"A Historic Past"

"A Bright Future"

CITY OF DELAWARE CITY
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CITY OF DELAWARE CITY
DELAWARE CITY, DELAWARE
Ordinance No. 16-1121-03

ORDINANCE TO ADOPT THE CITY OF DELAWARE CITY CODE CHAPTER 22-9 TO REGULATE RESIDENTIAL RENTAL PROPERTIES INSPECTIONS

WHEREAS, pursuant to Article V, Section 5-02(A) of The City of Delaware City Charter ("Charter"), and pursuant to the "Powers of the City," outlined in Article II, § 2-01 of the Charter, the Mayor and the Council of The City of Delaware City ("City Council") possess the authority to adopt, amend, modify, or repeal The City of Delaware City Code ("Code");

WHEREAS, the Mayor and City Council desire to adopt Chapter 22, Sections 22-9A through 22-9E as a part of the Code;

WHEREAS, the Mayor and City Council believe that regulating residential rental properties inspection is in the best interest of The City of Delaware City;

NOW, THEREFORE, making the express finding that the changes to the Code is necessary to enhance the health, safety, and welfare of the City of Delaware City, the Mayor and the City Council of The City of Delaware City hereby ordain and adopt the following Code changes and revisions:

Section 1. Adopt Chapter 22-9 of the City Code by adding the text identified below:

Section 22-9 Residential Rental Property Inspections

Section 22-9A Definitions.

Rental Property – Any dwelling, including but not limited to a house, townhouse, row house, duplex, twin, apartment, condominium, rooming house or mobile home, and any building containing any such units, from which the owner derives income or any other consideration from persons residing at such dwelling, as evidenced by a written or oral contract, lease, sublease or agreement, but not including any hotel, motel, bed-and-breakfast, any other business licensed to provide transient lodging to overnight guests, or owner occupied dwellings.

Owner – Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of state, county or municipality as holding title to the 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.

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

Code Official – Shall have the meaning as set forth in the Chapter 52 of the Delaware City Code, Property Maintenance. The Code Official, or designee, shall have the authority to administer the provisions set forth in this Code section.

Section 22-9B Rental License.

1.) Every owner of a rental property must receive a rental license for each rental unit on a yearly basis.

2.) Rental license application must be completed and returned to Code Enforcement Department no later than March 1st of each year, accompanied by all applicable fees. New Rentals must complete a rental license application and pay the applicable fees within 30 days of becoming a rental. No fees shall be prorated.

3.) Owner must provide:

a. Owner's name & contact information;
b. Agent's name & contact information, if applicable;
c. Rental property address;
d. Number of units;
e. List of tenant(s) and contact information; and
f. Copy of lease upon request from Code Enforcement Department.

Section 22-9C Inspections.

1.) Rental properties must be inspected on an annual basis.

2.) Code official, or designee, will inspect for compliance with the most recently adopted International Property Maintenance Code, Chapter 52 of the Delaware City Code & any other applicable codes/ordinances.

3.) Violations must be corrected prior to the issuance of a rental license.

4.) Code Enforcement will notify the owner/agent in writing of the scheduled inspection date & time at least 30 days prior to inspection. It is the owner's responsibility to notify the tenant(s) of the inspection date & time at least 10 days in advance.

5.) Properties will receive one inspection and one re-inspection, if necessary. If any further inspections are required, the owner will be charged an additional fee.

6.) A rental license will be issued after inspection is passed and all applicable fees are paid.

7.) New rental properties must receive an inspection within 60 days of becoming a rental and will be put on the yearly inspection schedule.

Section 22-9D License Revocation.

Properties in violation of the following are subject to license revocation:

1.) Any property determined to be a nuisance will have their rental license revoked. A nuisance property is any property in violation of the property maintenance requirements by being in a substantial state of uncleanliness, disorder or disrepair; any property substantially damaged by fire, flood or other natural disaster or any property determined to be uninhabitable by the Code Official.

2.) Criminal Activity. Tenants of a rental dwelling, all members of the tenant's household, any guest or other person associated with the tenant shall not engage in criminal activity on the leased premises or within 500 feet of the lot on which the rental dwelling is situated. For the purposes of this article, "criminal activity" means any crime classified by applicable law as a felony or a class A misdemeanor in addition to the following offenses: noise violations, drug offenses, offensive touching, menacing, vehicular assault, sexual harassment, indecent exposure, graffiti, criminal mischief, trespassing, criminal trespassing, crime against a vulnerable adult, unlawfully dealing with a child, disorderly conduct, malicious interference with emergency communications, public intoxication, loitering, criminal nuisance, obstructing of public passage, lewdness, prostitution, patronizing a prostitute, unlawfully dealing with a dangerous weapon, or unlawfully dealing with a switchblade knife.

    i. The Owner can avoid license revocation if the eviction process commences within 30 days of the violation.

3.) Non-compliance with state & federal housing codes and laws as well as Delaware City housing codes & laws.

4.) Written notice of revocation must be sent to the Owner no less than 15 days prior to the effective date of revocation. The Owner may request a hearing before a hearing officer prior to revocation. The request must be received in writing no less than five days prior to the effective date of revocation. The hearing officer must schedule a hearing within 30 days of receipt of the hearing request. The revocation will remain in effect until the Code Official determines the property and its tenants are compliant with all rules and regulations of this Chapter.

Section 22-10E Enforcement and Penalties.

Any person found in violation of this section is subject to a fine up to $100 for each infraction. Each day a violation occurs shall constitute a separate offense. The imposition of a penalty for any violation of this chapter shall not excuse the violation or permit it to continue.

The owner of any rental property who shall fail to register or to pay to the City the appropriate fee(s) as determined by this chapter shall pay a late fee of $100 for each and every rental unit on which he or she failed to register or to pay to the City the appropriate fee(s).

Section 3. Inconsistent Ordinances and Resolutions Repealed. All Ordinances or parts of Ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed.

Section 4. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that City Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with City Council's intent.

Section 5. **Effective Date**. This Ordinance shall become effective immediately upon its adoption by City Council.

ADOPTED BY THE MAYOR AND COUNCIL, this _____ day of _____, 2016.

ATTEST:

_____
City Secretary

_____
Mayor

APPROVED AS TO FORM:

_____
Council Member

_____
City Solicitor

_____
Council Member

_____
Council Member

_____
Council Member

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Council Member