

**BOROUGH OF PENNS GROVE  
ORDINANCE NO. 2018-13**

**AN ORDINANCE AMENDING CHAPTER 359 OF THE CODE OF THE BOROUGH OF PENNS GROVE**

**WHEREAS**, Chapter 359 of the Code of the Borough of Penns Grove regulates registration and licensing of Rental Properties; and

**WHEREAS**, based upon recent case law, it was determined that the Chapter 359, as currently written, may violate certain aspects of the law; and

**WHEREAS**, in order to comply with recent decisions of the courts with respect to landlord registration and licensing, the Borough of Penns Grove has decided to amend Chapter 359 of its code.

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Penns Grove that Chapter 359 of the Code of the Borough of Penns Grove shall be replaced with the following:

**Article I Inspections; Property and Occupancy Standards**

**§ 359-1. Definitions.**

Unless the context clearly indicates a different meaning, the following words or phrases, when used in this chapter, shall have the following meaning:

**AGENT**

The individual or individuals designated by the owner as the person(s) authorized by the owner to perform any duty imposed upon the owner of this chapter. The term does not necessarily mean a licensed real estate broker or salesman of the State of New Jersey, as those terms are defined by N.J.S.A. 45:15-3; however, such term may include a licensed real estate broker or salesman of the State of New Jersey, if such person designated by the owner as his agent is so licensed.

**APARTMENT or DWELLING**

Any apartment, cottage, bungalow or other dwelling unit, consisting of one or more rooms occupying all or part of a floor or floors in a building, whether designed with or without housekeeping facilities for dwelling purposes and notwithstanding whether the apartment be designed for residence, for office or for the operation of any industry or business or for any other type of independent use.

**CERTIFICATE**

The rental certificate of inspection issued by the Borough attesting that the rental unit has been properly inspected in accordance with this chapter.

## **CERTIFICATE HOLDER**

The person to whom the certificate is issued pursuant to this chapter. The term "certificate holder" includes within its definition the term "agent," where applicable.

## **DWELLING UNIT**

Any room or rooms or suite or apartment, whether furnished or unfurnished, which is occupied or intended, arranged or designed to be occupied for sleeping or dwelling purposes by one or more persons, including but not limited to the owner thereof or any of his servants, agents or employees, and shall include all privileges, services, furnishings, furniture, equipment, facilities and improvement connected with use or occupancy thereof.

## **HOTEL/MOTEL ROOM**

A. The term "hotel" shall mean any building, including, but not limited to, any related structure accessory building and land appurtenant thereto, and any part thereof, which contains 10 or more units of dwelling space or has sleeping facilities for 25 or more persons and is kept used, maintained, advertised as, or held out to be, a place where sleeping or dwelling accommodations are available to transient guests. This definition shall also mean and include any hotel, motor hotel, motel, or established guesthouse, which is commonly regarded as a hotel, motor hotel, motel, or established guesthouse, as the case may be, in the community in which it is located; provided that this definition shall not be construed to include any building or structure defined as a multiple dwelling, registered as a multiple dwelling with the Commissioner of Community Affairs as hereinafter provided, and occupied or intended to be occupied as such, nor shall this definition be construed to include a rooming house or a boarding house as defined in the Rooming and Boarding House Act of 1979, P.L. 1979, c. 496 (N.J.S.A. 55:13B-1, et seq.) or, except as otherwise set forth in P.L. 1987, c. 270 (N.J.S.A. 55:13A-7.5, 55:13A-7.6, 55:13A-12.1, 55:13A-13.2), any retreat lodging facility as defined in this chapter.

B. In accordance with the definition provided in the Latest Illustrated Book of Development Definitions: A transient visitor's stay for hotels/motels is 1.5 days; the extended-stay facility is for five or more days, averaging seven to 10 days; no transient visitor can occupy a hotel, motel or multiple dwelling establishment for more than 30 days, nor can said transient visitor extend this time period by moving into another unit within the same establishment. Any transient room or rooms located within a hotel or motel complex, wherein a person or persons may temporarily occupy such room(s) for a period no longer than 30 days. Any room within a hotel or motel complex wherein occupancy is 30 days or longer is considered a rental unit as otherwise defined in this chapter and it shall be required to obtain a certificate of occupancy and rental registration for the same prior to occupancy. After the adoption of this chapter, no hotel or motel room may be altered or used in any way wherein the transient room becomes used as a rental unit.

**OWNER**

Any person or group of persons, firm, corporation or officer thereof, partnership association or trust who owns, operates, exercises control over, or is in charge of a rental facility.

**PERSON**

An individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.

**RENTAL FACILITY**

Every building, group of buildings or a portion thereof consisting of one or more dwelling units, which is kept, used, maintained, advertised or held out to be a place where living accommodations are supplied, whether furnished or unfurnished, for pay or other consideration, to one or more individuals.

**RENTAL UNIT**

A dwelling unit, which is available for lease or rental purposes. "Rental unit" shall not include that portion of a rental facility occupied by the owner.

**§ 359-2. Inspection.**

All rental units within a rental facility hereinabove defined shall be inspected by the Borough of Penns Grove for 12 consecutive months, or with each change in occupancy, whichever shall occur first.

**§ 359-3. Application for inspection; contents.**

Without in any way intending to infringe upon the requirements of N.J.S.A. 46:8-28, every owner shall apply to the Borough Clerk of the Borough of Penns Grove, or such other person as designated by the Mayor and Borough Council, for an inspection of each rental unit contained within a building or structure. The application for inspection shall include the following information:

A. The name and domicile address 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 name and domicile addresses of all general partners shall be provided, together with the telephone numbers for each of such individuals, where such individual may be reached both during the day and evening hours. The designation of a P.O. Box or similar alternative address does not satisfy the requirements of this section.

B. If the domicile address of any record owner is not located in Penns Grove or in Salem County, the name and domicile address of a person who resides in Salem County and who 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.

C. The name and domicile address of the agent of the premises, if any.

D. The name and domicile address, including the dwelling unit number of the superintendent, janitor, custodian or other individual, employed by the owner or agent to provide regular maintenance service, if any.

E. The name, domicile address and telephone number of an individual representative of the owner or agent or the owner, if domiciled in Salem County, who may be reached or contacted at any time in the event of an emergency affecting the rental facility 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 rental facility and any repair thereto or expenditure in connection therewith.

F. The name of any pet residing in the rental unit, the breed of said pet, and the license number assigned to this pet pursuant to its licensure by the State of New Jersey and/or the Borough of Penns Grove.

G. The name and address of every holder of a recorded mortgage on the premises.

H. 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.

I. As to each rental unit, a specification of the exact number of sleeping rooms contained in the rental unit. In order to satisfy the requirement of this provision, an owner shall submit a floor plan, which shall become part of the application and which shall be attached to the application for inspection when filed by the Borough Clerk or designee. This information shall be made available to the emergency services providers within the Borough of Penns Grove.

J. Such other information as may be prescribed by the Borough of Penns Grove.

K. The information provided to the Borough pursuant to the application for inspection shall be retained in the normal course of business by the Borough.

**§ 359-4. Application for inspection; indexing and filing; public inspection; fee.**

The Borough Clerk or designee shall index and file the application for inspection. In doing so, the Borough Clerk or designee shall follow the mandates of N.J.S.A. 46:8-28.1, as amended and supplemented, so that the filing of the application for inspection will simultaneously satisfy the requirements of N.J.S.A. 46:8-28 to the extent that it applies to the property being inspected, and will also satisfy the inspection requirements of this chapter. The owners shall post the rental certificate of inspection issued by the Borough in a conspicuous place within its property.

**§ 359-5. Application for inspection; amendments; filing.**

Every person required to file an application for inspection pursuant to this chapter shall file an amended application for inspection within 20 days after any change in the information required to be included thereon. No fee shall be required for the filing of an amendment, except where the ownership of the premises is changed.



**§ 359-6. Periodic inspections.**

A. Each rental unit within the rental facility shall be inspected at least once every twelve-month period.

B. Such inspections shall be performed by such person, persons or agency duly authorized and appointed by the Borough of Penns Grove, and inspections made by persons or an agency other than the duly authorized and appointed person, persons or agency of the Borough of Penns Grove shall not be used as a valid substitute.

C. Such inspection shall be for the purpose of determining zoning ordinance compliance and, to the extent applicable, to determine if the property complies with the Property Maintenance Code, Uniform Construction Code, BOCA Maintenance Code, Housing Code and/or Uniform Fire Safety Act.

D. Unsatisfactory inspection. In the event that the inspection(s) of a rental unit within the rental facility are deemed unsatisfactory, a rental certificate of inspection shall not issue for such property, and the owner of the property or his agent shall not lease or rent such property, nor shall any tenant occupy the property, until the necessary corrections have been made, so as to bring the property and rental unit into compliance with the applicable code, and the property is thereafter subsequently inspected and a rental certificate of inspection is issued. In the event that the property is occupied when such conditions are discovered, all such corrections shall be made within 30 days, and, if not made within that time period, the owner shall be deemed in violation of this chapter, and, every day that the violation continues shall constitute a separate and distinct violation, subject to the penalty provisions of § 359-15 of this chapter. The owner, however, shall be permitted to apply for an extension of time to make repairs or corrections so as to comply with this chapter, for good cause shown.

**§ 359-7. Access for inspections; repairs.**

A. The inspection officers are hereby authorized to make inspections to determine the condition of rental facilities and rental units, in order that they may promote the purposes of this chapter to safeguard the health, safety and welfare of the occupants of rental facilities and rental units and of the general public. For the purposes of making such inspections, the inspecting officers are hereby authorized to enter, examine and survey rental facilities and rental units at all reasonable times. The owner or occupant of every rental facility and/or rental unit shall give the inspecting officer free access to the rental facility and/or rental unit at all reasonable times, to promote the purposes of this chapter.

B. Every occupant shall give the owner of the rental facility or rental unit access to any part of such rental facility or rental unit at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or any lawful order issued pursuant thereto.

C. Complaints. Within 10 days of receipt of a complaint alleging a reported violation of this chapter, an inspecting officer shall conduct an inspection as hereinbefore provided.

**§ 359-8. Prohibitions on occupancy.**

No person shall hereafter occupy any rental unit, nor shall the owner permit occupancy of any rental unit within the Borough of Penns Grove, which has not been issued a rental certificate of inspection in accordance with this chapter.

**§ 359-9. Rental certificate of inspection.**

A. Upon the filing of a completed application for inspection, payment of the prescribed fee and a satisfactory inspection, the owner shall be entitled to the issuance of a rental certificate of inspection commencing of the date of issuance, valid for a period of 12 consecutive months. As hereinbefore stated, should a change of occupancy occur within the inspection period, the rental certificate of inspection shall be void and, upon the filing of a completed application for inspection, payment of the prescribed fee and a satisfactory inspection, the owner shall be entitled to the issuance of a new rental certificate of inspection commencing on the date of issuance, valid for a period of 12 consecutive months.

B. An application for inspection shall be required for each rental unit, and a rental certificate of inspection shall issue to the owner for each rental unit, even if more than one rental unit is contained in the property.

**§ 359-10. Fees.**

At the time of the filing of the application for inspection, and, prior to the issuance of a rental certificate of inspection, the owner or agent of the owner must pay a fee in accordance with the following:

A. An application fee shall be charged pursuant to property inspections required under this chapter as follows:

- (1) Seventy Five Dollars (\$75.00) per rental unit per inspection period; and

B. Fees for the reinspection of rental units shall be charged pursuant to property inspections performed under this chapter as follows:

- (1) For the first reinspection, there shall be of \$20.00.
- (2) For the second reinspection, there shall be a fee of \$35.00.
- (3) For the third and each subsequent reinspection, there shall be a fee of \$45.00.

C. Fees under this section are due and payable on the first day of January of each and every year. If any fee is not paid within 30 days of this due date, a late fee surcharge of \$20 shall be assessed in addition any fees outstanding.

**§ 359-11. Provision of application for inspection.**

Every owner shall provide each occupant or tenant occupying a rental unit with a copy of the application for inspection required by this chapter. This provision shall not apply to any hotel, motel or guest house registered with the State of New Jersey pursuant to the Hotel and Multiple Dwelling Act, as per N.J.S.A. 55:13A-3. This provision may be complied with by posting a copy of the application for inspection in a conspicuous place within the rental unit(s).

**§ 359-12. Maximum number of occupants; posting.**

A. The maximum number of occupants, as determined by the Hotel and Multiple Dwelling Occupancy Code of the State of New Jersey, N.J.A.C. 5:13A-1 et seq., shall be posted in each rental unit. It shall be unlawful for any person, including the owner, agent and/or tenant, to allow a greater number of persons than the posted maximum number of occupants to sleep in or occupy overnight the rental unit for a period exceeding 29 days. Any person violating this provision shall be subject to the penalty provisions of § 359-15 of this chapter.

B. Only those occupants whose names are on file with the Borough of Penns Grove, as required in this chapter, may reside in the subject premises. It shall be unlawful for any other person to reside in said premises, and any owner, agent and/or tenant allowing any other party to reside in said premises shall be in violation of this section and shall be subject to the penalty provisions of § 359-15 of this chapter.

**§ 359-13. Taxes and other municipal charges; payment precondition.**

No rental certificate of inspection shall issue for any property containing a rental unit unless all municipal taxes, water and sewer charges and any other municipal assessments are paid on a current basis.

**§ 359-13. Occupant standards.**

A. Occupants. Only those occupants whose names are on file with the Borough Clerk, as provided in this chapter, may reside in the premises subject to the rental certificate of inspection. It shall be unlawful for any other person to reside in said premises, and this provision may be enforced against the landlord, tenant or other person residing in said premises.

B. Nuisance prohibited. No rental facility shall be conducted in a manner which shall result in any unreasonable disturbance or disruption to the surrounding properties and property owner or of the public in general, such that it shall constitute a nuisance, as defined in the ordinance of the Borough of Penns Grove.

C. Compliance with other laws. The maintenance of all rental facilities and the conduct engaged in upon the premises by occupants and their guests shall at all times be in full compliance with all applicable ordinances and regulations of the Borough of Penns Grove, and with all applicable state and federal laws.

D. Penalties. Any landlord, tenant or other person violating the provisions of this section shall be subject to the penalty provisions of § 359-15 of this chapter.

**§ 359-14. Revocation of rental certificate of inspection; procedure.**

A. Grounds. In addition to any other penalty prescribed herein, a certificate holder may be subject to the revocation or suspension of the rental certificate of inspection issued hereunder upon the happening of one or more of the following:

(1) Conviction of a violation of this chapter in the Municipal Court or any other court of competent jurisdiction.

(2) Determination of a violation of this chapter at a hearing held pursuant to Subsection B, herein.

(3) Continuously renting the unit or units to a tenant or tenants who are convicted of a violation of the Noise Ordinance of the Borough.

(4) Continuously permitting the rental unit to be occupied by more than the maximum number of occupants as defined in this chapter.

(5) Maintaining the rental unit or units or the property in which the rental unit is a part in a dangerous condition likely to result in injury to the person or property.

B. Procedure; written complaint; notice; hearing.

(1) A complaint seeking the revocation or suspension of a rental certificate of inspection may be filed by any one or more of the following: Director of the Office of Code Enforcement, Chief of Police, Construction Code Official, Code Enforcement Officer, Fire Inspector or any other persons or officers authorized to file such complaint. Such complaint shall be in writing and filed with the Borough Clerk or designee. The complaint shall be specific and shall be sufficient to apprise the certificate holder of the charges, so as to permit the certificate holder to present a defense. The individual(s) may file a complaint on the basis of information and belief, and need not rely on personal information.

(2) Upon the filing of such written complaint, the Borough Clerk or designee shall immediately inform the Mayor and Borough Council, and a date for a hearing shall be scheduled, which shall not be sooner than 15 nor more than 30 days thereafter. The Borough Clerk or designee shall forward a copy of the complaint and a notice as to the date of the hearing to the certificate holder and/or the agent, if any, at the address indicated on the application for inspection. Service upon the agent shall be sufficient.

(3) The hearing required by this section shall be held before the Mayor and Borough Council, unless, in its discretion, the Mayor and Borough Council determine that the matter should be heard by a Hearing Officer, who shall be appointed by the Mayor and Borough Council. If the matter is referred to a Hearing Officer, such officer shall transmit his findings of fact and conclusions of law to the Mayor and Borough Council

within 30 days of the conclusion of the hearing. The Mayor and Borough Council shall then review the matter and may accept, reject or modify the recommendations of the Hearing Officer based on the record before such hearing officer. In the event that the matter is not referred to a Hearing Officer and is heard by Mayor and Borough Council, then the Mayor and Borough Council shall render a decision within 30 days of the conclusion of the hearing. Following the hearing, a decision shall be rendered dismissing the complaint, revoking or suspending the rental certificate of inspection, or determining that the rental certificate of inspection shall not be renewed or reissued for one or more subsequent years.

(4) A stenographic transcript shall be made of the hearing. All witnesses shall be sworn prior to testifying. The strict rules of evidence shall not apply, and the evidential rules and burden of proof shall be that which generally controls administrative hearings.


(5) The Borough Solicitor or his designee shall appear and prosecute on behalf of the complainant in all hearings conducted pursuant to this section.

C. Defenses. It shall be a defense to any proceeding for the revocation, suspension or other disciplinary action brought pursuant to this chapter by demonstrating that the certificate holder has taken appropriate action and has made a good faith effort to abate the conditions or circumstances giving rise to the revocation proceeding, including but not limited to the institution of legal action against the tenant(s), occupant(s) or guests for recovery of the premises, eviction of the tenant(s) or otherwise.

**§ 359-15. Violations and penalties.**

Unless another penalty is expressly provided by New Jersey statute, every person, firm, association or corporation violating any provision of this chapter shall, upon conviction thereof, be subject to the fines and/or penalties as are set forth in § 1-2 of the Code of the Borough of Penns Grove.

Attest:

  
Sharon Williams, Municipal Clerk

  
John A. Washington, Sr., Mayor

INTRO: September 4, 2018

Council	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
Johnson	X		X			
Oliver						X
Pasquale			X			
Poindexter			X			
Scott		X	X			
Washington, Jr.			X			



**Notice:** The above ordinance was introduced and passed on the first reading at the meeting of the Mayor and Council of the Borough of Penns Grove in the County of Salem held on September 18, 2018 and will be considered for final passage at a meeting to be held by the Mayor and Council at Borough Hall, Broad Street and State Street, Penns Grove, New Jersey at 7:00 p.m. on October 16, 2018 at which time any interested person will be given an opportunity to be heard.

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Sharon R. Williams, Municipal Clerk

FINAL: September 18, 2018

Council	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
Johnson			X			
Oliver						X
Pasquale			X			
Poindexter		X	X			
Scott	X		X			
Washington, Jr.			X			

**Notice:** The above ordinance was introduced and passed on the first reading at the meeting of the Mayor and Council of the Borough of Penns Grove in the County of Salem held on the 18<sup>th</sup> day of September, 2018 and was considered for final passage and adopted, after a public hearing was held by the Mayor and Council at Borough Hall, 1 State Street, Penns Grove, New Jersey at 7:00 p.m. on October 16, 2018.

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Sharon R. Williams, Municipal Clerk