

First Reading 02-20-2018
Tabled 02-20-2018
Amended 03-13-2018 wk. sess.
First Reading 03-20-2018
Second and Final Reading 04-03-2018

O: 2018-05

**AN ORDINANCE OF THE TOWN OF PHILLIPSBURG, COUNTY
OF WARREN, STATE OF NEW JERSEY, DELETING CHAPTER 464
“RENTAL PROPERTY” IN ITS ENTIRETY AND REPLACING IT WITH
A NEW CHAPTER 464 “RENTAL PROPERTY”**

WHEREAS, Chapter 464 of the Code of the Town of Phillipsburg regulates “Rental Property”; and

WHEREAS, the Town finds the current code to be unworkable and in need of revision; and

WHEREAS, the Town desires to address current needs for rental regulation through the deletion of the current version of Chapter 464 and replacing with a new Chapter 464 also regulating “Rental Property”; and

NOW THEREFORE BE IT ORDAINED by the Town Council, Town of Phillipsburg, County of Warren, State of New Jersey deletes Chapter 464 and replaces it with a new Chapter 464 entitled “Rental Property” which reads as follows:

Section 1

Chapter 464. Rental Property

Article I. Registration, Inspection, and Enforcement

§ 464-1. Purpose.

The purpose of this article is to insure the health, safety and welfare of all tenants residing in rental properties as well as all other residents and visitors to the Town of Phillipsburg.

§ 464-2. Definitions.

For use in this article only, the following words and phrases shall have the meanings respectively ascribed to them by this section:

LANDLORD and OWNER

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Any person who owns any legally cognizable interest in any rental property, including, but not limited to, outright ownership or ownership through a partnership, corporation or limited liability company.

OWNER-OCCUPIED

The primary residential living unit of the owner is located within the rental property.

PEST MANAGEMENT PROFESSIONAL

A person who: i) is licensed, registered, or certified by the State of New Jersey to perform pest control services; ii) has attended courses or undergone training on the proper method for the extermination of pests; and iii) follows the National Pest Management Association Best Practices.

PROPERTY MAINTENANCE

The cleanliness and proper working order and upkeep of all areas and facilities of the rental unit, rental property or complex used by the tenants and the public.

RENTAL PROPERTY

Any house, structure, building or complex which contains one or more individual residential rental units other than owner-occupied houses, structures or buildings.

RENTAL UNIT

Includes that portion of a house, building or structure rented or offered for rent, for living and dwelling purposes to individuals or family units.

RESIDE

To live or dwell permanently or continuously for more than 14 days. Said days need not be consecutive, but must occur within a reasonably short period of time to evidence an intent to utilize the rental unit as the person's primary place of residence.

TENANTS

Those persons who have leased the rental unit from the owner, regardless of the type of tenancy under which they occupy the rental unit.

§ 464-3. Housing excepted from coverage.

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- A. The provisions of this article shall not apply to owner-occupied units located within a rental property.
- B. The provisions of this article shall not apply to rental properties under the supervision of Public Housing Authorities or that exclusively provide restricted senior housing or housing for the developmentally disabled.

§ 464-4. Rental property registration.

- A. The owner of every rental property located in the Town of Phillipsburg and regulated by this article shall file a rental property registration statement with the Town Clerk. Forms for said filing can be obtained from the Town Clerk. The Town Clerk shall provide copies of all rental property registration statements to the 911 Dispatch, the Police Chief, the Fire Chief, the construction and zoning officials, all other applicable local enforcement agencies and the local Board of Education. Said information will be kept confidential, and any personal identifying information will not be distributed or utilized in any manner not set forth herein unless required by law.
- B. A rental property registration statement shall be filed on an annual basis for each rental unit on or before May 1 of each year. The annual registration fee for each unit shall be \$100.
- C. The rental property registration statement form shall require the submission of the following information:
 - (1) The name, address and telephone number of the record owner or owners of the premises and the record owner or owners of the rental business if not the same persons. In the case of a partnership, the names of all general partners shall be provided. If the record owner is a corporation, the name and address of the registered agent and corporate officers of said corporation;
 - (2) If the address of any record owner is not located in the county in which the premises is located, the name, address and telephone number of a person who resides in the county in which the premises is located and is authorized to accept notices from a tenant and to issue receipts therefor and to accept service of process on behalf of the record owner;
 - (3) The name, address and telephone number of the managing agent of the premises, if any;
 - (4) The name, address and telephone number, including the dwelling unit, apartment or room number, of the superintendent, janitor, custodian or other individual employed by the record owner or managing agent to provide regular maintenance service, if any;
 - (5) The name, address and telephone number of an individual representative of the record owner or managing agent who may be reached or contacted at any time in the event of an

emergency affecting the premises or any unit of dwelling space therein, including such emergencies as the failure of any essential service or system, and who has the authority to make emergency decisions concerning the building, any repair thereto, disruption of utilities or expenditures in connection therewith and shall, at all times, have access to a current list of building tenants that shall be made available to emergency personnel as required in the event of an emergency;

- (6) The name and address of every holder of a recorded mortgage on the premises;

- (7) If fuel oil is used to heat the building and the landlord furnishes the heat in the building, the name and address of the fuel oil dealer servicing the building and the grade of fuel oil used (When deemed necessary, Town officials may provide for the purchase of home heating oil or other fuel and may, thereafter, attach a lien on the subject rental property for all costs.);

- (8) The number of tenants over the age of two years authorized to reside in each rental unit, including the number of tenants over the age of two years but under the age of 19 years (school age children). The information contained in the rental property registration statement must set forth information for each unit within the rental property and must include the number of tenants actually residing in each rental unit;

- (9) As to each rental unit, the owner shall provide a floor plan of the rental unit, which shall depict the number, dimensions and location of each room in the rental unit. No space shall be used for sleeping purposes which has not been so designated as a sleeping area on the floor plan provided by the owner and approved by the local enforcing agency, which shall be on file with the Construction Official; and

- (10) Such other information as may be deemed necessary to enforce this article.

D. In the event the tenancy of a rental unit changes during the year, the owner or managing agent shall, within 30 days of the change in tenancy, provide an updated rental property registration statement. This shall be in addition to the requirements for obtaining a certificate of habitability for the change of tenancy. A "change in tenancy" shall mean the addition of any person not included in the annual statement, or deletion of any person on the annual statement. Failure to provide the required information shall be deemed a violation of this article, and owners, managing agents and tenants may be held accountable for inaccurate rental property registration statements.

§ 464-5. Inspections.

- A. Inspections pursuant to this article shall be conducted on an annual basis unless good cause exists for requiring an earlier inspection.
- B. All rental units subject to this article shall be inspected by the enforcement officers duly authorized to conduct inspections for purposes of determining compliance with all applicable local, state and federal laws, regulations, ordinances, and codes, including, but not limited to, the uniform construction code, local zoning ordinances, the property maintenance code, health codes, housing codes and fire codes.
- C. The owner and/or managing agent on record with the Town shall be notified of said inspections before they commence and shall, by request, be required to be present during said inspections. The owner and/or managing agent must, upon receiving notice of pending inspections, immediately notify all affected tenants of the pending inspections. Reasonable efforts will be made by the Town to conduct said inspections at a mutually convenient date and time.
- D. The owner and/or managing agent and the tenant(s) shall make the subject rental units fully available for all required inspections and are required to make all necessary arrangements to facilitate such inspections. Where inspections have been scheduled, but the owner, managing agent and/or tenants fail to make the subject rental unit(s) available at the scheduled date and time, the owner and/or tenant(s) may be fined for violation of this article pursuant to § 464-10.
- E. Inspections shall only be made with the consent of at least one of each rental unit's tenants who is of legal age to grant such consent. Absent such consent, inspections may only be conducted following the issuance of an administrative search warrant, unless there is reason to believe that a violation exists which poses an immediate threat to health or safety, requiring inspection and abatement without delay. Reasonable attempts shall be made to provide advance notice to the owner and/or managing agent and to obtain consent from the tenant(s).
- F. In the event of a tenant's refusal to allow entry for inspections, the inspecting officer may, upon affidavit, apply to the Judge of the Municipal Court for a search warrant setting forth the reasonable basis for believing that there exists a nuisance, violation of this article and/or violation of other local, state or federal laws, regulations, ordinances and/or codes.
- G. In the event that the inspections of a rental unit do not result in a satisfactory outcome, the owner, managing agent and/or tenants shall complete all required repairs or corrections within the time prescribed by the inspecting officials or applicable code, and if not made within that time period, the owner and/or tenants shall be deemed in violation of this article, and every day that said violation continues unabated shall constitute a separate and distinct violation subject to the penalty provisions herein. Failure to abate said violations may result in the revocation of a certificate of occupancy. In the event of the revocation of a certificate

of occupancy, relocation of tenants shall be required. Such relocation shall be made at the owner's expense pursuant to the provisions of § 464-7.

§ 464-6. Prerequisites to occupancy; maximum number of occupants.

- A. No person shall occupy any rental unit without first securing a certificate of habitability, nor shall the owner and/or managing agent permit occupancy of any rental unit unless the rental unit has been registered and in compliance with the provisions of this article.
- B. The owner shall post the maximum authorized number of occupants in a conspicuous area within the rental unit. It shall be unlawful for any person, including the owner, managing agent and/or tenants, to allow a greater number of persons than the posted maximum number of occupants to reside in the rental unit. This provision may be enforced against the owner, managing agent and/or tenants as well as against the unauthorized persons residing in the rental unit under this article or any other applicable local, state or federal law, regulation, ordinance or code.

§ 464-7. Nuisances; utilities; relocation costs.

- A. No rental property or unit shall be conducted or maintained in a manner that constitutes a nuisance. The owner and the tenants will be held responsible for any such conditions and/or activities, and such conditions and/or activities shall constitute a violation of this article as well as violations of any other applicable local, state or federal laws, regulations, ordinances and/or codes.
- B. Owners and/or tenants shall be liable to the Town for the cost of reinstating utility operations should any utilities to a rental property or rental unit be permitted to lapse either by the owner or the tenants.
- C. Owners shall be held fully liable to the Town for relocation costs incurred due to the displacement of any tenants pursuant to N.J.S.A. 20:4-4.1.

§ 464-8. Additional lease requirements.

- A. Owners are required to enter into a written lease with the persons renting each rental unit. A copy of said lease must be provided to the Town Clerk within 10 days of its execution.
- B. In addition to those provisions required by other local, state and federal laws, regulations, ordinances and codes, owners shall also include the following additional provisions in every written lease entered into or renewed following the date of adoption of this article:

- (1) A provision setting forth the maximum number of residents permitted in the unit and a clear description of the location of designated sleeping areas.
- (2) A provision confirming that the tenants agree to permit reasonable inspections of their rental unit by duly authorized officials upon reasonable notice to the tenants. This provision must additionally require that the owner and/or managing agent, upon receiving notice of pending inspections from the Town, will immediately provide notice of the pending inspections to the tenants.

§ 464-9. Inspection, treatment and extermination of pests.

A. Landlord's pest control responsibility.

- (1) It is the responsibility of every landlord to provide pest control services when an infestation of pests is found or reasonably suspected on the landlord's premises. The landlord must continue to provide such services until such time as evidence of pests can no longer be found or verified on the premises. Every landlord shall maintain a written record of all pest control measures performed and shall include reports and receipts prepared by the pest management professional relating to those measures taken. This record shall be maintained for three years and shall be open to inspection by the Town.
- (2) A landlord shall provide the pest control services within 10 days after: 1) a bedbug is found or reasonably suspected anywhere on the premises; or 2) being notified in writing by a tenant of a known or reasonably suspected pest infestation on the premises or in the tenant's rental unit.

B. Method of extermination. The extermination of pests shall be by inspection and, if necessary, the treatment of the dwelling unit on either side of the affected dwelling unit and the unit directly above and below the affected dwelling unit. This pattern of inspection and treatment shall be continued as necessary until no further infestation is detected.

C. Landlord's duty of nonretaliation. A landlord may not retaliate in any manner, including by terminating a tenancy, increasing rent, decreasing services, threatening litigation, or refusing to renew a tenancy, against a tenant who in good faith requests or furthers in any manner the treatment of a known or reasonably suspected pest infestation. Any landlord who violates this section shall pay the affected tenant a penalty equivalent to two months' rent, shall return to the tenant all security deposits and advance rent payments, and shall forfeit the right to require any further security deposit.

D. Tenant's responsibility.

- (1) Within fifteen days after a tenant finds or reasonably suspects a pest infestation in the presence of the tenant's dwelling unit, the tenant shall notify the landlord in writing of

such infestation, or of any recurring or unexplained bites, stings, irritation, or sores of the skin or body which the tenant reasonably suspects are caused by bedbugs. This notification shall describe with specificity the evidence and location of any infestation. On receipt, the landlord shall file a copy of the notification with the Town.

- (2) The tenant shall cooperate with the landlord in the control, treatment, and eradication of the pest infestation found or reasonably suspected in the tenant's rental unit. As part of this cooperation, the tenant shall:
 - (a) Not interfere with inspections or treatments;
 - (b) After reasonable notice in writing to the tenant, grant access at reasonable times to the tenant's rental unit for purposes of infestation inspection or treatment;
 - (c) Make any necessary preparations prior to treatment in accordance with any pest management professional's recommendations; and
 - (d) Promptly dispose of any personal property that a pest management professional has determined cannot be treated or cleaned, by enclosing such personal property in a plastic bag and clearly labelling it as infested prior to transporting such property out of the dwelling unit.
- (3) Prior to inspection or treatment for the infestation, the landlord shall send a written notice to the tenant of the rental unit being inspected or treated, advising the tenant of the tenant's responsibilities under this section and setting forth the specific preparations required of the tenant.

E. Enforcement. Town inspectors shall have authority to inspect the interior and exterior of buildings and attached lands for the infestation, and when any evidence of an infestation of pests is found, to report such evidence to the appropriate Town authority.

F. Violations and penalties. Any person who violates this § 464-9 shall be fined not less than \$300 nor more than \$500 for the first violation, not less than \$500 nor more than \$1,000 for the second violation, and not less than \$1,000 nor more than \$2,000 for the third or subsequent violation. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

§ 464-10. Violations and penalties.

Any person violating any of the provisions of this article, other than § 464-9, shall, upon conviction, be subject to a penalty as stated in Chapter 1, General Provisions, Article II, General Penalty, of the Code of the Town of Phillipsburg.

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Section 2

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistencies.

Section 3

If any article, section, subsection, paragraph, phrase or sentence of this ordinance is, for any reason, declared to be unconstitutional or invalid, such article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

Section 4

This ordinance shall take effect immediately upon final publication as provided by law.

ATTEST:

TOWN OF PHILLIPSBURG

VICTORIA L. KLEINER,
Municipal Clerk

STEPHEN R. ELLIS
Mayor

DATED:

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of an Ordinance duly adopted by the Town Council at their February 20, 2018 meeting.

VICTORIA L. KLEINER,
Municipal Clerk