

ORDINANCE NO. 720-2006

**AN ORDINANCE PROVIDING FOR
INSPECTIONS OF RENTAL DWELLING UNITS**

**AN ORDINANCE OF THE TOWNSHIP OF EAST PENNSBORO, CUMBERLAND COUNTY,
PENNSYLVANIA, ADOPTING A RESIDENTIAL RENTAL DWELLING UNIT INSPECTION
PROGRAM.**

BE IT ENACTED AND ORDAINED by the Board of Commissioners of the Township of East Pennsboro, Cumberland County, Pennsylvania, and it is hereby enacted and ordained by the Authority of the same, as follows:

Section 1. Legislative Findings. The Township has determined non-owner-occupied dwelling units are frequently maintained at a standard significantly less than owner-occupied dwelling units and that such failure to maintain those units can and frequently does result in dwelling units which are unsafe, unsanitary and, in many instances, not maintained to the minimum standards required by the various applicable codes in effect in the Township of East Pennsboro. Therefore, the Board of Commissioner of East Pennsboro Township determines it to be desirable and in the public interest to enact the following provisions providing for the regular and systematic inspection of these properties to insure their continued compliance with applicable Township Codes.

Section 2. Housing Affordability. Housing affordability is based on two factors: (1) housing values; and (2) household incomes. A comparison of these two factors can derive a proportional index of housing affordability which helps compare the affordability of the local housing market for the typical family household. (See East Pennsboro Township Comprehensive Plan - 2005, Chapter 2, page 5, Table 2.2. Number of Housing Units Per Square Mile: 1980-2000)

Section 3. Housing and Neighborhoods. Due to the fact much of the Township's housing is over thirty (30) years old, the Township will need to maintain an effective policy on housing maintenance. In addition, it should establish guidance for redevelopment, so that such redevelopment fits in with the character of older housing areas of the Township. Redevelopment guidelines should clearly define which features and functions should be retained and which should be replaced with more modern standards. Mixed use zoning for the Village of Enola is an example of appropriate land use policy (that encourages the on-going redevelopment of the community) that is already in place. Regarding development standards, consideration should be given to the many older communities which were developed before the zoning, subdivision and land development ordinances were in effect. If redevelopment were to occur, setback requirements should match setbacks found throughout the neighborhood. A setback that is too large would disrupt the character of the neighborhood.

Section 4. Action Planning and Implementation Strategies. The Township will maintain and enforce regulations for physical design that will maintain the spatial character of the neighborhood.

Section 5. Capital Improvements Program. The Inspection Program shall be implemented through action strategies by the Board of Commissioners and a schedule for the initiation and completion of the most signification action items. (See East Pennsboro Township Comprehensive Plan – 2005, Chapter 5, Page 30 Table 5-1).

Section 6. Short Title. This ordinance shall be known and may be cited as the “East Pennsboro Township Residential Rental Property Unit Inspection Ordinance.”

Section 7. Definitions. As used in this ordinance, the following words shall have the following meanings, unless the context clearly indicates otherwise:

Codes. The Fire, Building, Property Maintenance, Electrical, and Plumbing Codes, and Zoning Ordinance as adopted by the Township from time to time, and any rules and regulations promulgated thereunder.

Exterior Area. The outside façade of the building, including but not limited to any porch, yard, lawn, landscaping, sidewalks, setbacks, curbs, and all open area contiguous to a building owned by the same person or persons or part of the same real estate parcel.

Owner. Any person, agent, operator, firm, corporation, partnership, association, property managements group, or fiduciary having equal, equitable or other interest in any real property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person and the executor or administrator of such person's estate. When used in this ordinance in a clause proscribing any activity or imposing a penalty, the term, as applied to partnerships and associations, shall mean each partner, and as applied to corporations, the officers thereof.

Qualified Residential Rental Unit. A residential rental unit which has met the inspection requirements of this ordinance and for which the annual fee has been paid.

Re-Development. Conversion of an existing single family dwelling unit, detached or semi-detached dwelling into a residential rental unit.

Residential Rental Unit. A dwelling unit not occupied by the owner thereof. There shall be excluded from this definition those dwelling units subject to a periodic inspection by a state or federal agency at least once every three years providing the other agencies apply standards substantially the same as or more thorough than the Township codes referenced in the definition of "codes" above.

Township Property Maintenance Code Officer. The officer duly designated by the Board of Commissioners to administer the residential rental dwelling unit inspection program and shall be referred to as the “Maintenance Code Officer” and referred to as the “MCO.”

Board of Commissioners. The governing body of East Pennsboro Township, Cumberland County, Pennsylvania.

Section 8. Inspection. Except as provided in this ordinance, it shall be unlawful for a person to occupy or let other persons occupy any residential rental unit which has not been currently inspected and is a qualified rental unit. Notwithstanding the foregoing, during the initial phase-in period of the inspection program contemplated hereby, no property shall be considered out of compliance with the inspection requirements of this ordinance until after the initial property inspection is concluded. However, payment of the annual administration fee shall be required if the property is to be rented for residential purposes. Except as provided in Subsection D of this section, the requirements for periodic inspections shall be as follows:

- A. Each residential rental unit shall be inspected by the MCO or other designee of the Township at least one time in every thirty-six-month period; and for such purpose and for any reinspection required hereunder. The owner shall provide access to the MCO or other designee of the Township. A unit where inspection access is denied will not be a qualified residential rental unit until inspection access is provided and the inspection or reinspection concluded.
- B. The inspection shall include the exterior and interior of the residential rental unit.
- C. For the purpose of enforcing this ordinance, the MCO or designee of the Township may seek an administrative search warrant issued by a competent authority, in accordance with applicable legal standards, for the purpose of compelling access and inspection of a residential rental unit. If access for inspection and reinspection is not provided, the MCO may determine the unit is not a qualified residential unit.
- D. If a building contains residential rental units and the owner of the unit has received a certificate of occupancy for new construction under any other Township Code, the owner of said building shall not be required to schedule an inspection of such new construction pursuant to this ordinance until the expiration of 36 months from the date of the initial issuance of said certificate of occupancy.
- E. If the owner of a residential rental unit can present to the MCO a certificate stating a particular residential rental unit has been inspected and approved as a qualified residential unit by a federal or a state authority pursuant to a maintenance standard substantially the same as or more thorough than the International Property Maintenance Code or any successor code is in effect in the Township, the owner of said residential rental unit shall not be required to schedule an inspection under the terms of this ordinance until the expiration of 36 months from the date of the initial issuance of the state or federal certificate of compliance. If as a result of the state or federal inspection deficiencies were determined, there shall be no waiver of the inspection requirements under this ordinance unless the owner provides to the MCO a certificate evidencing corrections of the deficiencies to warrant a certificate of compliance from the MCO.
- F. Independent inspectors
 - (1) Any owner of a residential rental unit shall have the right to employ an independent inspector, certified as a qualified inspector under the International Property Maintenance Code. If an independent inspector certifies the unit to be in compliance with the codes, the owner of the qualified residential rental unit shall not be required to schedule an inspection under the terms of this ordinance until the expiration of 36 months from the date of the initial issuance of the certificate of compliance. If said owner of the residential rental unit chooses to utilize the services of an independent inspector, the owner remains responsible for all annual inspection fees for the operation of the inspection program. In addition, independent inspectors shall coordinate their inspections so the MCO or designee may be in attendance for the inspection. Furthermore, the MCO shall maintain a list of independent inspectors who are properly certified to perform inspections under the International Property Maintenance Code. All independent inspectors employed by an owner of the residential rental unit must be from said list.

- (2) When an inspection is performed by an independent inspector, a copy of the inspection report must be provided to the MCO immediately upon conclusion of the inspection. Where violations are noted in the independent inspector's report, the independent inspector must conduct follow-up inspections to verify correction of the violations and must provide the MCO a copy of the reinspection report to verify the corrections. The follow-up inspections must be prompt and within a reasonable time from the date of the original inspection. No inspection shall be recognized as having been completed until a certificate of compliance is issued by the MCO.
 - (3) The MCO has the right to remove from the list of qualified independent inspectors any inspector determined by the MCO not to be conducting inspections in accordance with the standards established by the codes or who fails to conduct the required reinspections of properties in which deficiencies have been noted or fails to provide copies of all inspection reports required by this section.
- G. For any inspection pursuant to Subsections E and F above, the MCO reserves the right to inspect any premises to verify the quality of the inspection of any independent inspector or government agency. No fee will be charged for this inspection; however, fees may be charged for reinspections if violations are found.
- H. The residential rental unit inspections, required by this ordinance, shall only be applicable to any hotel or motel facility which advertises a weekly or monthly rate. No inspection under this ordinance shall be required of hotels or motels principally providing overnight lodging.

Section 9. Certificate of Compliance. The MCO will issue a certificate of compliance with this ordinance upon the occurrence of the events defined in Items A thru D of this section. Issuance of a certificate of compliance shall represent compliance with the requirements of this ordinance but shall not denote compliance with any other applicable code nor any standard of safety. The MCO will issue a certificate of compliance upon the occurrence of the following events:

- A. The inspection of the residential rental unit by the MCO does not note any violations of the codes referenced in the definition of "codes" above;
- B. The inspection of the residential rental units by the MCO violations were noted; however, upon subsequent reinspection the violations were corrected;
- C. Upon receipt by the MCO of an inspection report performed by an independent inspector as provided in Section 8F above, and denotes no violations; or
- D. If the report of the independent inspector as provided in Section 8F, above notes the presence of violations, and upon reinspection, the violations were corrected. Provided, however, the report of the follow-up inspection, concluded by an independent inspector must be presented to the MCO within two (2) working days of the date of the re-inspection.

Section 10. Notice of code violation. If the inspection of a residential rental unit discloses code violations, the MCO or other Township designee, or the independent inspector, shall issue a notice of violation. The notice of code violation shall set forth the following data:

- A. The street address or appropriate description of the subject property;
- B. The date of the inspection;
- C. The identity of the inspector;
- D. A list of code deficiencies with specific sections of the codes;
- E. The number of days in which the owner and/or occupant is to accomplish corrections;
- F. and/or otherwise eliminate the deficiencies noted in the codes; and
- G. If defects are not corrected within the time specified in the notice of violations, the tenant and/or the owner of the residential rental unit may be prosecuted and/or the residential rental unit may be placarded and noted as unfit for human occupancy. The Township shall have the sole authority to institute prosecution proceedings under the terms of this ordinance.

Section 11. Reinspection.

- A. Upon the expiration of the time specified to accomplish the corrections or otherwise bring the premises into compliance with the codes, or upon noted from the owner the corrections have been accomplished or code deficiencies otherwise eliminated, the MCO or other Township designee, or independent inspector, as the case may be, shall reinspect the subject residential rental unit.
- B. In the event such reinspection discloses the deficiencies were corrected, the MCO or other Township designee shall issue a certificate of compliance to the owner or tenant in accordance with this ordinance. Where the reinspection has been completed by an independent inspector, the certificate of compliance shall be issued by the MCO, provided a report of the reinspection indicates all deficiencies have been corrected and the MCO receives the reinspection report within two (2) working days of the date of the reinspection. The MCO has the right to reinspect the residential rental units reinspected by an independent inspector.
- C. In the event such reinspection discloses that the owner did not correct the deficiencies, the MCO may prosecute the owner of the residential rental property as provided in the Township Property Maintenance Code.

Section 12. Inspection Fees.

- A. The owner of a residential rental unit shall be billed annually for a portion of the total program costs of the inspections proposed by this ordinance. The Board of Commissioners, by resolution, shall establish the inspection fee annually on or before March 31 of each year. Invoices for the inspection fee shall be mailed to the owner for each residential rental unit before October 1 of each year. Payment of all invoices is due by December 1st, annually. Failure to pay the annual inspection fee may result in the issuance of a notice the property is not a qualified residential rental unit and may not be utilized as a qualified residential rental unit until the fee is paid. The initial annual inspection fee for each residential unit shall be the sum of \$25.00. Independent inspectors shall submit certificates of compliance to the MCO to ensure compliance with this Ordinance. An annual Licensing fee for each qualified

independent inspector of \$40.00, payable upon submission of the documentation. Fees may be changed by resolution of the Board of Commissioners.

- B. In the event violations of any of the codes, defined above, are found during the initial inspection of the residential rental unit, a fee of \$35.00 will be paid for each reinspection of the residential rental unit. Where the violation notice specifies times for correcting the violations, an additional inspection and fee will be required for each reinspection. However, if the initial inspection of a residential rental property discloses less than six violations, the fee for the first reinspection shall be \$20.00. The reduced fee shall be applicable only to the initial inspection at the beginning of the systematic inspection program.
- C. If a certificate of compliance is issued, based upon a qualified inspection report described in Subsection C(1) and (2) below, and if the certificate of compliance is dated less than three (3) years from the first day of September of the then current year, no inspection fee will be required for those residential rental units. However, an administrative fee of \$6.00 will be charged for each residential rental unit for which a certificate of compliance is issued based upon an inspection described in Subsection C(1) and (2) below, namely.
 - (1) Certificates of compliance issued pursuant to inspection by a federal or state authority pursuant to the provisions of Section 8E of this ordinance.
 - (2) A certificate of compliance issued pursuant to the provisions of Section 8F of this ordinance.

Section 13. Non-liability of Township. The issuance of a certificate of compliance is not a representation by the Township the residential rental unit inspected and/or the building in which it is located does not contain any violation of any of the codes, referenced in the definition of "codes" above. The issuance of a certificate of compliance represents on the date of inspection, no material violations of any of said codes were noted. Neither the enactment of this ordinance nor the issuance of a certificate of compliance is a guarantee to any person that no code violations exist in the residential rental unit. The Township shall not be liable for any errors or omissions involved in the issuance of the certificate of compliance.

Section 14. Appeals. If the owner or tenant of a residential rental unit has been cited by a decision of the MCO or other Township designee, the owner or tenant may, within thirty (30) days of the date of receipt of the notice of violation or the time fixed to correct the deficiencies, whichever first to occur, may appeal to the Board of Commissioners in accordance with the provisions of the Property Maintenance Code.

Section 15. Code Violations. Nothing in this ordinance shall preclude or prohibit the MCO or other Township designee from inspecting any residential rental unit whether or not the particular residential rental unit is scheduled for periodic inspection.

Section 16. Violations and Penalties.

- A. The failure of any owner or tenant to effect corrections as provided in this ordinance shall be considered a violation of the Townships Property Maintenance Code Ordinance and the procedures and penalties prescribed therein shall be applicable.

- B. The failure of any owner or tenant to schedule an inspection or reinspection as provided in this ordinance shall result in the issuance of a notice to the owner or tenant the property is not a qualified residential rental unit and it shall be unlawful for any person to occupy or to let to other persons occupy the residential rental property in question until the unit becomes a qualified residential retail unit.
- C. Rental of a unit that is not a qualified residential rental unit shall result in a violation and penalty provided in the Property Maintenance Code.
- D. Property condition violations are subject to imposition of penalties as provided in the Property Maintenance Code.

Section 17. State Law and Regulations. In all matters that are regulated by the laws of the Commonwealth of Pennsylvania or by regulations of departments or agencies of the Commonwealth of Pennsylvania and which laws or regulations are equal or greater than the standards, contained in this ordinance, then the former standards shall control in all cases.

Section 18. Regulations. The Township may enact regulations concerning the administration of this ordinance.

Section 19. Severability. If any sentence, clause, section or part of this Ordinance is found to be unconstitutional, illegal or invalid, such action shall not affect or impair any of the remaining provisions, of this ordinance.

Section 20. Repealer. All ordinances or parts of ordinances that are inconsistent herewith are repealed.

Section 21. Saving Clause. Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court; or affect any rights, or any cause of action, nor shall legal right or remedy be lost, impaired or affected by this Ordinance.

ENACTED AND ORDAINED this _____ day of _____, 2006.

ATTEST:

BOARD OF COMMISSIONERS OF
EAST PENNSBORO TOWNSHIP

Robert L. Gill, Secretary

By: _____
George A. DeMartyn, President