

**TOWN OF NEW WINDSOR**

**ORDINANCE NO.:** \_\_\_\_\_

**WHEREAS**, by virtue of the authority contained in Section 5-202, *et seq.* of the Local Government Article of the Annotated Code of Maryland, and Section 5-1, *et seq.* of the Charter of the Town of New Windsor, the Mayor and Council have the authority to enact ordinances for the general well-being of the residents of the Town; and

**WHEREAS**, this Code amendment is intended to serve the health and welfare of the residents, as well as protecting property values; and

**WHEREAS**, the Mayor and Council held a public hearing on this amendment on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF NEW WINDSOR:**

**ARTICLE 1. That a new Chapter 148 be added to the Code of the Town of New Windsor, to read as follows:**

**§ 148-1. Purpose.**

The Town considers rental housing a commercial enterprise subject to licensure and oversight duly authorized in the Town Charter. The purpose of this chapter is to encourage the responsible ownership and management of rental housing within the Town, particularly as the public health, safety, general welfare and economic vitality of the community is directly impacted. This includes preservation of quality rental housing that blends with traditional owner-occupied neighborhoods. It is not the intent of the chapter to mediate internal disputes between landlords and tenants but rather to address the maintenance of rental housing as it relates to the greater community.

**§ 148-2. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**ACCESSORY APARTMENT** – A second dwelling unit that is part of, or attached to, an existing one-family detached dwelling, and which contains cooking, eating, sanitation and sleeping facilities. Such a unit is subordinate to the main dwelling unit.

**AGENT** – A person authorized to do the following on behalf of the landlord/owner:

- A. Make, contract for, and authorize necessary repairs to the rental housing.

- B. Comply with the orders, notices and requests of the Town Manager and the Board of Rental Housing Appeals.
- C. Accept all communications, notices, orders and all types of service of process, including, but not limited to, municipal infraction citations relating to the rental housing. The agent may, but need not, be the operator of the rental housing.

**DWELLING UNIT** – A building, or portion thereof, arranged or designed for use or occupancy as a residence by not more than one (1) family. “Dwelling unit” includes accessory apartments.

**INSPECTION** – An examination of rental housing or any part thereof as the Town Manager deems appropriate to carry out the purposes of this chapter.

**LANDLORD or OWNER** – The owner of record of rental housing. In the case of a cooperative or condominium housing structure, any person having an ownership interest in the legal entity which holds title to the cooperative housing structure and is entitled to exclusive use of the dwelling unit that is rented.

**MULTIPLE-FAMILY DWELLING** – A building operated as a single entity containing two (2) or more dwelling units rented on a minimum of a monthly basis (an apartment house). “Multiple-family dwelling” does not include buildings containing condominium or cooperative dwelling units, or other attached dwelling units, where such units are under different ownership.

**OPERATOR** – Any person who has charge, care or control of rental housing, who is responsible for the daily management of the facility and who has the authority to make minor and emergency repairs and receive complaints. “Operator” includes but is not limited to any of the following persons who exercise the foregoing authority and responsibility: a landlord, lessee, sublessee and any vendee in possession. “Operator” does not include those persons engaged solely in janitorial functions.

**RENTAL HOUSING** – Any structure or portion thereof, or combination of related structures and appurtenances, operated as a single entity, in which the owner or operator thereof provides for a consideration one (1) or more dwelling units. “Rental housing” includes rooming houses, multiple-family dwelling units, single family dwelling units, accessory apartments, inns, hotels, motels, individual condominium or cooperative dwelling units, etc. “Rental housing” does not include nursing homes, hospices and other residential medical or psychiatric care facilities.

**SINGLE-FAMILY DWELLING UNIT** – A building containing not more than one (1) dwelling unit. “Single-family dwelling unit” includes attached dwelling units, where the units are under separate ownership, including cooperative and condominium units.”

TENANT – Any person who occupies a dwelling unit for living or dwelling purposes with the landlord’s consent and upon payment of the required rent.

TOWN MANAGER – The Town Manager or any employee, department, officer or agency of the Town designated by the Town Manager to carry out the duties and responsibilities ascribed to the Town Manager under this chapter.

VIOLATION – Any condition in rental housing which violates this chapter or any other ordinance of the Town Code of New Windsor or any applicable federal, state or county law, ordinance, regulation or code applicable to rental housing, including, but not limited to, livability, housing, sanitation, litter, public health and safety.

**§ 148-3. Applicability.**

This chapter shall apply to all rental housing within the Town and to all leases and rental agreements concerning rental housing within the Town, wherever executed. This chapter shall apply to rental housing owned and/or operated by any public housing authority, and to rental facilities which are subject to federal or state law, rule or regulation only to the extent that federal or state law, rule or regulation does not conflict with and is not inconsistent with the provisions and requirements of this chapter.

**§ 148-4. Interpretation.**

A. The provisions and requirements of this chapter shall be in addition to any provision or requirement of any other applicable law, rule or regulation and it shall not be deemed to interfere with, abrogate, annul or otherwise affect in any manner any agreements between parties, unless such agreements conflict with the provisions of this chapter.

B. To the extent that the provisions of this chapter conflict with state public law, state law shall prevail.

**ARTICLE 2. LICENSING REQUIREMENTS**

**§ 148-5. Rental housing license; classes of licenses.**

A. It shall be unlawful to conduct or operate rental housing without having first obtained a license to operate or conduct such rental housing. It shall be unlawful to operate rental housing under an expired, revoked or suspended license.

B. There shall be the following classes of rental housing licenses:

1. Multiple-family dwelling license;
2. Single-family dwelling rental unit license. Where a single-family dwelling unit contains, or is attached to, one (1) or more accessory apartments,

the owner or agent shall apply for multiple-family dwelling license. Rental of rooms that do not meet the standards of accessory dwellings do not require a multiple-family dwelling license.

**§ 148-6. Application.**

A. Application for a license required hereunder shall be made by or on behalf of the owner of the rental housing on a form provided by the Town and shall be accompanied by a fee as may be provided by Resolution of the Council.

B. If the owner of the rental housing is a corporation, the corporation shall be qualified to do business in the state as provided by state law.

C. All corporate owners and owners residing more than fifty (50) miles outside the Town limits shall have an agent as defined herein, who shall reside within fifty (50) miles of Town limits, and shall certify to the Town Manager the name, address and telephone number of such agent and shall keep such information current.

**§ 148-7. Inspections.**

Upon receipt of a complaint, the Town Manager shall forward the complaint to the Carroll County Minimum Livability Inspector, or take other action, as deemed necessary to enforce this chapter. Any person may make a complaint about the condition of a rental property.

**§ 148-8. Licenses for existing rental housing owners and/or agents.**

A. Upon enactment of this chapter, existing owners and/or agents of rental housing within the Town shall apply for a rental housing license. This application shall be made no more than ninety days after enactment of this chapter.

B. Upon approval of an initial application by the Town Manager, a rental housing license will be issued. Conditions of approval shall include appropriate zoning, or a conditional use granted by the New Windsor Board of Zoning Appeals and other conditions as determined by the Board of Rental Housing Appeals.

C. Each tenant shall be provided a copy of the rental housing license for his or her premises, upon taking possession of the unit.

**§ 148-9. License renewal.**

Absent violations of this chapter or Town Code, renewal applications shall be approved automatically upon submittal of the application and payment of the required fee. The rental housing license shall be valid for a period of two years unless otherwise revoked or rescinded.

**§ 148-10. Fine for operation of rental housing without a license.**

Operation of rental housing without a rental housing license shall be a municipal infraction subject to a fine of up to One Hundred Dollars (\$100.00). Each day and each living unit shall constitute a separate occurrence.

**§ 148-11. Transferability.**

A. In the event the holder of a license transfers ownership or changes his address, the holder shall notify the Town Manager within thirty (30) days of such change.

B. No license is transferable. Upon sale of rental housing, the new owner shall file an application for a new rental housing license accompanied by the appropriate fee.

C. Whenever the ownership of the rental housing changes, it shall be the duty of the transferor to notify all tenants of the rental housing of the name, address and office location of the transferee and of the transferee's agent.

**§ 148-12. Obligation to maintain rental housing and provide services; violations and penalties.**

A. The landlord, at all times, shall reasonably provide for the maintenance of rental housing, which obligations shall include, but not be limited to, the following:

1. Complying with all applicable provisions of all Town regulations and ordinances governing the maintenance, construction, use or appearance of real property, including compliance with the Carroll County Minimum Livability Code. This shall include, but is not limited to, securing proper certificates and permits for all construction or renovation;

2. Keeping all areas of the building, grounds, facilities and appurtenances in a clean, sanitary and safe condition unless provision is made for tenant responsibility thereof by the lease, law, ordinance or regulation;

3. Making all repairs and arrangements necessary to put and keep the dwelling unit and the appurtenances thereto in as good condition as required by law;

4. Providing and maintaining appropriate receptacles and conveniences for the removal of ashes, rubbish and garbage, and arranging for the frequent removal of such waste, except in the case of single-family dwelling units;

5. Assuring that the rental housing, including the building, grounds, facilities and appurtenances, is not used for unlawful purposes, to include, but not limited to, the harboring of fugitives, the evasion of persons from the service of warrants, the shelter of juvenile runaways, the housing of illegal immigrants or for criminal enterprises or activities, such as the manufacture and distribution of illegal substances;

6. Assuring that all buildings, grounds, facilities and appurtenances remain in the condition, position and location as they were intended by their manufacturer or installer. For example, gutters must be attached to the roof (not hanging down), shutters must hang properly (not sufficiently attached and/or hanging crooked), anything painted must not be chipping, porch rails must be in their proper/intended position, fences should be upright, intact, and not rusting, etc.

**§ 148-13. Denial, revocation or suspension.**

A. A rental housing license may be revoked or suspended, and a renewal may be denied at any time by the Town Manager if the landlord, after ten (10) working days' written notice, fails to eliminate or to initiate good faith efforts to eliminate violations of this chapter or of other applicable laws, rules or regulations. Revocation, denial or suspension of a license shall be in addition to, and not in substitution for, such other penalties as may be provided for violations by any ordinance.

B. In the event that a license is revoked or suspended or any application for license renewal is denied, and the landlord of the premises for which the license had been issued or applied for chooses to cease renting the facility regulated hereunder, he shall give any tenants occupying the premises in question sixty (60) days' written notice to vacate the premises, such period to begin on the first day of the month following service of such notice. In addition, a copy of the notice must be delivered to the Town Manager.

C. In the event the State Fire Marshall, Carroll County Minimum Livability Inspector or properly authorized official of the Carroll County Health Department determines that the conditions of a rental housing unit are unfit for human habitation due to such conditions as fire, flooding, structural failure, lack of electrical power, lack of water or lack of heat, the Town Manager may revoke the rental housing license immediately. In the event of such revocation, any subsequent appeal shall not stay the enforcement action. The property may not be occupied until determined fit for human habitation. In the event that the malfeasance, misfeasance or non-feasance of the landlord has caused the conditions making the unit unfit for habitation then the landlord shall provide alternative housing to any tenants during the term of such appeal.

**§ 148-14. Ceasing operations in lieu of compliance.**

If a person, rather than comply with an order of the Town, State or County Official or the Board of Rental Housing Appeals, chooses to cease to operate rental housing, he shall give any tenant occupying the premises in question sixty (60) days' written notice to vacate the premises, the period to begin on the first day of the month following service of the notice. A copy of the notice must be delivered to the Town. No penalty will be imposed during the sixty (60) day period that tenants have to vacate the facility, provided the holder of the license to conduct or operate the rental housing relinquishes it and submits it to the Town Manager.

**ARTICLE 3. ADMINISTRATIVE APPEALS**

**§ 148-15. Overview.**

A. Any person aggrieved by an action of the Town Manager under the provisions of this article may, within ten (10) working days of receipt of written notice of such action, appeal such action to the Board of Rental Housing Appeals by filing a notice of appeal with the Town Clerk. Except in the case of the revocation of a license, an appeal shall not operate to stay the action of the Town Manager unless the action is stayed by order of the Board for good cause shown.

B. Within thirty (30) working days of the filing of the notice of appeal, the Board shall conduct a hearing, at which time an opportunity to be heard shall be given to the person aggrieved. The hearing shall be open to the public, and records and minutes shall be maintained by the Board.

C. Unless otherwise provided by Board rules and regulations, the Board shall by order, within fifteen (15) working days after such hearing, either reverse, modify or affirm the action appealed and shall issue its findings, opinions and orders in writing and provide a copy thereof to the parties involved. Any appellant dissatisfied with the decision of the Board may appeal the decision to the Circuit Court of Carroll County; however, this appeal shall not stay any findings, opinions or orders of the Board.

**§ 148-16. Creation and membership of Board of Rental Housing Appeals.**

The Board of Rental Housing Appeals of the Town of New Windsor is hereby created and designated as the "Board of Rental Housing Appeals." The number of members of such Board shall be three (3), with one (1) or more alternates. The Board shall be comprised of one (1) member of the Town Council, one (1) member of the Planning and Zoning Commission, and one (1) member of the Board of Zoning Appeals as appointed by the Mayor.

**§ 148-17. Powers of Board.**

A. The Board shall have the powers to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative official in regard to the enforcement of this chapter of the Town Code or of any ordinance adopted pursuant thereto.

B. In exercising the above-mentioned power, the Board may, in conformity with the provisions of law and this chapter and amendments thereto, 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 ought to be made.

C. The Board is also empowered to adopt and promulgate such rules and regulations as it shall deem necessary in the conduct of its hearings and the issuance of its decisions or testimony pertaining to its hearings.

**§ 148-18. Organization; meetings; records.**

The Board shall be organized and its rules shall be amended, if necessary, in accordance with the provisions of this chapter. Meetings of the Board shall be held at the call of the Chairman, and at such other times as the Board may determine. The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. For assistance in reaching decisions relative to appeals, conditional uses or variances, the Board may request testimony at its hearings for purposes of securing technical aid or factual evidence from any county agency. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings and shall keep records of all its official actions, all of which shall be filed in the office of the Board and shall be a public record.

**§ 148-19. Appeals.**

An appeal to the Board may be taken by any person aggrieved by the actions of the Town Manager in the enforcement of this chapter of the Town Code. Such appeal shall be taken within ten (10) days after the decision by filing with the Town Manager and with the Board a notice of appeal, specifying the grounds thereof. The Town Manager shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

**§ 148-20. Actions preparatory to hearing.**

Upon the filing of an application before the Board, the following action shall be taken preparatory to holding a hearing thereon:

A. The Board shall fix a reasonable time for a hearing of the application or appeal;

B. Property is the subject of the application or appeal shall be posted conspicuously by a notice no less in size than twenty-two inches (22") by twenty-eight inches (28"), at least fourteen (14) days before the date of the hearing;

C. Notification by certified and regular mail shall be made to the appellant or petitioner and to the owners of those properties and the address certified on the notice of appeal by the appellant or petitioner as being contiguous to the property with which the hearing is concerned.

**§ 148-21. Hearing.**

The Board, following such action above, shall hold such hearing. At the hearing, any party may appear and be heard in person or by agent or attorney.

**§ 148-22. Decisions; appeals.**

Any person or persons, jointly or severally, aggrieved by a decision of the Board, may appeal to the Circuit Court for Carroll County as provided for by state law. The court may affirm, reverse, vacate or modify the decision complained of in the appeal to the extent and as provided for by state law.

**§ 148-23. Filing fee for appeals.**

A filing fee shall accompany each application for an appeal to the Board as may be determined by the Mayor and Council of the Town of New Windsor.

**ARTICLE 4. SEVERABILITY**

If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this chapter, it being the intent of the Town that this chapter shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion thereof.

**ARTICLE 5. SECTION HEARINGS, CHAPTER HEADINGS, CHAPTER HEADINGS, TITLES**

Section headings, chapter headings, titles, etc., are for the purpose of description or ease of use and do not form a part of the text of this Ordinance or any Code or test adopted hereby.

**ARTICLE 6. EXISTING LIABILITIES**

This Ordinance shall not discharge, impair or release any contract, obligation, duty, liability or penalty whatever existing on the date of its enactment. All suits and actions, both civil and criminal pending or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or ordinance affected by the adoption of this Ordinance shall be instituted, proceeded with and prosecuted to final determination and judgment as if this Ordinance had not become effective.

**ARTICLE 7. EFFECTIVE DATE**

This Ordinance shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Introduced this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Donna Alban, Town Clerk

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by a vote of \_\_\_\_\_ members in favor and \_\_\_\_\_ Council members opposed.

\_\_\_\_\_  
Donna Alban, Town Clerk

ATTEST:

\_\_\_\_\_  
Donna Alban  
Town Clerk

\_\_\_\_\_  
Neal C. Roop  
Mayor

Effective this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Approved as to form and legal  
sufficiency this \_\_\_\_\_ day of  
\_\_\_\_\_, 2018.

By:

\_\_\_\_\_  
Michelle M. Ostrander

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NOTE: Matter in [brackets] is proposed for deletion from existing law.  
Matter underlined is new material proposed to be added to existing law.