

**TOWNSHIP OF JENKINS**  
**LUZERNE COUNTY, PENNSYLVANIA**  
**ORDINANCE NO. 3 of 2018**

**AN ORDINANCE OF THE TOWNSHIP OF JENKINS, LUZERNE COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING THE JENKINS TOWNSHIP CODE AND SPECIFICALLY ARTICLE 13 (ENFORCEMENT AND ADMINISTRATION), AS HERETOFORE AMENDED; ADDING A SECTION 1306, SUBSECTIONS 1306.1 TO 1306.14 ENTITLED " RESIDENTIAL RENTAL LICENSE PERMIT "; REGULATING USE AND OCCUPANCY OF LEASED PROPERTIES AND PROPERTIES IN WHICH TITLE OF OWNERSHIP IS TRANSFERRED IN ORDER TO ENSURE THAT THE USE AND OCCUPANCY OF SUCH PROPERTIES WILL BE CONDUCTED IN ACCORDANCE WITH PUBLIC HEALTH, SAFETY, AND WELFARE; TO ADOPT CERTAIN NEW REGULATIONS RELATING TO RENTAL HOUSING LICENSES; PROVIDING FOR THE REQUIREMENT OF RENTAL LICENSING AND PERMITS FOR ANY RESIDENTIAL RENTAL PROPERTY IN THE TOWNSHIP; PROVIDING FOR ANNUAL INSPECTION OF ALL RESIDENTIAL RENTAL PROPERTIES; PROVIDING FOR ANNUAL FEES ASSOCIATED WITH THE ISSUANCE OF RESIDENTIAL RENTAL LICENSE PERMITS; PROVIDING FOR CONDITIONS ASSOCIATED WITH THE ISSUANCE OF RESIDENTIAL RENTAL LICENSE PERMITS; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Board of Supervisors of the Township of Jenkins has heretofore adopted a comprehensive compilation of ordinances of the Township entitled the "Zoning Ordinance, Ordinance No. 005 of 2007; and

**WHEREAS**, any and all additions, amendments, deletions, or supplements to the Code, when passed and adopted in such form as to indicate the intention of the Board of Supervisors to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes; and

**WHEREAS**, whenever such additions, amendments, deletions, or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing said Code as amendments and supplements thereto; and

**WHEREAS**, Section 1506 of the Second Class Township Code, Act of May 1, 1933, P .L. 103, No. 69, as amended by the Act of November 9, 1995, P .L. 350, No. 60, found at 53 P .S. 66506, entitled "General Powers", authorizes the Board of Supervisors to make and adopt ordinances necessary for the proper management, care and control of the Township, and its finances and the maintenance of peace, good government, health and welfare of the Township and its citizens, trade, commerce and manufacturers; and

**WHEREAS**, Section 1529 of the Second Class Township Code, 53 P. S. Sec. 67529, authorizes the Board of Supervisors to adopt ordinances prohibiting nuisances; and

**WHEREAS**, Section 1527 of the Second Class Township code, 53 P. S. sec. 67527, authorizes the Board of Supervisors to adopt ordinances to secure the safety of persons and property in the Township; and

**WHEREAS**, Section 1517 of the Second Class Township Code, 53 P. S. Sec. 67517, authorizes the Board of Supervisors to adopt codes and ordinances to govern and regulate the construction, alteration, repair, occupation, maintenance, sanitation, lighting, ventilation, water supply, toilet facilities, drainage, use and inspection of all building and housing constructed, erected, altered, designed or used for any use or occupancy and the sanitation and inspection of land in accordance with Article XVII-A of the Second Class Township Code; and

**WHEREAS**, the Board of Supervisors, pursuant to such authority, finds that it is in the best interests of the Township residents' health, safety, and welfare, to regulate use and occupancy of leased properties and properties in which title of ownership is transferred; and

**NOW THEREFORE**, it is hereby **ORDAINED AND ENACTED** by the Board of Supervisors of Jenkins Township as follows:

#### **EXHIBIT A TO ORDINANCE**

ARTICLE 13, SECTION 1306 of the Jenkins Township Code is hereby **AMENDED** to include the following new provisions:

(Attached hereto)

#### **SECTION I --- 1306 Residential Rental License Permit**

##### **1306.1 Definitions.**

The following definitions shall apply to this Ordinance:

**BUILDING INSPECTOR** — Any of the following person or persons, either singly or in combination, who shall serve at the pleasure of the Board of Supervisors to make the inspections, and issue certificates, under this Ordinance:

- A. The Building Inspector of Jenkins Township,
- B. The Building Code Official of Jenkins Township,
- C. Zoning Officer, or
- D. Any other person that the Board of Supervisors, by resolution, may designate from time to time.

**BUSINESS** — Occupancy of a building, in whole or in part, for any for-profit or non-profit business activity, commerce, industry, professional services or other services for hire.

**BUILDING** Any building, building structure, temporary building or temporary building structure, intended for human occupation, either for residential or business purposes located in the Township of Jenkins.

**DWELLING** — any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons. This definition shall be construed to include mobile homes and rooming houses. This definition shall not be construed to include hotels, motels, homeless shelters, dormitories, hospitals, buildings or portions thereof owned or operated by a Housing Authority created or organized in accordance with the Housing Authority Law, 35 P.S. § 1541, rehabilitation or treatment centers, nursing homes or personal care homes.

**TOWNSHIP** – The Township of Jenkins, Luzerne County, Pennsylvania.

**COMMONWEALTH** – The Commonwealth of Pennsylvania.

**HABITABLE SPACE** – Space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility spaces, and similar areas shall not be considered to be habitable spaces.

**LANDLORD** – A person which leases as lessor to a tenant any rental property, the use or occupancy of which continues for a period in excess of thirty (30) days, and/or a person appointed to act as a resident agent under this Ordinance.

**OCCUPANCY LICENSE** -- the license issued to the owner of residential unit(s) in accordance with this Ordinance, which is required for the lawful rental and occupancy of residential UNITS

**OCCUPANT** — an individual who resides in a residential unit, as defined herein, with whom a legal relationship with the owner/landlord is established or exists by virtue of a lease or by the laws of the Commonwealth of Pennsylvania.

**OWNER** - one or more persons, jointly or severally, in whom all or part of the legal title to the premises is vested or all or part of the beneficial ownership and a right to the present use and enjoyment of the premises, including a mortgage holder in possession of a residential rental unit.

**PERSON** – Any individual, partnership, association, firm, limited liability company or corporation.

**PROPERTY MANAGER** — a natural person, partnership, corporation, unincorporated association, limited partnership, limited liability company, trust or any other entity appointed by a landlord to take care of a residential rental property or unit within the Township and act as agent for the landlord.

**RENTAL PROPERTY** – Any dwelling, including but not limited to a house, townhouse, row house, duplex, twin, apartment, condominium, rooming house or mobile home, and any building containing any such units, from which the owner derives income or any other consideration from persons residing at such dwelling, as evidenced by a written or oral contract, lease, sublease or agreement, but not including any hotel, motel, bed and breakfast, or any other business licensed to provide transient lodging to overnight guests.

**RESIDENT AGENT** – A person residing in the Commonwealth and within a twelve (12) mile radius of the Township appointed by the Landlord pursuant to this Ordinance. A resident agent may also be a tenant.

**TENANT** – A person who has the use or occupancy of a rental property for a period exceeding thirty (30) days, regardless of the payment of monetary consideration associated with the use or occupancy of the rental property.

**RESIDENTIAL RENTAL UNIT** — any structure within the Township occupied by someone other than the owner of the real estate as determined by the most current deed, recorded in the Recorder of Deeds Office for Luzerne County, and for which the owner of said real estate receives any value, no matter how nominal, including but not limited to money, barter or: exchange of goods or services. Each apartment within a building or structure is a unit which requires a license.

**SUBSTANTIAL VIOLATION** — A violation of an adopted building, housing, property maintenance code, fire code, or maintenance, health or safety nuisance ordinance that makes a building, structure or any part thereof unfit for human habitation and is discovered during the course of a municipal inspection of a property.

**TEMPORARY ACCESS CERTIFICATE** - A certificate issued as a result of the municipal inspection of a property that identifies at least one substantial violation, and the purpose of the certificate is to authorize access to the property for the purpose of correcting substantial violations pursuant to the maintenance and repair provisions of this Ordinance. No person may occupy a property during the term of a temporary access certificate, but the owner shall be permitted to store personality that is related to the proposed use or occupancy of the property or is needed to repair the substantial violations during the time of the temporary access certificate.

**TEMPORARY USE AND OCCUPANCY CERTIFICATE** - A certificate issued as a result of the municipal inspection of a property that reveals a violation but no substantial violation, and the purpose of the certificate is to authorize the purchaser or tenant to fully utilize or reside in the property while correcting violations pursuant to the maintenance and repair provisions of this Chapter.

**UNFIT FOR HUMAN HABITATION** — A condition which renders a building or structure, or any part thereof, dangerous or injurious to the health, safety or physical welfare of an occupant or the occupants of neighboring dwellings. The condition may include substantial violations of a property that show evidence of: a significant increase to the hazards of fire or accident; inadequate sanitary facilities; vermin infestation; or a condition of disrepair, dilapidation or structural defects such that

the cost of rehabilitation and repair would exceed one-half of the agreed-upon purchase price of the property.

**USE AND OCCUPANCY CERTIFICATE** - A certificate issued stipulating that the property meets all ordinances and codes and may be used or occupied as intended.

**VIOLATION** — A violation of a properly adopted building, housing, property maintenance code, fire code, or maintenance, health or safety nuisance ordinance that does not rise to the level of a substantial violation and is discovered during the course of a municipal inspection of a property.

### **1306.2 Residential Rental License Permit Required.**

- A. All owners of rental properties in the Township of Jenkins shall make application to the Township BUILDING INSPECTOR, on or before October 1 of each calendar year, for the issuance of a Residential Rental License Permit under this Ordinance. A separate application shall be required for each rental property under this Ordinance.
- B. At the time of application, the owner shall provide the Department of Licenses and Inspection a list of tenants proposed to reside in the rental property for the calendar year. The tenant list shall include all of the following: the full legal name of all tenants; the current address of the tenants and/or emergency contact information for each tenant; and a completed Township Earned Income Tax Form or an affidavit attesting to the fact that the tenant is not employed.
- C. The tenant list shall be updated any time that a change of tenant occurs during the term of the Residential Rental License Permit. Failure to update the tenant list shall constitute a violation of this Ordinance.
- D. Every application shall be accompanied by the name and contact information of the designated Resident Agent required under this Ordinance, and the permit fee required for the Residential Rental License Permit, as fixed by the Board of Supervisors from time to time by Resolution.
  - 1. Prior to entering into a rental agreement or permitting the occupancy of any residential rental unit, the owner/landlord thereof shall be required to apply for and obtain a license for each rental unit. The cost of the license shall be Fifty-Five Dollars (\$55.00) per unit. The purpose of the costs is to cover the expense incurred by the Township to process the license application and maintain the information required

under this ordinance, The Board of Supervisors may change the current license fee by resolution.

2, A license shall be required for all residential units.

3, The application for a license shall be in a form as determined by the Township.

### **1306.3 Inspections.**

- A. Prior to issuing a Use and Occupancy Certificate, the Building Inspector shall inspect the Business or Residential Building, or portion thereof to be sold or leased, to determine whether or not it complies with the requirements as set forth in this Ordinance.
- B. Any Person or Persons authorized to make occupancy inspection, as defined in 1306.1 as the Building Inspector, shall enjoy all privileges, rights and immunities which would inure to the Building Inspector of the Township of Jenkins.
- C. All residential units and regulated rental units/regulated dwelling units, which are subject to the inspection requirements of this article, shall be inspected by the Building Inspector of the Township of Jenkins to determine compliance with the International Property Maintenance Code, the Uniform Construction Code, the International Fire Code, the Zoning Ordinance, the Subdivision and Land Development Ordinance, the terms and conditions of this Ordinance as amended from time to time, and as adopted by the Township of Jenkins by ordinance and, further, as contained in the Ordinances of the Township of Jenkins relating to all matters pertaining to zoning of real property and structures or the laws of the Commonwealth.
- D. Any rental property proposed to be issued a Residential Rental License Permit under this Ordinance, in addition to any other relevant requirements, must demonstrate compliance with the following standards:
  - 1. Each dwelling unit must have at least one (1) habitable room not less than 120 square feet.
  - 2. All spaces, other than kitchens, must contain a minimum of 70 square feet to be considered habitable spaces.
  - 3. Bedrooms must contain a minimum of 70 square feet, plus an additional 50 square feet for each additional person occupying the same room.

4. No basement space may be considered habitable unless it meets the requirements for secondary means of egress/escape as defined by the applicable Township building or property maintenance code.
- E. The Department of Licenses and Inspection shall schedule inspections of rental properties under this Ordinance with a minimum of ten (10) days advance notice. Nothing in this Ordinance shall be deemed to limit or restrict the ability of the Township to conduct inspections of any residential rental property as deemed necessary to enforce any portion or part of the Ordinances of the Township of Jenkins or the laws of the Commonwealth. The Applicant is responsible for the payment of any and all costs of the inspection, as fixed from time to time by Resolution of the Board of Supervisors.
- F. Upon successful completion of all requirements of this Ordinance, the Department of Licenses and Inspection may issue an appropriate Residential Rental License Permit. Rental properties which fail to meet the requirements of this Ordinance shall not qualify for issuance of a Rental License Permit, unless the rental property is brought into compliance with this Ordinance. A re-inspection fee shall be paid by any owner seeking a second or subsequent inspection under an application for an annual Residential Rental License Permit. Re-inspection fees shall be as fixed from time to time by Resolution of the Board of Supervisors.
- G. Residential Rental License Permits issued under this Ordinance shall be valid for a period of one (1) year and may be renewed upon application. All properties seeking renewal of a Residential Rental License Permit must comply with all terms and conditions of this Ordinance.
- H. Beginning in 2019, and continuing thereafter, properties subject to a Residential Rental License Permit under this Ordinance shall be inspected as provided herein:
- Single Family Dwellings (including townhouses and twins): Every two (2) years  
Multi Family Condominiums Dwellings Annually  
Multi-Family Apartment Dwelling: Annually
- The Department shall have discretion to schedule inspections of licensed properties consistent with this Ordinance. Failure to comply with a notice from the Building Inspector regarding the scheduling or conduct of a mandatory inspection under this Ordinance may result in suspension and/or revocation of any Residential Rental License Permit under this Ordinance. Inspections under this paragraph shall be subject to such fees and charges as set by the Township for inspections and/or re-inspections, as applicable.
- I. Residential Rental License Permits under this Ordinance shall not be subject to transfer or assignment.

#### **1306.4 Resident Agent.**

Any landlord who is an individual and does not reside within the Commonwealth or within a ten (10) mile radius of the Township, and any landlord which is other than an individual and has no office within the Commonwealth or within a ten (12) mile radius of the Township shall appoint a resident agent to act as a representative of the landlord for purposes of compliance with the requirements of this Ordinance. Any person designated as a resident agent must maintain a residence or office within a ten (12) mile radius of the Township. A resident agent may also be a

tenant. Resident agents shall be responsible to ensure that a landlord's property meets all requirements of this Ordinance, the Code of Jenkins Township, including the Property Maintenance, Grass, Garbage Collection, Recycling, Snow and Ice and other provisions, and shall, in addition to the landlord, be subject to any and all relevant enforcement and penalty provisions associated therewith.

#### **1306.5 Landlord Responsibilities.**

As a condition of any Residential Rental License Permit issued pursuant to this Ordinance, each Landlord shall be responsible to insure that a property which is subject to a Residential Rental License Permit meets all requirements of this Ordinance, the Ordinance of Jenkins Township, including the Property Maintenance, Grass, Garbage Collection, Recycling, Snow and Ice and other provisions, and shall be subject to any and all relevant enforcement and penalty provisions associated therewith.

##### **A. Duties of Owner/Landlord**

1. Every Landlord/Owner shall be required to keep and maintain all residential rental units in compliance with all applicable laws and regulations of the Commonwealth of Pennsylvania and all Ordinances of the Township of Jenkins and to keep such property in a good and safe condition. The transfer or assignment of these duties to the tenants or any other person shall not relieve the Landlord/Owner from these responsibilities or the liability associated there with.
2. It shall be the Landlord/Owners responsibility for the management of their property in conformity with all the Laws of the Commonwealth of Pennsylvania as well as the Ordinances of the Township of Jenkins.
3. Landlords/Owners are expected to use every legal means available to them to evict tenants who routinely engage in disorderly conduct, disturb the peace, or create excessive noise. The term "routinely engaged" is defined as three or more violations of any of the aforementioned actions mentioned herein above in any thirty-day (30) period or more than six times in any twelve (12) month



period. Regarding the violation of any Federal or State criminal laws pertaining to the illegal distribution of drugs or drug paraphernalia, the Owner/Landlord shall use all legal means to evict any tenant convicted of or pleading guilty to the same.

B. Requirements of Owner/ Landlord

1. Registration, every owner of a residential unit, as defined in this ordinance, must register the unit with the Township Code Enforcement Officer as hereinafter set forth:

- a. All residential must be registered with the Building Inspector on or before October 1<sup>st</sup> of each year.
- b. Any Owner, as defined in this Ordinance, who converts any structure to a residential rental unit or units shall register the residential unit or units with the Townships Building Inspector upon the earliest occurrence of the one of the following:
  - i. within thirty (30) days of completion of any conversion;
  - ii. within thirty (30) days of the receipt of any rent, either in the form of money, barter or exchange of goods or services, for the unit(s);
  - iii. within thirty days (30) of occupancy of any unit or units by a tenant or tenants.
- c. The purchaser and purchaser's agent shall notify the Township of any purchase or transfer of a residential rental unit within ten (10) days of such occurrence or transaction. Also, a mortgage holder who comes in possession of a residential rental unit within ten (10) days of doing so shall notify the Township of the same.
- d. The following registration information shall be provided to the Township by all Owners:
  - i. Owners name, address and telephone number;
  - ii. Property address and unit number(s);
  - iii. Maximum occupancy per unit;
  - iv. Emergency telephone number in addition to the number provided in "a" above;
  - v. Actual number of occupants; and
  - vi. Names of current tenant(s).
- e. The owner of a residential rental unit must report in any changes in the registration information to the Building Inspector within ten (10) days of their occurrence.

- f. The owner of a residential rental unit must notify the Township of any changes of a tenant(s) by providing the name of said tenant(s) in writing to the Township Code Enforcement Officer within ten (10) days of said change.

#### **1306.6 Revocation of Residential Rental License Permits.**

- A. Any Landlord who violates any term, condition or provision of this Ordinance, in addition to the penalties set forth hereunder, shall be subject to revocation of any Residential Rental License Permit issued under this Ordinance.
- B. Any rental property licensed under this Ordinance that is determined to be a nuisance shall be subject to revocation. A nuisance property shall be any property which is in violation of the Township property maintenance requirements by being in a substantial state of uncleanliness, disorder or disrepair; any property substantially damaged by fire, flood or other natural disaster; any property determined to be uninhabitable by the Building Inspector; or any property which is occupied by any tenant who has engaged in any or all of the following conduct:
  - 1. Drug possession, sale, or use.
  - 2. Underage consumption and/or possession of alcohol.
  - 3. Illegal possession or discharge of firearms.
  - 4. Possession or use of fireworks or other incendiary or noisemaking devices.
  - 5. Possession of noxious chemicals or materials
  - 6. Untimely or excessive noise or disruptive conduct, including but not limited to, noise or disturbance caused by voices, radios, stereos, televisions, tools, machinery, equipment, motorized vehicles or animals.
- C. The determination to revoke a Residential Rental License Permit under this Ordinance shall be made by the Building Inspector or his designee. Written notice of revocation of a permit issued under this Ordinance shall be given to the permit holder or resident agent, not less than fifteen (15) days prior to the proposed effective date of the revocation. A permit holder may request a hearing before a hearing officer prior to revocation, provided, however, that such hearing request must be made not less than five (5) days prior to the effective date of the revocation. Thereafter, the hearing officer shall schedule a hearing at a date and time convenient to the permit holder and the Township, but not later than 30 days from the date the request for a hearing is received. All proceedings before the hearing officer shall be in accordance with the Local Agency Law, including those provisions pertaining to appeals to the Court of Common Pleas.

- D. Any property which has been subject to revocation of a Residential Rental License Permit under this Ordinance shall not be eligible for a new or renewal Residential Rental License Permit for a period not less than three (3) years. Further, any landlord who has been subject to revocation of a Residential Rental License Permit under this Ordinance shall be deemed ineligible to hold (individually or as a member, shareholder, officer, director or partner in any limited liability company, corporation, partnership, limited partnership, limited liability partnership or any other entity) a Residential Rental License Permit for any new or additional rental property for a period not less than three (3) years. Any entity, as herein described, which is associated in any manner with a landlord who has been subject to a revocation under this Ordinance shall be deemed ineligible during any such period of association.

#### **1306.7 Use and Occupancy certificate required prior to lease or sale**

- A. If the Owner of a Business or Residential Building desires to lease or sell the Building, or portion thereof, the Owner shall apply for and obtain, no later than fifteen (15) days prior to leasing or sale, a Use and Occupancy Certificate from the Building Inspector of the Township of Jenkins. The application for a Use and Occupancy Certificate may be made by an agent of the person or persons whose responsibility it is to obtain the Use and Occupancy Certificate.
- B. The application shall be on the Township's form, and the applicant shall pay any required fee at the time of application, which fee may be set by the Board of Supervisor, from time to time, by resolution. If more than one inspection is required because the property does not pass occupancy requirements, the applicant shall be responsible for the costs of all subsequent inspections, unless the application is withdrawn, and may be required to pay a fee or reasonable deposit in advance.
- C. Any issued Use and Occupancy Certificate for a Building, or portion thereof being sold or leased, shall only be valid for a leasing or sale occurring within thirty (30) days after the date of issuance of the Certificate.
- D. An applicant for a Use and Occupancy Certificate shall inform the renter, lessee, or buyer of said property of the result of the inspection, prior to the lease, rental, or sale.
- E. An Use and Occupancy Certificate shall be issued in the following manner:
1. If the municipal inspection reveals no Violations.
  2. If the municipal inspection reveals at least one Violation, but no Substantial Violations, a Temporary Use and Occupancy Certificate shall be issued. Once corrections have been made and subsequent inspections show the property to be in compliance, a Use and Occupancy Certificate shall be issued.

3. If the municipal inspection reveals at least one Substantial Violation, a Temporary Access Certificate shall be issued to allow access to the property for the purpose of correcting Substantial Violations that are specifically noted on the inspection report. Once corrections have been made and subsequent inspections show the property to be in compliance, a Use and Occupancy Certificate shall be issued.
- F. Use and occupancy of a Building without a required Use and Occupancy Certificate is illegal, and shall constitute a violation of this Chapter, unless permitted pursuant to a validly issued Temporary Use and Occupancy Certificate or Temporary Access Certificate.

### **1306.8 Temporary Certificates**

- A. Where a Temporary Use and Occupancy Certificate or Temporary Access Certificate has been issued, the Owner, at its option, shall either:
- a. Correct any Violations and/or Substantial Violations that are specifically noted on the inspection report within the following time frames:
    - i. where the municipal inspection occurred prior to a purchase, within twelve (12) months of the date of purchase; or
    - ii. where the municipal inspection occurred prior to lease of the property, within ninety (90) days of the date the Certificate was issued.
  - b. Demolish the Building in accordance with law.
- B. All necessary permits required to complete any type of corrections to bring the property into compliance must be applied for and obtained in compliance with building, property maintenance, fire codes or other health or safety codes.
- C. Failure to comply with the requirements of Subsection A. shall result in:
- i. Revocation of the temporary certificate;
  - ii. The Owner being subject to any existing Township ordinances or codes relating to the occupation of a property without a use and occupancy certificate.
  - iii. Violation of this Chapter

### **1306.9 Applicability**

- A. Except as set forth in subsection (b), this act shall not apply to, and a municipality may not require, a certificate of occupancy, a temporary use and occupancy certificate or a temporary access certificate for a real estate transfer, including a residential or nonresidential transfer, as provided under 68 Pa.C.S. 7103(b)(2) (relating to application

of part), to any of the following which take title to property for the purpose of holding the property for sale to offset losses incurred on a loan or other obligation in default secured by a mortgage, deed of trust or other lien on the property:

- (1) Bank.
- (2) Savings association.
- (3) Credit union.
- (4) Mortgage lender.
- (5) Financial institution similar to an institution listed in paragraphs (1) through (4).
- (6) Subsidiary of a financial institution listed in paragraphs (1) through (5).

B. A financial institution not subject to this Chapter under subsection A. may be required by the Township to correct a substantial violation.

c. This Chapter shall not apply to residential rentals less than thirty (30) days in length, provided that the Owner of the Building has applied for and received a Use and Occupancy Certificate within one year of the rental.

### **1306.10 Grounds for denial, nonrenewal, suspension or revocation of certificate of occupancy.**

#### **A. General.**

(1) The Building Inspector may initiate violation proceedings against an owner that may result in a formal warning, nonrenewal, suspension, or revocation of the owner's Certificate of Occupancy for the violation of any provision of this article that imposes a duty upon the owner and/or for failing to regulate any action(s) by any occupants in violation of the provisions of this article, as stated herein, subject, however, to the right to appeal, as provided in this article.

(2) In order to obtain or retain a certificate of occupancy, the property, structure, or premises of the owner, qualifying hereunder, must comply with the minimum general standards mandated by the International Property Maintenance Code of the Township of Jenkins, as amended from time to time, and particularly, the following minimum standards:

- (a) Building: interior and exterior, clean and safe.
- (b) Building: infestation and rodent harborage.
- (c) Building: smoke alarms.
- (d) Building: CO detector.
- (e) Building: handrails.
- (f) Building: fire extinguisher in kitchen.
- (g) Electrical: GFCIs.
- (h) Plumbing: hot water.
- (i) Plumbing: toilet.
- (j) Plumbing: bathing.
- (k) Plumbing: sink.
- (l) Mechanical: heat.
- (m) Mechanical: dryer vent.

B. Definition of Building Inspector determination(s) of inspections.

## **DENIAL**

The violations found at the time of the inspection would render the property unsafe.

## **FORMAL WARNING**

Formal written notification of at least one violation of this article. Upon satisfactory subsequent reinspection, compliance with this article and any condition imposed by the Building Inspector, the formal warning shall be removed at the time that the owner applies for the initial Certificate of Occupancy or any renewal thereof or at an earlier time as ordered by the Building Inspector.

## **NONRENEWAL**

The denial of the right to apply for a certificate of occupancy renewal after expiration of the term of a subsisting and current certificate of occupancy. The Township of Jenkins will permit the owner to maintain occupants in a premises until the end of the term of the certificate of occupancy, unless the premises, structure, or property passes a reinspection by the Building Inspector

## **SUSPENSION**

The immediate loss of the right to rent residential units or regulated residential units/regulated dwelling units for a period of time established by the Building Inspector. The owner, after expiration of the suspension period, may apply for renewal of the certificate of occupancy, following a reinspection of the property, premises, or structure, which determines that the premises are in full compliance with the provisions of this article. Upon suspension, the owner shall take immediate steps to evict and remove all of the rental occupants from the premises, property, or structure.

## **REVOCATION**

The immediate loss of the right to rent residential units and regulated residential units/regulated dwelling units for a period of time established by Building Inspector and which may result in the loss of the right of the owner to apply for renewal of a certificate of occupancy at any time. Upon revocation, the owner shall take immediate steps to evict and remove all of the rental occupants from the premises, property, or structure.

C. Standards for determination of existence of violations. The Building Inspector shall consider one or more following matters when determining the existence of violations for noncompliance with the terms and provisions of this article and the Township of Jenkins Property Maintenance Code(s):

- (1) The impact of the violation on the health, life, safety, and welfare of the occupant(s) of the residential unit or regulated residential unit/regulated dwelling unit and other residents of the structure, property, or premises.
- (2) The impact of the violation upon the immediate neighborhood of the premises, structure, or property.
- (3) Whether the owner has prior violations of this article or other real property ordinances of the Township of Jenkins or has received notices of such violations, as provided for in this article.
- (4) Whether the owner has been subject to disciplinary proceedings under this article.
- (5) The effect of disciplinary action of violations upon the occupants.

(6) The action taken by the owner to remedy identified violation(s) and to prevent future violations, including any written plan of remediation required to be submitted by the owner to the Building Inspector

(7) The policies, provisions, and terms of the lease agreement employed by the owner to manage the property or premises or structure to enable the owner to comply with the provisions of this article.

(8) In addition to applying those specific violations as set forth above, the Building Inspector may impose upon the existing or subsequent certificates of occupancy conditions relating to fulfilling strictly the terms, provisions, and legislative purpose of this article.

D. Grounds for imposing violations. Any of the following matters may subject an owner to violations hereunder:

(1) Failure to abate a violation(s) of this article applicable to the property, structure, or premises within the time directed by the Building Inspector or

(2) Refusal to allow an inspection of the property, structure, or premises by the Building Inspector, as provided for in this article; or

(3) Failure, deliberately or negligently, by occupants of the residential units or regulated residential units/regulated dwelling units to prevent violations of this article; or

(4) Violations of this article or other ordinances of the Township of Jenkins that apply to residential real property, structure, or premises within the term of existence of a Certificate of Occupancy. For purposes of this article, there need be no criminal conviction before a violation(s) can be found to exist.

E. Procedure for denial, nonrenewal, suspension, or revocation of certificate of occupancy.

Following a determination by the Building Inspector that the grounds for denial, nonrenewal, suspension, or revocation of a certificate of occupancy exist, the Building Inspector shall notify the owner of the action to be taken and the reason(s) therefor. Such notification shall be in writing, addressed to the owner and/or the authorized agent of the owner and sent by certified mail, return receipt requested, and by regular United States Postal Service mail, and it shall contain the following information:

(1) The address of the property, structure, or premises in question and the specific identification of the particular residential unit or regulated residential unit/regulated dwelling unit affected; and

(2) The description of the violation(s) of this article which has/have been found to exist; and

(3) A statement that the certificate of occupancy for said residential unit or regulated residential unit/regulated dwelling unit shall be either suspended or revoked, or it will not be renewed for a subsequent term following the term for which an existing certificate of occupancy has been issued or that the owner will receive a formal warning. In the case of a suspension or revocation, the notice shall state the date upon which such suspension or revocation will commence, and, in the case of the suspension, it shall state the duration of said suspension; and

(4) A statement that, due to the denial, nonrenewal, suspension, or revocation, as the case may be, the owner or any person authorized to act on behalf of the owner is prohibited from renting, letting, or permitting occupancy of the residential unit or regulated residential unit/regulated dwelling unit, subject to said enforcement action, from and during the period said suspension or revocation action is in effect; and

(5) A statement informing the owner that said owner has the right to appeal the decision denying, suspending, revoking, or declining to maintain or renew the certificate of occupancy to the Jenkins Township Board of Appeals established by Jenkins Township Ordinance.

## **1306.11 2108 Article 7: Enforcement Violations and Penalties**

1. This Ordinance shall be enforced by the Building Inspector of the Township of Jenkins.
2. If in the judgment of the Building Inspector it appears that a violation of this Ordinance has occurred, the Building Inspector shall institute enforcement proceedings by sending a violation notice to the Owner or landlord. The violation notice shall include but may not be limited to: Name of owner of record and any other person who may be responsible; the address of the property in violation; the specific violation with a description of the requirements which have not been met, citing the applicable sections of this Ordinance; the date by which compliance must be completed; that the recipient has thirty days from the date on the notice to appeal the violation notice to the Jenkins Township Board of Appeals, that failure to appeal to the Jenkins Township Board of Appeals within the time period specified constitutes an admission of the violation and results in a per se violation of this Ordinance and specify the specific action that will be taken for that failure to comply with this notice within the specified time period, unless timely appealed to the Jenkins Township Board of Appeals. The notice shall be sent by regular mail and certified mail restricted delivery, return receipt requested.
3. District Justices shall have initial jurisdiction over proceedings Township under item 4 below,
4. An owner of a residential unit or regulated rental unit/regulated dwelling unit, who has been determined to have violated or has permitted the violation of this article, shall be deemed to have committed a summary offense and, upon conviction thereof, shall be sentenced to pay a fine of not less than \$600.00 and not more than \$1,000.00, plus all costs, including filing fees and Attorney's fees incurred by the Township as a result of said proceedings. In the event that the fine and costs of prosecution are not paid, the Township of Jenkins is hereby authorized to collect the fine and costs of prosecution in the manner prescribed by the laws of the commonwealth in respect of actions commenced by a municipality before a District Magistrate. Each violation of this article, and each day the same is continued, shall be deemed as a separate offense.
5. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. All judgments, costs and Attorney's fees collected shall be payable to the Township.
6. The foregoing penalties or actions shall not be construed to limit or deny the right of Jenkins Township, its agents or representatives from pursuing any other legal or equitable remedy available in accordance with any other applicable law.
7. In addition to the penalties set forth in item 4 above, the Township shall be entitled to collect all costs and Attorney's fees associated with the collection of any judgment entered by the District Justice or any Court.



8. No person, owner or landlord will be eligible to obtain a residential license as specified under Section **1306.2** of this Ordinance, if there are any outstanding fines, costs or Attorney s fees due the Township as a result of a violation of this Ordinance until the same have been paid in full.

### **1306.12 Appeals.**

**A.** Any person aggrieved by any notice, which has been issued in connection with the enforcement of any provision of this article, or any rule or regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the Board of Appeals of the Township of Jenkins. Such person must file in the office of the Secretary of the Board of Appeals a written petition requesting such hearing and setting forth a brief statement of the grounds therefor, the reason(s) alleged as to why the determination of the Building Inspector is incorrect or should be overturned. The appeal must be filed within 10 days after the notice of the Building Inspector has been served upon the person by written notice. It must be served upon the Secretary of the Board of Appeals by certified mail, return receipt requested and regular USPS mail. There is imposed hereby a fee of seven hundred fifty \$750.00 dollars for filing such appeals or such appeal fee as may, from time to time, be imposed by the ordinances of the Township of Jenkins. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be revised, modified, or withdrawn. The hearing shall be held no later than 20 days after the date upon which the petition was filed. Upon application of the petitioner, the Board of Appeals may postpone the date of the hearing for a reasonable time beyond such twenty-day period, if good and sufficient reason for such temporary postponement is warranted; all in the sole discretion of the Board of Appeals.

**B.** The hearing shall be held in accordance with the procedures appertaining to the Board of Appeals as ordinarily, reasonably, and customarily are applied by the Board of Appeals.

**C.** After such hearing, the Board shall sustain, modify, or withdraw the notice, depending upon its findings as to whether the provisions of this article and of the rules and regulations adopted pursuant thereto have been complied with. If the Board of Appeals sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant hereto shall automatically become an Order in the event that a written petition for a hearing is not filed in the office of the Secretary of the Board of Appeals, within 10 days after such notice of the Building Inspector is served. After hearing in the case of any notice of suspension of any certificate of occupancy required by this statute or by any rule or regulation adopted pursuant thereto, on the date such notice of suspension has been sustained by the Board of Appeals, the certificate of occupancy shall be deemed to have been suspended. Any certificate of occupancy, which has been suspended by a notice, shall be deemed to be automatically suspended if a petition for hearing is not filed in the office of the Secretary of the Board of Appeals within 10 days after such notice of the Building Inspector is served. The proceedings of such hearing, including the findings and decision of the Board of Appeals, shall be set forth, reduced to writing, and entered as a matter of public record in the office of Secretary of the Board of Appeals. Such record shall also include a copy of every notice or order issued in connection with the matter. Any person aggrieved by any decision of the Board of Appeals may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of the Commonwealth of Pennsylvania.

**D.** Whenever the Building Inspector finds that an emergency exists which requires immediate action to protect the public health, safety, life, and welfare, the Building Inspector may, without notice of hearing, issue an order stating the existence of such an emergency and requiring that such action be taken, as may be deemed necessary, in order to meet the particular needs of the emergency. Notwithstanding any other article contained herein, such order shall become effective immediately. Any person to whom such order is directed shall comply therewith immediately, but, upon the filing of a petition to the Board of Appeals, as provided in section 1306.11A hereof, within 48 hours of notice of the emergency action, such person shall be afforded a hearing as soon as possible. After such hearing, depending upon its findings as to whether the provisions of this article, and the rules and regulations adopted pursuant thereto have been complied with, the Board of Appeals will continue such order in effect or modify it or revoke it.

### **1306.13 Board of Appeals.**

**A.** The UCC Board of Appeals created by Jenkins Township shall have exclusive jurisdiction to act as the adjudicator of all appeals arising out of the enforcement of this article, in addition to such other powers, duties, and jurisdiction vested in it now or hereafter by the Township of Jenkins. It shall have sole and exclusive jurisdiction to hear, try, adjudicate, and determine all appeals arising out of the operation, enforcement, and implementation of this article.

**B.** The appeal and variance procedure contained in any ordinance of the Township of Jenkins relating to zoning shall not be available as a legal remedy to the owner, the authorized agent of the owner, the occupant, or any other person(s), by reason of ownership or occupancy of a residential unit or regulated residential unit/regulated dwelling unit, as defined herein.

### **1306.14 Fee schedule.**

The fee schedule for issuance of certificates of occupancy shall be as follows, upon the effective date hereof, subject to subsequent amendment by the ordinance(s) of the Township of Jenkins:

**A.** Issuance of any initial certificate of occupancy:

1. For one to four units: \$55 per unit.
2. For five or more units: \$65 per unit.

**B.** Inspection of premises, structures, or property subsequent to the inspection for an initial certificate of occupancy or any reinspection for any subsequent certificate of occupancy at any time:

1. For one to four units: \$55 per unit.
2. For five or more units: \$65 per unit.

## **SECTION II**

The provisions of Jenkins Township's Ordinances, so far as they are the same as those ordinances and regulations enforced immediately prior to the adoption of this article, are intended as a continuation of such ordinances and regulations and not as a new enactment. The provisions

of this article shall not affect any suit or prosecution instituted or to be instituted to enforce any prior ordinance or regulation, except as otherwise provided by law.

### SECTION III

It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provision of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective.

### SECTION IV

This Ordinance is intended to be consistent with, shall be interpreted, and construed, in accordance with the Municipal Code and Ordinance Compliance Act, 68 P.S. Sec. 1081, et seq, and as it amended from time to time. In the event conflict between this Chapter and Municipal Code and Ordinance Compliance Act, or any other applicable State statute, such State statute shall govern.

### SECTION V

This Ordinance shall become effective immediately upon adoption and all prior Ordinances or any parts thereof that are inconsistent therewith are hereby repealed.

ENACTED AND ORDAINED this 13<sup>th</sup> day of June, 2018 at a Regular Meeting of the Jenkins Township Board of Supervisors.

#### JENKINS TOWNSHIP BOARD OF SUPERVISORS



Stanley Rovinski, Chairman



Joseph Sperrazza, V. Chairman



Robert Linskey, Sec./Treasurer



★ ATTEST:

Robert Linskey

Robert Linskey, Secretary/Treasurer

Barbara Fairchild

Barbara Fairchild, Manager