violation can be found to exist.

E. Upon a determination that grounds exist for the issuance of a formal warning [or the

loss of the privilege to rent to student tenants], or that the license is subject to nonrenewal or suspension, the Code Official shall notify the owner of the action to be taken and the reason therefor. Notification shall be in writing, addressed to the owner of the premises, with a copy to the tenants, and contain the following information:

- (1) The address of the premises in question and identification of the rental unit(s) affected.
- (2) A description of the violation(s) that have been found to exist.
- (3) A statement that the notice constitutes a formal warning [or that grounds exist for the loss of the privilege to rent to student tenants,] or that the license is subject to nonrenewal or suspension. In a case [where grounds exist for the loss of the privilege to rent to student tenants or] where the license is subject to nonrenewal or suspension, the statement shall include the effective date and duration of such action.
- (4) A statement that, due to non-renewal or suspension of a license, [the loss of the privilege to rent to student tenants or the nonrenewal or suspension of a license,] the owner is prohibited from renting the premises during the period said action is in effect.
- (5) A statement informing the owner of the right to appeal the decision of the Code Official to the Rental Housing Board of Appeals. The appeal shall be signed and submitted by the owner and filed with the Township Secretary within 15 calendar days from the date printed on the notice. A detailed statement shall be filed, including the ground(s) and the reason(s) alleged as to why the determination of the Code Official is incorrect or should be overturned and a statement of relief requested by the applicant. The appeal shall be accompanied by the required fee as set forth in Chapter 162, Fees of the Township Code.
- (6) Upon receipt of the appeal and required fee, the Secretary shall schedule a public hearing of the Rental Housing Board of Appeals. The meeting shall be at a time and date as determined by the Rental Housing Board of Appeals, however, not less than 30 calendar days from receipt of the appeal.
- (7) The owner, Code Official and owners of properties within a radius of 500 feet shall receive written notice of the date, time and location of the hearing.
- (8) The appellant and all other parties having an interest may be heard. The Rental Housing Board of Appeals shall render a decision based upon the facts and arguments of the appellant, Code Official, police and any relevant factual presentations of other parties. Such decision shall be made at following the public hearing or not less than 15 calendar days thereafter. The decision shall be reduced to writing stating clearly the factual and legal basis for the decision and forwarded to the owner within 30 calendar days from the last hearing conducted

by the Rental Housing Board of Appeals. Decisions of the Rental Housing Board of Appeals shall be final.

§ 226-9 Delivery of notification.

All notices shall be sent to the owner and tenants by certified and regular mail. In the event the notice is returned by the postal authorities marked "unclaimed" or "refused," then the Code Official may attempt delivery by personal service. The Code Official shall also post the notice at a conspicuous place on the premises.

§ 226-10 Violations and penalties.

Any person who shall violate a provision of this Ordinance or who shall fail to comply with the requirements thereof shall, upon conviction, be subject to a fine of not more than \$1,000. Each day that a violation continues shall be deemed a separate offense.

§ 226-11 Miscellaneous provisions.

- A. There shall be a rebuttable presumption that any notice required to be given to the owner under this Ordinance shall have been received by such owner if the notice was given to the owner in accordance with this Ordinance.
- B. A claimed lack of knowledge by the owner of any violation of this Ordinance shall be no defense to a notice providing a formal warning, the loss of privilege to rent to student tenants or notice of license nonrenewal, or suspension or proceedings as long as notices prerequisite to institution of such proceedings have been given and deemed received in accordance with the applicable provisions of this chapter.
- C. It shall be the duty of the owner of a rental unit to notify the Code Official in writing of any change in ownership of the premises or the number of rental units on the premises. It shall also be the duty of the owner to notify the Code Official in writing of any change in tenants within a rental unit or the changing of a dwelling unit from owner-occupied to non-owner-occupied, which thereby transforms the dwelling unit into a rental unit.
- D. All applications and/or licensing fees shall be set by separate resolution on an annual basis by the Board of Commissioners.

Section 2. Repealer. All ordinance or parts of ordinances which are inconsistent herewith are hereby repealed.

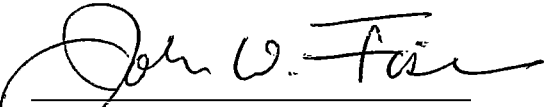
Section 3. Severability. If any section, paragraph, sub-section, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

Section 4. Effective Date. This Ordinance shall become effective five (5) days after final enactment.

ENACTED AND ORDAINED this **14** day of **March**, A.D., 2011

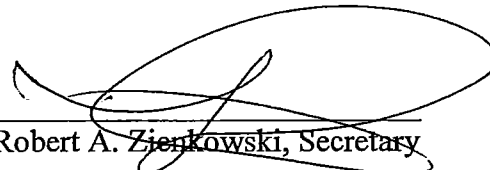
RADNOR TOWNSHIP

By:


Name: John W. Fisher

Title: President

ATTEST:


Robert A. Zienkowski, Secretary