

CITY OF DOVER  
ORDINANCE #2013-04

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Chapter 22 – Buildings and Building Regulations, Article X – Rental Dwellings be amended to read as follows:

**DIVISION 1. – GENERALLY**

**Sec. 22-331. - Purpose; applicability; definitions; compliance.**

- (a) *Purpose.* The purpose and intent of this article is to 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 city, as is the general community character in which these dwelling units are located.
- (b) *Applicability.* The provisions of this article shall apply to all matters affecting or relating to rental dwellings. Where, in this article, different sections of this Code may specify different requirements, the most restrictive shall govern.
- (c) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
  - (1) *Criminal activity* is defined as any crime classified by applicable law as a (a) felony, (b) Class A misdemeanor, or (c) any of the following offenses: any drug offense defined by Title 16 of the Delaware Code, and the following misdemeanors in addition to any Class A misdemeanor, as defined by Title 11 of the Delaware Code: §601-offensive touching, §602-menacing, §628-vehicular assault 3, §763-sexual harassment, §764-indecent exposure, §811-criminal mischief, §812-graffiti, §820-trespassing, §821/2/3-criminal trespassing, §1105- crime against a vulnerable adult, §1106-unlawfully dealing with a child, §1301- disorderly conduct, §1313-malicious interference with emergency communications, §1315-public intoxication, §1321-loitering, §1322-criminal nuisance, §1323-obstructing of public passage, §1341-lewdness, §1342- prostitution, §1343-patronizing a prostitute, §1445-unlawfully dealing with a dangerous weapon, §1446-unlawfully dealing with a switchblade knife.
  - (2) *Dwelling unit* means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
  - (3) *Multiple-family dwellings* means dwelling units operated as a group, and located in the same building. This shall include apartments,

roominghouses, condominium dwelling units, and accessory apartments located within structures principally used for owner occupancy.

- (4) *Rental dwelling* means a dwelling unit that is leased for occupancy to a person or persons in exchange for monetary payment or provision of goods or services to the owner of the dwelling unit.
- (5) *Single-family dwellings* means dwelling units operated singly, and separated from other units. In general, this definition shall apply to single-family detached dwellings, including mobile homes, and attached units, including duplexes, and townhouses.
- (d) *Compliance required.* No person shall operate, occupy or let to another for occupancy any dwelling which is not in compliance with the International Property Maintenance Code adopted in section 22-221 and all other applicable codes.

**Sec. 22-332. - Inspection required.**

- (a) The code enforcement office, in accordance with the procedures set forth in the International Property Maintenance Code adopted in section 22-221, shall inspect rental dwellings for compliance with the property maintenance code and all other applicable codes to ensure compliance.
- (b) Following an inspection, the code enforcement office shall issue a letter and/or report of any code violations and provide a timeline for compliance. There shall be no fee for the first followup inspection. Each subsequent reinspection shall be subject to a fee as provided for in Appendix F—Fees and Fines.

**Sec. 22-333. - Agent required.**

- (a) *Property manager.* Any owner of a rental dwelling, residing outside of the county, shall be required to have a licensed property manager residing or having an office located in the county, or a family member or other designated individual who does not manage any other rental real estate for a fee and who resides in the county acting as a property manager. The property manager, including family members and designated individuals, shall have charge, care and control of the rental dwelling, and shall provide access to the rental dwelling for inspection, upon request by the building inspector or city planner, within a reasonable time.
- (b) *Corporate or partnership owners.* Any corporation or partnership owning a rental dwelling shall have a designated member, partner, or employee having charge, care, and control of the rental dwelling. The designated member, partner or employee shall reside in or have an office located in the county, or shall be required to have a licensed property manager residing or having an office located in the county, or a family member or other designated individual who does not manage any other rental real estate for a fee, and who resides in the county, acting as a property manager. The property manager, family members or other designated individuals shall have charge, care and control of the rental dwelling,

and shall provide access to the rental dwelling for inspection, upon request by the building inspector or city planner, within a reasonable time.

**Secs. 22-334—22-350. - Reserved.**

**DIVISION 2. - PERMIT**

**Sec. 22-351. - Generally.**

- (a) *Single-family dwellings.* It shall be unlawful for any person to operate any single-family rental dwelling without obtaining a permit from the licensing division of the department of planning and inspections in order to determine compliance with the appropriate provisions of this article. The permit shall expire annually on January 31. The fee for the annual permit shall be as provided for in Appendix F—Fees and Fines. The permit fee for rental dwelling permits issued after January 31<sup>st</sup> will be prorated from the date the permit is issued until the next January 31<sup>st</sup>.
- (b) *Multiple-family dwellings.* It shall be unlawful for any person to operate any multiple dwelling without first obtaining an annual permit therefor from the licensing division of the department of planning and inspections in order to determine compliance with the appropriate provisions of this article. The permit shall expire annually on January 31, and the fee for the annual permit shall be as provided for in Appendix F—Fees and Fines. The permit fee for rental dwelling permits issued after January 31<sup>st</sup> will be prorated from the date the permit is issued until the next January 31<sup>st</sup>.
- (c) *Late payment penalty.* In the event that the permit fee set forth herein is not paid on the date due, then the permittee shall incur a penalty fee as provided for in Appendix F—Fees and Fines until the same is paid.
- (d) *Reinstatement fee.* An owner whose permit has been suspended in accordance with section 22-352 shall pay a reinstatement fee as provided for in Appendix F—Fees and Fines.
- (e) *Lien.* In the event that the property owner fails to pay said fees within 30 days from the date a notice thereof is mailed to the owner, then such fees shall be entered in the municipal lien docket as a lien owing the city; and the same may be turned over to the city solicitor for collection.
- (f) *Utilities.* The owner or occupant of any rental unit shall not be entitled to receive city utilities until the permit fee required in this section is paid in full and city personnel shall refuse to provide sewage, water and electricity to the property until satisfactory proof is furnished that such permit fee has been paid.

**Sec. 22-352. - Suspension.**

- (a) *Grounds; duration.* The building inspector shall suspend the permit issued or withhold the permit paid for, pursuant to this division, when:
  - (1) The building inspector determines that any dwelling or the premises surrounding the dwelling fails to meet the requirements of this chapter or any rule or regulation issued pursuant thereto;

- (2) The failure of the property owner or property manager to initiate and prosecute in good faith eviction proceedings following notification by the City that the terms of the safe communities lease addendum have been violated; or
- (3) The failure of the property owner or property manager to attend a safe communities seminar when required by §22-371(b).

Suspension shall last until the violations have been corrected to the satisfaction of the building inspector, or the suspension shall have been reversed.

- (b) *Notice of violations.* Upon suspending any permit under this section or withholding the permit paid for, the building inspector shall notify the owner of the violations of the applicable code and shall prescribe a period in which the violation shall be corrected.
- (c) *Appeal.* Any owner or operator of any dwelling, whose permit to operate the structure is suspended by the building inspector pursuant to the procedures of this section, shall have the right to appeal and notice as provided in section 22-225
- (d) *Effect of appeal.* Upon suspension of a permit, or withholding of a permit ordered by the building inspector and upon the permittee serving the city clerk with a notice of appeal pursuant to section 22-225, the permit suspension shall be stayed and an existing permit shall remain in force until the appeal is decided.

**Secs. 22-353—22-369. - Reserved.**

**DIVISION 3. – SAFE COMMUNITIES**

**Sec. 22-370 Criminal activity**

Tenants of rental dwellings, any member of the tenant’s household, any guest or other person under the tenant’s control shall not engage in criminal activity on or within 500 feet of the lot on which the rental dwelling resides.

**Sec. 22-371. – Safe communities seminar.**

- (a) The City of Dover police department shall offer a safe communities seminar a minimum of two times each calendar year. The seminar shall be voluntary, except in the following circumstances:
  - (1) When a rental dwelling permit has been suspended in accordance with Section 22-352, the property owner or manager shall attend the seminar prior to reinstatement of the suspended rental dwelling permit; or
  - (2) When a rental dwelling has been the subject of response by the police department on three or more occasions within a six month period, due to

occasions where the tenant, any member of the tenant's family, or any guest or other person under the tenant's control have engaged in criminal activity, the property owner or managers shall attend the seminar.

- (b) Upon notification by the chief of police that the safe communities seminar is required in accordance with subsection 2 above, the department of planning and inspections shall notify the property owner and/or property manager that he is required to attend the next scheduled safe communities seminar. Such notice shall be sent by U.S. Mail, evidenced by Certificate of Mailing to the property owner and property manager if a property manager is on record with the department of planning and inspections.

**Sec. 22-372. – Safe communities lease addendum.**

- (a) All residential leases shall include a safe communities lease addendum, signed by the property owner and tenant, in the following form:

In addition to all other terms of the lease, landlord and tenant agree as follows:

- (1) The tenant, any member of the tenant's household, any guest or any other person under the tenant's control on or within 500 feet of the leased premises:
    - i. Shall not engage in criminal activity, including drug-related criminal activity, on or within 500 feet of the leased premises. "Drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession of any illegal or controlled substance defined by 16 Del.C. Ch. 47.
    - ii. Shall not engage in any act intended to facilitate criminal activity.
    - iii. Shall not permit the dwelling unit to be used for or to facilitate any criminal activity.
  - (2) Any activity prohibited by the safe communities lease addendum shall constitute a substantial violation of the lease, material noncompliance with the lease, and grounds for termination of tenancy and eviction.
- (b) The department of planning and inspections shall provide the safe communities lease addendum.
  - (c) An executed copy of the safe communities lease addendum shall be required for all rental dwellings in the City of Dover prior to establishment of a utility account for the premises.

**Sec. 22-373. – Eviction Required.**

- (a) If the tenant, any member of the tenant’s household, any guest or other person under tenant’s control engages in criminal activity as defined by §22-331(c)(1) and Chapter 22 – Buildings and Building Regulations of the Dover Code on three or more occasions within a 12-month period, the chief of police shall notify the department of planning and inspections to initiate the safe communities lease termination notice procedure directing the property owner or property manager to terminate the tenancy in accordance with subsection (b).
- (b) Upon notification by the chief of police that termination of tenancy is required in accordance with subsection (a), the department of planning and inspections shall notify the property owner and property manager that they have 30 days to initiate the eviction or otherwise terminate the tenancy. Such notice shall be sent by U.S. Mail, evidenced by Certificate of Mailing, to the property owner and property manager if a property manager is on record with the department of planning and inspections.

ADOPTED: APRIL 8, 2013

SYNOPSIS

The proposed ordinance adds the requirement that landlords participate in a safe communities program that includes participation in a safe communities seminar offered by the Dover Police Department and including a safe communities addendum to leases. In addition, the proposed ordinance allows for prorating of rental permit fees for permits purchased after the beginning of the permit year.

Actions History

- April 8, 2013 - Final Reading by City Council
- March 25, 2013 - Reconsidered by City Council
- March 11, 2018 - Reconsidered by Legislative, Finance, and Administration Committee
- February 11, 2013 - Reconsidered by the Legislative, Finance, and Administration Committee and referred back to staff
- January 28, 2013 - Considered by Council and referred back to Committee for further review
- January 14, 2013 - Introduced at Legislative, Finance, and Administration Committee