

**HEIDELBERG TOWNSHIP
BERKS COUNTY, PENNSYLVANIA**

ORDINANCE NO. - 196

AN ORDINANCE OF HEIDELBERG TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, ESTABLISHING RULES AND REGULATIONS GOVERNING DISRUPTIVE CONDUCT AND PROVIDING THE TOWNSHIP WITH REMEDIES UPON DETERMINATION OF DISRUPTIVE CONDUCT OF TENANTS OF A RENTAL PROPERTY, APPEALS OF DETERMINATIONS OF DISRUPTIVE CONDUCT, REPORTS, AND ENFORCEMENT PROCEDURES.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Heidelberg Township, Berks County, Pennsylvania, and it is hereby **ENACTED AND ORDAINED** by the authority of the same as follows:

SECTION 1. PURPOSE AND FINDINGS. As there is a greater incidence of disturbance which adversely affects the peace and quiet of the neighborhoods at rental residential properties than owner-occupied residential properties, the purpose of this Ordinance is to protect and promote the public health, safety and welfare of the citizens of Heidelberg Township, Berks County, Pennsylvania, and to ensure Owners and Tenants share responsibility to prevent and avoid nuisances for neighboring residents.

SECTION 2. DEFINITIONS.

BOARD OF SUPERVISORS - the Board of Supervisors of Heidelberg Township, Berks County, Pennsylvania.

BUSINESS DAYS - days on which the business offices of Heidelberg Township are open for public business.

CODE ENFORCEMENT OFFICER - the duly appointed Code Enforcement Official(s) having the duty to enforce this and other ordinances of Heidelberg Township.

DISRUPTIVE CONDUCT - any form of conduct, action, incident or behavior perpetrated, caused or permitted by a Tenant or Guest of a Rental Unit that requires the response of Emergency Services (i.e., Police, Fire, EMS) or the Codes Department, including, but not limited to conduct that is so loud, untimely (as to hour of day) offensive, riotous, or that otherwise disturbs other Persons of reasonable sensibility in their peaceful enjoyment of their Premises including but not limited to activity which involves music or noise that is disruptive to Persons occupying a different dwelling unit or which is audible from a street, sidewalk or dwelling from a minimum distance of fifty (50) feet away from the Premises where the sound is originating, is the subject of criminal citation for disorderly conduct or any other offense under the Pennsylvania Crimes Code or Liquor Code or causes damage to said Premises such that a report is made to a Police Officer and/or a Code Enforcement Officer, complaining of such conduct, action, incident, or behavior. It is not necessary that such conduct, action, incident or behavior constitutes a criminal offense, or that criminal charges be filed against any Person in order for said

Person to have perpetrated, caused or permitted the commission of Disruptive Conduct. Provided, however, that no Disruptive Conduct shall be deemed to have occurred unless a Code Enforcement Officer or a Police Officer shall investigate and make a determination that such activity did occur, and keep written records including a Disruptive Conduct Report, of such occurrences.

DISRUPTIVE CONDUCT REPORT - a written report of Disruptive Conduct on a form to be prescribed therefor to be completed by a Police Officer or a Code Enforcement Officer, as the case may be, who actually investigates an alleged incident of Disruptive Conduct, and which shall be maintained by Heidelberg Township.

GUEST - a Person on the Premises with the actual or implied consent of a Tenant.

LANDLORD AND TENANT ACT - the Landlord and Tenant Act of 1951, as amended, 68 PS §250.101, *et seq.*

OWNER - one (1) or more Persons, jointly or severally, in whom is vested all or part of the legal title to the Premises 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 Rental Unit.

PERSON - a natural Person, partnership, corporation, unincorporated association, limited partnership, trust or any other entity.

POLICE DEPARTMENT - the Police Department of South Heidelberg Township, Berks County, Pennsylvania, or any other law enforcement agency having jurisdiction within Heidelberg Township.

POLICE OFFICER - sworn law enforcement officer of the Police Department of South Heidelberg Township, Berks County, Pennsylvania, or any other law enforcement agency having jurisdiction within Heidelberg Township.

PREMISES - any parcel of real property in Heidelberg Township, including the land and all buildings and appurtenant structures or elements, on which one (1) or more Rental Units is located.

RENT - compensation for providing a shelter or lodging for habitation by a Person to reside, monetary or non-monetary.

RENTAL AGREEMENT - a written agreement between Owner and Tenant embodying the terms and conditions concerning the use and occupancy of a specified residential Rental Unit or Premises.

RENTAL UNIT - any structure or portion of a structure within Heidelberg Township which is occupied by a Person other than the Owner of the real estate and which is not exempted from this Ordinance, including but not limited to dormitories, and for which the Owner receives any value, including but not limited to money, or the exchange of goods or services.

RENTAL PERMIT - the permit issued to the Owner of a Rental Unit under this Ordinance for lawful rental and occupancy of a Rental Unit.

TENANT - a Person who resides in a Rental Unit whom has a legal relationship with the Owner established by Rental Agreement or the laws of the Commonwealth of Pennsylvania.

TOWNSHIP -Heidelberg Township, Berks County, Pennsylvania.

TWELVE (12) MONTH PERIOD - for purposes of this Ordinance, twelve (12) Month Period shall be calculated by counting twelve (12) months back from the most recent Disruptive Conduct Report.

SECTION 3. RENTAL AGREEMENT.

(a) **Disclosures.** The Owner shall use its best efforts to furnish this Ordinance to Tenant at or before the commencement of the landlord / tenant relationship.

(b) **Terms and Conditions.** Owner and Tenant may include in a Rental Agreement terms and conditions not prohibited by this Ordinance or other applicable ordinances, regulations and laws, including Rent, term of the Rental Agreement and other provisions governing the rights and obligations of the parties.

(c) **Prohibited Provisions.** Except as otherwise provided by this Ordinance, no Rental Agreement may provide that the Tenant or Owner agrees to waive or to forego rights or remedies under this Ordinance. Any provision prohibited by this Ordinance which is included in a Rental Agreement is unenforceable.

SECTION 4. OWNER AND TENANT DUTIES.

(a) **Owner's Duties.** Owner shall assure that the conduct and activities of the Tenant of every Rental Unit owned by such Owner is in compliance with this Ordinance, the Rental Agreement and applicable provisions of the laws of the Commonwealth of Pennsylvania and in so doing minimizing Disruptive Conduct by taking appropriate contractual and enforcement action to cause the conduct and activities of the Tenant to comply with their duties set forth herein. And when any common areas are being used by any Tenant, Owner shall be directly responsible for the behavior of Tenant and any Guest in such common areas of the Premises.

(b) **Tenant Duties.** Tenant shall comply with all obligations imposed upon Tenant by this Ordinance and all applicable provisions of the laws of the Commonwealth of Pennsylvania, the Rental Agreement and shall conduct themselves in a manner that will not disturb the peaceful enjoyment of the Premises or adjacent or nearby dwellings or Premises and shall not permit others on the Premises to act in such a manner as to violate any Tenant duties.

SECTION 5. DISRUPTIVE CONDUCT.

(a) **Investigation and Report of Disruptive Conduct.** Police Officers or Code Enforcement Officers shall investigate alleged incidents of Disruptive Conduct. They shall

complete a Disruptive Conduct Report upon a finding that the reported incident constitutes Disruptive Conduct as defined herein. The information filed in said report shall include, if possible, the identity of the alleged perpetrators of the Disruptive Conduct and all other obtainable information, including the factual basis for the Disruptive Conduct. A copy of the Disruptive Conduct Report shall be given or mailed to the Tenant and mailed to the Owner within ten (10) Business Days of the occurrence of the alleged Disruptive Conduct.

(b) **Report Against All Tenants.** The content of the Disruptive Conduct Report shall count against all tenants of the Rental Unit. The content of the Disruptive Conduct Report shall not count against a Tenant if the complaint is initiated by that Tenant of the Rental Unit. Each Disruptive Conduct Report filed against the Tenant(s) of a Rental Unit shall constitute a new and separate Disruptive Conduct Report no matter how close in proximity and time it occurs to another incident for the purpose of this Ordinance. Any Disruptive Conduct occurring as a result of a Person being present on the Premises in violation of a court order including, but not limited to, a protection from abuse order, or in violation of the Crimes Codes of Pennsylvania, or whose presence results in issuance of a court order, including, but not limited to, a protection from abuse order being obtained, and upon submission of documentary proof thereof, such activity shall not count as Disruptive Conduct against the Premises.

(c) **Eviction.** After three (3) Disruptive Conduct incidents in any Twelve (12) Month Period by a Tenant documented by Disruptive Conduct Reports, the Owner shall have ten (10) working days from the date of service of a written notice to the Owner to begin eviction proceedings against the Tenant and pursue the same through any appeal to the Berks County Court of Common Pleas. This subsection is not intended to limit or inhibit the Owner's right to initiate an eviction action. Moving of Tenant from one (1) Premises or dwelling owned by Owner to another Premises or dwelling owned by the same Owner shall not be considered eviction.

(d) **Maintenance of List of Disruptive Conduct Report for Tenants and Evicted Tenants.** The Code Enforcement Official and / or Police Department shall maintain a list of the names of all Tenants and Tenants against whom a Disruptive Conduct Report is issued and the outcome thereof. The Code Enforcement Official and / or Police Department shall also maintain a list of all Tenants and Tenants evicted as a result hereof. The names shall remain on the list for a period of five (5) years.

SECTION 6. Rental Permit Fees. The permit fees for any permit issued under the provisions of this Ordinance shall be as set forth from time to time by resolution of the Board of Supervisors.

(a) A fee for performance of a re-inspection of a Premises found to have code violations may be charged as set forth from time to time by resolution of the Board of Supervisors.

(b) If a Code Enforcement Official is required to conduct a re-inspection for life and safety issues including but not limited to lack of appropriate means of egress or lack of a single working smoke detector in a dwelling unit, the Township may charge a fee for the performance of a re-inspection for correction of the life and safety issue in the amount of One Hundred Dollars (\$100.00) which amount may be amended from time to time by Resolution of the Board of Supervisors.

(c) Unless twenty-four (24) hours prior to a scheduled rental inspection written notice is received by the Code Enforcement Official advising of the Owner's or their designee's inability to attend a scheduled rental inspection, the Township may charge a fee for failure of an Owner or their designee to appear for a scheduled rental inspection in the amount of One Hundred Dollars (\$100.00) which amount may be amended from time to time by Resolution of Board of Supervisors.

SECTION 7. Suspension, Revocation and Reinstatement of Rental Permit.

(a) **Suspension or Revocation of Rental Permit.** Failure of an Owner to take action required herein will result in commencement of the process to suspend a Rental Permit as set forth herein.

(b) **Reinstatement of Rental Permit.** The Rental Unit involved shall not have its Rental Permit reinstated until the applicable reinstatement fee is paid and the disruptive Tenants have been evicted, or Board of Supervisors has ruled in the Tenant's favor, or the Board of Supervisors has ruled in the Owner's favor but not ordered eviction of the Tenant, or the Tenant has filed an appeal to a higher court preventing Tenant's eviction.

SECTION 8. Appeals.

(a) **Right to Appeal.** The Tenant and/or Owner may appeal the contents of a Disruptive Conduct Report to the Board of Supervisors. Additionally, any Person aggrieved by the suspension, nonrenewal, denial or revocation of a Rental Permit as a result of a Disruptive Conduct Report may appeal. All appeals shall be filed in writing with the Code Enforcement Official with the appropriate filing fee per the Township fee schedule within ten (10) Business Days of service of the Disruptive Conduct Report or notice of suspension, nonrenewal, denial or revocation of a Rental Permit.

(b) **Powers of Board of Supervisors on Appeals of Disruptive Conduct Reports.** In hearing appeals of Disruptive Conduct Reports, the Board of Supervisors shall have the following powers:

i) To hear and decide appeals where it is alleged that there is an error in a decision or determination by a Police Officer or Code Enforcement Officer in the enforcement of this Ordinance. The hearing shall be conducted pursuant to the procedures set forth in the Local Agency Law, 2 Pa. C.S. Section 101, *et seq.*

ii) To modify any order and to authorize a variance from the terms of this Ordinance when because of special circumstances, undue hardship would result from literal enforcement and where such a variance substantially complies with the spirit and intent of this Ordinance.

iii) To grant a reasonable extension of time for the compliance of any order issued by the Code Enforcement Officer where there is a demonstrated case of hardship and evidence of a bona fide intent to comply within a reasonable time period.

iv) In exercising the above mentioned powers, the Board of Supervisors shall act with reasonable promptness and seek to prevent unwarranted delays prejudicial to the party involved and to the public interest; provided, however, that the Board of Supervisors shall file its decision within fifteen (15) Business Days after the appeal hearing.

v) The Board of Supervisors shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties.

vi) The Board of Supervisors may reverse or affirm wholly or partly, or may modify, the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as justice would require, and to that end, however, the Board of Supervisors in its determination, shall be bound by this Ordinance and shall not ignore the clear provisions and intent of this Ordinance.

(c) **Effect of Appeals.** Any decision or order issued under, per and in accord with this Ordinance shall be held in abeyance upon the timely filing of an appeal thereof with the Board of Supervisors. Said abeyance shall include, but not be limited to, revocation, suspension, denial or non-renewal of a Rental Permit until the appeal is resolved. An appeal of a Disruptive Conduct Report that would result in eviction as required herein shall stay the requirement for commencement of eviction proceedings against the Tenant until the appeal is resolved, if the eviction proceedings were a direct result of a Disruptive Conduct Report.

(d) **Enforcement upon Resolution of Appeal to Board of Supervisors.** If the appeal of a Disruptive Conduct Report and the decision of the Police Officer or Code Enforcement Officer is affirmed, within ten (10) Business Days or time for compliance as required by a decision of the Board of Supervisors, the Township shall inspect to determine compliance including whether the Tenant has voluntarily moved from the Premises or the Owner has initiated eviction proceedings. If, when required, the Tenant has not voluntarily moved or the Owner has not initiated eviction proceedings, and the time for compliance as required by the decision of the Board of Supervisors has expired, the Township shall institute revocation of the Rental Permit pursuant to the provisions herein.

(e) **Appeal to the Court of Common Pleas.** Any Owner or Tenant aggrieved by any decision of the Board of Supervisors may appeal to the Court of Common Pleas of Berks County. Such appeal shall be in accordance with Local Agency Law, 2 Pa. C.S. Section 101, *et. seq.* An appeal shall be filed with the Court of Common Pleas within thirty (30) days after the date of the Decision of the Board of Supervisors. Notice of appeal shall be filed upon all parties to the appeal before the Board of Supervisors, including the Board of Supervisors and the Township. An appeal of a decision of the Board of Supervisors shall automatically stay enforcement of the Board of Supervisor's Decision.

SECTION 9. Share Information. The Township's departments and divisions are authorized to share information obtained under this Ordinance.

SECTION 10. Regulations. The Township shall have the authority to create regulations determined to be necessary or appropriate for implementation and administration of this

Ordinance, provided such regulations are consistent with the intent of this Ordinance, subject to review and approval of Board of Supervisors.

SECTION 11. Enforcement, Violations and Penalties, and Remedies.

(a) This Ordinance shall be enforced by the Code Enforcement Officer and Police Department. Any Owner that violates the provisions of this Ordinance shall have the Rental Permit for the subject Premises suspended or revoked as determined by the Board of Supervisors.

(b) Additionally, persons who shall violate any provision of this Ordinance or shall fail to comply with any of the requirements thereof shall be guilty of a summary offense, punishable by a fine not to exceed One Thousand Dollars (\$1,000.00) and costs of prosecution for each and every offense or violation, or upon default of payment of the fine and costs, then to imprisonment for a period not to exceed thirty (30) days. Each day that such offense or violation is continued shall constitute a new and separate offense, punishable by a similar fine, penalty or imprisonment.

SECTION 12. Repeal of Ordinances. Any Ordinance or part of Ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance's provision.

SECTION 13. Severability. If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance, is, for any reason declared to be illegal, unconstitutional or invalid, by any Court of competent jurisdiction, this decision shall not affect or impair the validity of the Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word, or remaining portion of the within Ordinance. The Township Board of Supervisors hereby declares that it would have adopted the within Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the limitations, restrictions, sentences, clauses, phrases, or word that may be declared illegal, unconstitutional or invalid.

SECTION 14. Effective Date. This Ordinance shall become effective upon enactment.

DULY ENACTED AND ORDAINED this 28th day of August 2024.

**HEIDELBERG TOWNSHIP
Berks County, Pennsylvania**



David P. Randler, Chairman



Kevin Snyder, Vice Chairman



Thomas Schoener



Lori Brown



Eric Goudy

Attest:



Nicole Werner, Secretary

CERTIFICATE OF ENACTMENT

I, Nicole Werner, Secretary of Heidelberg Township, Berks County, Pennsylvania, do hereby certify that the foregoing Ordinance No. 196 was advertised in the *Reading Eagle*, a daily newspaper of general circulation in the Heidelberg Township and was duly enacted and approved as set forth at a regular meeting of the Board of Supervisors held on the 28th day of August, 2024.

[SEAL]



Nicole Werner, Secretary