

Town of Middletown, DE

Chapter 120. Rental Properties

[HISTORY: Adopted by the Mayor and Council of the Town of Middletown 6-1-2009 by Ord. No. 09-05-10. Amendments noted where applicable.]

GENERAL REFERENCES

Administration of Licensing and Inspection Department — See Ch. 40.

Building construction — See Ch. 41.

Residential code — See Ch. 42.

Fire prevention — See Ch. 74.

Housing standards — See Ch. 86.

Property maintenance — See Ch. 119.

Sanitary standards — See Ch. 132.

§ 120-1. Purpose.

It is the express intention of the Town of Middletown that landlords renting residential properties within the Town of Middletown corporate limits ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of dwellings operated for lease to the public. The health, safety and welfare of the occupants of the dwellings are of the utmost importance to the Town, as are the neighborhoods in which these dwelling units are located.

§ 120-2. Definitions.

As used in this chapter, the following terms and words shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

AUTHORIZED AGENT

The person or company that is available on a twenty-four-hours-a-day, seven-days-a-week basis and who has been registered with the Town of Middletown Licensing and Inspection Department as being authorized to accept service for any landlord of any inquiry, notice, complaint or violation regarding the health, safety and/or condition of a rental unit. In the event that a landlord is a nonresident individual or foreign artificial entity, then a registered agent shall serve as the authorized agent but only so long as that person or company is available in the State of Delaware, or within a fifty-mile radius of the incorporated Town of Middletown on a twenty-four-hours-a-day, seven-days-a-week basis to address any inquiry, notice, complaint or violation regarding the health, safety and/or condition of the rental unit.

[Amended 5-5-2014 by Ord. No. 14-04-01]

AUTHORIZED PERSON

A person, friend or family member, not receiving exchange of money for profit, not in business through the State of Delaware that oversees the responsibility of the property

on the owner's behalf and is approved by the property owner. This person is required to be available on a twenty-four-hours-a-day, seven-days-a-week basis as being authorized to accept service for any inquiry, notice, complaint or violation regarding the health, safety and/or condition of a rental unit. The "authorized person" is the main contact in the event the property owner is not available within a fifty-mile radius of the Town of Middletown.

[Added 5-5-2014 by Ord. No. 14-04-01]

COMMERCIAL OR INDUSTRIAL PROPERTY

Any premises used for commercial or industrial purposes.

DEPARTMENT

The Licensing and Inspection Department of the Town of Middletown and all designated employees, or any successor department or division that may be established.

DWELLING UNIT

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

IMPROVEMENT

A change or addition to the original approved structure or land that increases its value.

[Added 5-5-2014 by Ord. No. 14-04-01]

LANDLORD

The owner, lessor or sublessor of a rental unit or a managing agent for the owner, or any person authorized to exercise any management of a rental unit, including any person who is authorized to receive any rent or any part of the rent, other than as a bona fide purchaser, and who has no obligation to deliver any portion of that rent to another. It also shall mean any person held out by the owner or the landlord as the appropriate person to accept performance or any person with whom the tenant normally deals as a landlord.

OWNER

Any person, agent, operator, firm or corporation having a legal or equitable interest in a property; or recorded in the official records of the state, county, or municipality as holding title to property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

OWNER-OCCUPIED RENTAL UNIT

A rental unit that is occupied in whole or in part by an individual whose name specifically appears on the deed for the property where the rental unit is located.

PERSON

An individual, corporation, partnership, or any other group acting as a unit.

PREMISES

A lot, plot or parcel of land, including the buildings or structures thereon.

RENTAL PROPERTY REGISTRATION FORM

An application provided by the Town of Middletown Licensing and Inspection Department that must be completed for each rental unit that is subject to regulation pursuant to this chapter.

RENTAL UNIT

That portion of any house, dwelling unit, dwelling place, building or structure which is occupied, rented, or leased as the home or residence of one or more persons to the exclusion of all others.

RESIDENTIAL RENTAL PROPERTY

The entire property on or in which any rental unit is located. By definition, every residential rental property must contain at least one rental unit.

TENANT

A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

§ 120-3. Requirements.

No person shall lease, rent, occupy, or otherwise allow a rental unit within the Town of Middletown to be occupied, unless all of the following requirements have first been met.

- A. The owner of the rental unit shall have registered the rental unit with the Department by completing and filing a current registration form with the Department, as provided in § 120-4 of this chapter.
- B. All past-due bills, fees, and assessments incurred at the property address owed to the Town must be paid prior to a rental inspection being scheduled.
- C. A housing code inspection request and report, rental inspection, shall have been completed and passed to the satisfaction of the Department.
- D. Any property owner who owns two or more rental units, located within the incorporated Town of Middletown limits, is required to obtain and retain a Town of Middletown business license.
[Amended 6-7-2010 by Ord. No. 10-05-02]
- E. Any authorized agent who has been authorized to accept service for any rental units located within the incorporated Town of Middletown is required to obtain and retain a Town of Middletown business license.
- F. Rental units must comply with and continue to comply with all ordinances and codes of the Town of Middletown, including, but not limited to, Chapter 120, Rental Properties, and Chapter 119, Property Maintenance, as adopted by the Town of Middletown; the Delaware State Housing Code; the Town of Middletown Zoning Code; and all other applicable codes of the Town of Middletown.

§ 120-4. Registration.

It shall be unlawful for any person to lease, rent, occupy, or otherwise allow a rental unit within the Town to be occupied without first registering the rental unit with the Department, designating a responsible authorized agent, paying all fees associated with the property, and having a passed housing code inspection request and report on file.

- A. Registration forms. Registration shall be made upon forms furnished by the Department and shall require all of the following information:

- (1) The street address of the rental unit(s), and parcel number.
- (2) The number and classification of rental units within the rental property; the name of property owner, home address, business name, business address, Town of Middletown business license number (if applicable), date of birth, telephone number, mobile telephone number, e-mail and facsimile number of all property owners of the rental unit(s).
[Amended 5-5-2014 by Ord. No. 14-04-01]
- (3) The name of authorized agent, authorized person, mailing address, business name, business address, Town of Middletown business license number, date of birth, business telephone number, e-mail, emergency twenty-four-hours-a-day, seven-days-a-week contact phone number, and facsimile number of the responsible authorized agent designated by the owner.
[Amended 5-5-2014 by Ord. No. 14-04-01]
- (4) The name of an individual authorized to make repairs or services for the authorized agent, mailing address, business name, business address, Town of Middletown business license number, date of birth, business telephone number, mobile telephone number, e-mail and facsimile number of the person authorized to make or order repairs or services for the property, if in violation of Town codes or ordinances or state codes, if the person is other than the owner or the authorized agent.
[Amended 5-5-2014 by Ord. No. 14-04-01]

B. Accurate and complete information. All information provided on the registration form shall be accurate and complete. No person shall provide inaccurate information for the registration of a rental unit, or fail to provide the information required for such registration. The registration form shall be signed by both the property owner(s) and the designated responsible authorized agent/authorized person. Where the owner is not a natural person, the owner information shall be that of the president, general manager or other chief executive of the organization. Where more than one person has an ownership interest, the required information shall be provided for each such owner.
[Amended 5-5-2014 by Ord. No. 14-04-01]

C. Change in registration information or transfer of property. Except for a change in the registered authorized agent, the property owner of a rental unit registered with the Town shall reregister within 30 calendar days after any change occurs in the registration information. If the property is transferred to a new owner, the new property owner of a registered rental unit shall reregister the rental unit within 30 calendar days following the transfer of the property. Property owners shall notify the Department of any change in the designation of the registered authorized agent/authorized person, including a change in name, address, telephone number, mobile telephone number, e-mail or facsimile number of the designated registered authorized agent/authorized person within five business days of the change. If a transfer of ownership occurs and there is a current passed housing code inspection request and report on file, and there has been no change of tenants or alteration to the property, then the new owner will only be required to fill out a new registration form and pay any fees or assessments that are owed to the Town, and/or registration fee if required. If the owner does not comply with this subsection, administrative penalties will be followed in accordance with **§ 120-8**.
[Amended 5-5-2014 by Ord. No. 14-04-01]

D.

Registration term and renewals. Registration of a rental unit shall be effective for three years. Registrations shall expire three years from the date of approval of an application. The property owner shall reregister each rental unit with the Department 30 calendar days prior to the expiration of the registration of the rental unit. If within those three years there are any changes to the building's occupancy, use, or ownership, the property must be reregistered at that time. If the owner does not comply with this subsection, administrative penalties will be followed in accordance with § 120-9.

- E. Responsible authorized agent/authorized person. The designated responsible authorized agent/authorized person shall be responsible for all the following:
[Amended 5-5-2014 by Ord. No. 14-04-01]
- (1) Operating the registered rental unit in compliance with all applicable Town ordinances and codes and state codes;
 - (2) Providing access to the rental unit for the purpose of making any and all inspections necessary to ensure compliance with the applicable Town ordinances and codes and state codes;
 - (3) Maintaining a list of the names and number of occupants of each rental unit for which he or she is responsible; and
 - (4) Accepting all legal notices or services of process with respect to the rental unit.

§ 120-5. Inspections.

Rental units shall be inspected and shall comply with the standards and provisions of the ordinances and codes adopted by the Town of Middletown.

- A. Except as provided in Subsection **A(3)**, all rental units are required to be inspected by the Department at the change of each tenant/lessee.
- (1) All rental inspections must comply with the Town of Middletown's rental policy code and all other Town ordinances, procedures and rental inspection checklists.
 - (2) If the first inspection is in compliance with the Town's rental policy code and all other Town ordinances, policies and codes, this will be satisfactory for a passed housing code inspection request and report.
 - (3) If the inspection is not satisfactory, there will be one reinspection allowed at no charge for compliance. All further reinspections will be charged as a new inspection fee.
- B. If a complaint is filed with the Town and the Department determines that inspection of the rental unit is needed and the inspection is conducted and the rental unit is found to be in violation of the Town's rental property code, property maintenance code or any other Town ordinance(s) or codes, or state codes, the unit will be not compliant. There will be an inspection fee assessed to the owner or authorized agent of the rental unit.
- C. The following rental units shall be exempt from inspections:
- (1) New rental units that have been issued a certificate of occupancy from the Licensing and Inspection Department for a new constructed building(s) or a new renovated building(s) shall be exempt from the rental inspection for six months

from date of issuance. All rental units must comply with the Town of Middletown rental property code and all policy and procedures.

- (2) Rental inspections are good for six months from the date of passed inspection; this is that the rental unit has not been occupied or altered within this time.
- (3) Nothing in this subsection shall preclude the inspection of said rental units pursuant to Subsections **B** and/or **D**.

D. Basis for inspections. Inspections may be made to obtain and maintain compliance with the standards of this chapter based upon one of the following:

- (1) A complaint received by the Department, the Town of Middletown Police Department, the Town of Middletown Fire Chief, or a state agency, indicating that there is a violation of the standards or the provisions of any ordinance(s) or code(s) adopted by the Town of Middletown or any state code(s) or state law.
- (2) An observation by the Department, the Middletown Police Department, the Town of Middletown Fire Chief, or a state agency of a violation of the standards or the provisions of any ordinance(s) or code(s) adopted by the Town of Middletown or any state code(s) or state law.
- (3) A report or observation of a rental unit that is unoccupied and unsecured or a dwelling that has been damaged in any way, or is considered to be unsafe.
- (4) The registration, reregistration or certification of a rental unit as required by this chapter.
- (5) The need to determine compliance with a notice, violation, and/or an order issued by the Town.
- (6) An emergency observed or reasonably believed to exist.
- (7) Requirements of law where a rental unit is to be demolished by the Town or where ownership is to be transferred to the Town.

E. Inspection procedures.

- (1) Once the Department has determined that a rental unit is in compliance with all of the ordinances and codes adopted by the Town and state law, a passed housing code inspection request and report shall be issued. The inspection shall then be valid for the period of time during which that tenant is in the premises. A new rental inspection is required at each change of tenant/lessee.
- (2) If, upon completion of an inspection, the premises are found to be in violation of one or more provisions of applicable Town ordinances, codes, and/or state codes, the Department shall provide the owner and/or authorized agent/authorized person with verbal and/or written notice of such violation(s). The Department shall set a reinspection date by which time such violation(s) must be corrected. If at reinspection such violation(s) has been corrected, the inspection shall be satisfied and a passed housing code inspection request and report shall be issued. If such violation(s) has not been corrected within that period, the Department shall not issue a passed housing code inspection request and report and may revoke the rental registration, and/or business license, and may take any action necessary to

enforce compliance with applicable Town ordinances and codes and state codes. Administrative penalties will be followed in accordance with § 120-8.

[Amended 5-5-2014 by Ord. No. 14-04-01]

(3) Where a reinspection must be made to ensure conformity with this chapter or before a passed housing code inspection request and report is issued for those rental units that have been issued a violation(s), the first reinspection shall be included in the original fee. The Town will charge a separate inspection fee for every inspection after, if the violation(s) has not been corrected.

(4) If a rental inspection is scheduled and the owner or authorized agent/authorized person fail to appear, this will count as the first inspection, and the reinspection will be the first included reinspection. Any other inspections that are to be made to pass the rental inspection shall be a separate fee, and must be paid in full before scheduling another inspection.

[Amended 5-5-2014 by Ord. No. 14-04-01]

(5) If there is a complaint filed on the property with the Department, and the Department determines there is an inspection of the property needed, and the inspection of the property is conducted, the owner or authorized agent will be billed an inspection fee for this inspection. The owner and/or authorized agent/authorized person will be notified either verbally or in writing of issues and/or violations pertaining to the rental property that have been found. In the event that the complaint is of an emergency nature, as determined by the Department, the Town of Middletown Police Department, the Town of Middletown Fire Chief or a state agency, immediate compliance with all applicable Town ordinances, codes, and state codes will be required. If the complaint is not of an emergency nature, the Department shall set a reinspection date by which such violation(s) must be corrected. If a violation is not corrected by the property owner/authorized agent/authorized person as required by this chapter, the Department may revoke the rental registration, and/or business license and may take any action necessary to enforce compliance with applicable Town ordinances, codes and state codes. Administrative penalties will be followed in accordance with § 120-8.

[Amended 5-5-2014 by Ord. No. 14-04-01]

(6) Where a reinspection must be made due to a complaint to ensure conformity with this chapter and all Town codes or state codes for those rental units that have been issued a violation(s), the first reinspection shall be included in the original fee. The Town will charge a separate inspection fee for every inspection after if the violation(s) has not been corrected.

(7) If an inspection is initiated by a complaint and no violation is found to exist, no inspection fee will be assessed against the owner of the inspected rental unit in compliance.

(8) Improvements not in compliance with the requirements for consideration as habitable space or usable space shall be required to correct any deficiencies by either:

[Added 5-5-2014 by Ord. No. 14-04-01]

(a) Obtaining a permit from the Town of Middletown for all improvements necessary to bring all deficiencies into compliance; or

(b)

Submitting an Improvement Acknowledgement Form to the Town of Middletown. This form will allow for a one-year grace period for one tenant at one rental unit only. During this time, the property owner will be required to obtain a permit from the Town of Middletown and bring all recorded deficiencies into compliance. At the end of the grace period, if all recorded deficiencies have not been completed in accordance with the building permit, no tenant will be permitted to occupy the rental unit until it is brought into compliance, and the property owner will be subject to the administrative penalties outlined in § 120-8 of this chapter.

F. Transfer of ownership inspections.

- (1) When there is a transfer of ownership of any rental unit(s), including an owner-occupied rental unit, and a current rental registration, and a passed housing code inspection request and report exists for the unit(s), and there has been no change of tenants or lessees, then the Department shall waive the rental inspection. The new owner shall comply with the requirements of § 120-4C of this chapter by reregistering the rental unit(s) within 30 calendar days following the transfer of the property. If the owner does not comply with this subsection, administrative penalties will be followed in accordance with § 120-9.
- (2) When there is a transfer of ownership of any rental unit, including an owner-occupied rental unit, and a current passed housing code inspection request and report does not exist for the unit, then the Department shall conduct an inspection within 20 calendar days following the notification of the transfer of ownership as required by § 120-4C. The owner/authorized agent is responsible for scheduling this inspection. If a violation(s) of this chapter or any other Town ordinance, code or state code or law is found, a failed housing code inspection request and report will be given and the Department shall set up a reinspection date by which the violations must be corrected. Administrative penalties will be followed in accordance with § 120-9.
- (3) If ownership of any rental unit is transferred contrary to Subsection D(1) of this section, or if the owner fails to reregister a rental unit as required by § 120-4C of this chapter, the rental unit registration and the passed housing code inspection request and report shall be deemed to expire within 30 days of the transfer unless appropriate steps are taken to obtain rental unit registration and required rental inspections. If the owner does not comply with this subsection, administrative penalties will be followed in accordance with § 120-9.
- (4) Within 30 calendar days of the transfer of ownership of a rental unit, the new owner shall notify all residents of said unit(s) which undergoes a transfer of ownership while the individuals are residing in that unit, including a owner-occupied rental unit, of the transfer of ownership.

§ 120-6. Fees.

- A. The Mayor and Council of the Town of Middletown shall establish by resolution an appropriate fee for registration and inspections.
- B. If the first inspection is in compliance with the Town's rental property code and all other Town ordinances, codes, and state codes, this will be satisfactory for the issuance of

the passed housing code inspection request and report. The fee for a rental inspection shall be \$50.

- C. Where a reinspection must be made to ensure conformity with this rental property code before a passed rental inspection is issued, the first reinspection shall be included with the original rental inspection fee. For those rental units that do not comply after the first reinspection, the Town will charge a separate inspection fee for every inspection thereafter when the violation has not been corrected.
- D. Where an inspection must be made due to a complaint filed with the Department, to ensure conformity with this rental property code and all adopted Town ordinances, codes, and state codes for those rental units, the owner or authorized agent will be billed an inspection fee(s) for the inspection(s).
- E. If an inspection is initiated by a complaint and no violation is found to exist, no inspection fee will be assessed against the owner of the inspected rental unit in compliance.
- F. If a rental inspection is scheduled and the owner or authorized agent/authorized person fails to appear, this will count as the first inspection, and the reinspection will be the first included reinspection. Any other inspections that are to be made to pass the rental inspection shall be a separate fee, and must be paid in full before scheduling another inspection.

[Amended 5-5-2014 by Ord. No. 14-04-01]

§ 120-7. Maintenance of records.

All records, files and documents pertaining to the rental registration and licensing and rental unit inspection program shall be maintained by the Department and made available to the public as required by state law.

§ 120-8. Administrative penalties.

Notwithstanding any other section of this chapter, any person who is found to have violated any provision of this chapter or a directive of the Town of Middletown Licensing and Inspection Department shall be assessed administrative penalties in the following amounts:

- A. Failure to properly register rental unit with the Town of Middletown Licensing and Inspection Department.
 - (1) First violation. The total amount of the penalty shall be \$150, regardless of the number of rental units that have not been properly registered. Failure to register a rental unit(s) within 10 days of receiving the penalty of \$150 shall result in a penalty of \$10 per day for each unit(s) thereafter not properly registered. The per-unit penalty shall accumulate on a daily basis until such penalty is paid.
 - (2) Any time after a property owner/authorized agent is subject to the "first violation" provisions stated in Subsection **A(1)** above, failure to properly register, or reregister, a rental unit shall be subject to a penalty of \$150. Failure to register, or reregister, a rental unit(s) within 10 days of receiving the penalty of \$150 shall result in a penalty of \$10 per day for each unit thereafter not properly registered. The per-unit penalty shall accumulate on a daily basis until such penalty is paid.

- B. Failure to timely update information required on the rental property registration form.
- (1) First violation. The total amount of the penalty shall be \$150, regardless of the number of rental units that have not been properly updated. Failure to update registration of a rental unit(s) within 10 days of receiving the penalty of \$150 shall result in a penalty of \$10 per day for each unit(s) thereafter not properly updated. The per-unit penalty shall accumulate on a daily basis until such penalty is paid.
 - (2) Any time after a property owner/authorized agent is subject to the "first violation" provisions stated in Subsection **B(1)** above, failure to properly update a rental unit (s) shall be subject to a penalty of \$150. Failure to update registration on a rental unit(s) within 10 days of receiving the penalty of \$150 shall result in a penalty of \$10 per day for each unit thereafter not properly updated. The per-unit penalty shall accumulate on a daily basis until such penalty is paid.
- C. Failure to obtain a passed housing code inspection request and report.
- (1) First violation. The total amount of the penalty shall be \$100 for not obtaining a passed housing code inspection and request report, regardless of the number of rental units that have not been properly inspected. Failure to obtain a passed housing code inspection and request report of a rental unit(s) within 10 days of receiving the penalty of \$100 shall result in a penalty of \$10 per day for each unit (s) thereafter not properly inspected. The per-unit penalty shall accumulate on a daily basis until such penalty is paid.
 - (2) Any time after a property owner/authorized agent is subject to the "first violation" provisions stated in Subsection **C(1)** above, failure to obtain a passed housing code inspection and request report of a rental unit(s) within 10 days of receiving the penalty of \$100 shall result in a penalty of \$10 per day for each unit(s) thereafter not properly inspected. The per-unit penalty shall accumulate on a daily basis until such penalty is paid.

§ 120-9. Severability; captions.

This chapter and the various parts, sections, subsections, phrases and clauses thereof are hereby declared to be severable. If any part, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the chapter shall not be affected thereby. The captions included at the beginning of each section are for convenience only and shall not be considered a part of this chapter.

§ 120-10. Appeals.

- A. Any person aggrieved by any decision of the Town of Middletown Licensing and Inspection Department shall have the right to appeal to the Mayor and Town Council by filing a written appeal with the Mayor and Town Council within 30 days following the effective date of the action or decision complained of. The appeal shall set out a copy of the order or decision appealed from and shall include a statement of facts relied upon to avoid the order.
- B.

The Mayor and Town Council shall fix a time and a place for hearing the appeal and shall serve written notice upon the person requesting the appeal informing them of the hearing. The findings of the Mayor and Town Council shall be final and conclusive and shall be served upon the person who requested the appeal.

§ 120-11. Repeal of inconsistent provisions.

All resolutions, ordinances, orders or parts thereof in conflict in whole or in part with any of the provisions of this chapter are, to the extent of such conflict, hereby repealed.

§ 120-12. Administrative liability.

No official, inspector, agent, employee or member of the Town of Middletown shall render himself or herself personally liable for any damage that may occur to any person or entity as a result of any act or decision performed in the discharge of his or her duties and responsibilities pursuant to this chapter.

§ 120-13. When effective.

This chapter shall become effective immediately upon passage by the Mayor and Council of the Town of Middletown.