

## Chapter 151

### RENTAL PROPERTIES

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[HISTORY: Adopted by the Borough Council of the Borough of Dallastown 8-28-2001 by Ord. No. 469. Amendments noted where applicable.]

#### GENERAL REFERENCES

Building construction — See Ch. 90.  
Numbering of buildings — See Ch. 93.  
Inspections — See Ch. 114.  
Mosquito control — See Ch. 131.  
Nuisances — See Ch. 136.

Property maintenance — See Ch. 149.  
Solid waste — See Ch. 164.  
Stormwater management — See Ch. 173.  
Streets and sidewalks — See Ch. 178.  
Zoning — See Ch. 224.

#### § 151-1. Title.

This chapter shall be known and may be cited as the "Rental Properties Maintenance and Housing Occupancy Ordinance of the Borough of Dallastown."

#### § 151-2. Definitions; word usage.

- A. Definitions. As used in this chapter, the following terms shall have the meaning indicated:

**ACCESSORY STRUCTURE** — A structure, the use of which is incidental to that of the main building and which is attached thereto or located on the same premises.

**APPROPRIATE AUTHORITY** — That person within the governmental structure of the corporate unit charged with the administration of the appropriate ordinance.

**APPROVED** — Approved by the local or state authority having such administrative authority.

**ASHES** — The residue from the burning of combustible material.

**CENTRAL HEATING SYSTEM** — A single system supplying heat to one or more dwelling unit(s) or more than one rooming unit.

**CHIMNEY** — A vertical masonry shaft of reinforced concrete or other approved noncombustible, heat-resisting material enclosing one or more flues for the purpose of removing products of combustion from solid, liquid or gas fuel.

**CODES ENFORCEMENT OFFICER** — The individual or entity authorized by Dallastown Borough Council to inspect properties and any other duties set forth in this chapter.

**DORMITORY** — A room in any dwelling used for sleeping purposes by two or more unrelated persons.

**DWELLING** — Any enclosed space which is wholly or partly used or to be used for living or sleeping by human occupants, provided that "temporary housing," as hereinafter defined, shall not be regarded as a dwelling.

**DWELLING UNIT** — Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating by human occupants.

**EGRESS** — A going out; emergence; the right to go out; a way out; exit.

**EXTERMINATION** — The control and elimination of insects, rodents or other pests by eliminating their harborage places; removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized and legal pest elimination methods approved by the local or state authority having such administrative authority.

**FAMILY** — One adult person plus one or more persons who are legally related to said person and residing in the same dwelling unit with said person. In the event that this definition is inconsistent with any state or federal law relating to housing or disability, the definition contained in the state or federal law shall supersede this definition and prevail.

**FLUSH WATER CLOSET** — A toilet bowl flushed with water under pressure with a water sealed trap above the floor level. Such toilet bowls shall have a smooth, easily cleanable surface.

**GARBAGE** — Animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

**GUEST** — Any person who shares a dwelling unit in a nonpermanent status for no more than 30 days.

**HABITABLE ROOM** — A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding laundries, furnace rooms, pantries and utility rooms of less than 50 square feet, foyers or communicating corridors, stairways, storage spaces and workshops, hobby and recreation areas in unsealed or uninsulated parts of structure below ground level or in attics.

**HEATED WATER** — Water heated to a temperature of not less than 120° F.

**HOUSEHOLD** — A family and/or one or more unrelated persons who share the same dwelling and use some or all of its cooking and eating facilities, including servants and not more than two boarders.

**INFESTATION** — The presence within or around a dwelling of any insects, rodents or other pests.

**KITCHEN** — Any room containing any or all of the following equipment or the area of a room within three feet of such equipment: sink and/or other devices for dishwashing, stove or other devices for cooking, refrigerator or other devices for cool storage of food, cabinets and/or shelves for storage of equipment and utensils and counter or table for food preparation.

**MULTIPLE DWELLING** — Any dwelling containing more than two dwelling units or rooming units, or more than two of any combination of dwelling and rooming units.

**OCCUPANT** — Any person, over one year of age, living, sleeping, cooking or eating in or actually having possession of a dwelling unit or a rooming unit; except that in dwelling units, a guest will not be considered an occupant.

**OPERATOR** — Any person who has charge, care, control or management of a building or part thereof in which dwelling units or rooming units are let.

**ORDINARY SUMMER CONDITIONS** — A temperature of 10° F. below the highest recorded temperature in the locality for the prior ten-year period.

**ORDINARY WINTER CONDITIONS** — A temperature of 15 degrees F. above the lowest recorded temperature in the locality for the prior ten-year period.

**OWNER** — Person who, alone or jointly or severally with others:

- (1) Shall have legal title to any real estate subject to this chapter, with or without accompanying actual possession thereof; or,
- (2) Shall have charge, care or control of any real estate or improvement thereon which is subject to this chapter, as owner or agent of the owner, or as executor, executrix, administrator, administratrix or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter and with rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

**PERSON** — Any individual, firm, corporation, association or partnership or other legal entity.

**PLUMBING** — All of the following supplies, facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, incinerators, waste pipes, water closets, sinks, dishwashers, lavatories, bathtub, shower baths, shower stalls, clothes-washing machines, catch basins, drains, vents and any other similar supplies and fixtures, together with all connections to water, sewer or gas lines and water pipes and lines, including those utilized in conjunction with air-conditioning equipment.

**PRIVACY** — The ability of a person or persons to carry out an activity commenced without interruption or interference, either by sight or sound, by unwanted persons.

**PREMISES** — A lot, plot or parcel of land, together with any improvements thereon erected.

**REFUSE** — All putrescible and nonputrescible solids (except body wastes), including garbage, rubbish, ashes and dead animals.

**RENTAL PROPERTY** — Any dwelling or dwelling unit occupied by tenant or tenants. **[Amended 10-14-2003 by Ord. No. 504]**

**RESIDENT** — An individual who is domiciled in the Borough of Dallastown or, in the case of a nonindividual, any entity with its principal place of business and mailing address in the Borough of Dallastown.

**ROOMING HOUSE** — Any dwelling or that part of any dwelling containing one or more rooming units, and/or one or more dormitory rooms.

**ROOMING UNIT** — Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking purposes.

**RUBBISH** — Nonputrescible solid wastes (excluding ashes) consisting of either:

- (1) Combustible wastes, such as paper, cardboard, plastic containers, yard clippings and wood; or
- (2) Noncombustible wastes, such as tin cans, glass and crockery.

**SAFETY** — The condition of being free from danger and hazard which may cause accidents or disease.

**SPACE HEATER** — A self-contained, heating appliance of either the circulating type or the radiant type and intended primarily to heat only one room.

**SUPPLIED** — Paid for, furnished by, provided by or under the control of the owner or operator.

**TEMPORARY HOUSING** — Any tent, trailer, mobile home or any other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utility system on the same premises for more than 30 consecutive days.

TENANT — Any person other than the owner who occupies, resides, or is entitled to occupy or reside in any dwelling or dwelling unit with the permission, express or implied, of the owner or operator of such dwelling or dwelling unit, regardless of whether there is any written or verbal lease therefor or no lease, and regardless of whether such person pays rent or other compensation or consideration to the owner or operator of such dwelling or dwelling unit for the occupancy or right to occupy or reside in such dwelling or dwelling unit.

B. Word usage.

- (1) In this chapter, words used in the singular include the plural, and the plural includes the singular; the masculine gender includes the feminine and the feminine the masculine.
- (2) Meaning of certain words. Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit," "premises," "structure" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

**§ 151-3. Responsibilities of owners and occupants.**

- A. No owner or other person shall occupy or let to another person any rental property unless it and the premises are clean, sanitary, fit for human occupancy and comply with all applicable legal requirements of the Commonwealth of Pennsylvania and the Borough.
- B. Every owner of a rental property containing two or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- C. Every occupant of a rental property shall maintain in a clean and sanitary condition that part or those parts of the dwelling, dwelling unit and premises thereof that he occupies and controls.
- D. Every occupant of a rental property shall store and dispose of all rubbish in a clean, sanitary and safe manner.
- E. Every occupant of a rental property shall store and dispose of all his garbage and any other organic waste which might provide food for insects and/or rodents, in a clean, sanitary and safe manner, and if a container is used for storage pending collection, it shall be rodent-proof, insect-proof and watertight.
- F. Every owner of a rental property containing three or more dwelling units shall supply facilities or containers for the sanitary and safe storage and/or disposal of rubbish and garbage. In the case of rental property single-family dwellings, it shall be the responsibility of the occupant to furnish such facilities or containers.
- G. Every occupant of a rental property or of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for the extermination of insects and rodents on the premises whenever such occupant's dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this subsection, whenever infestation is

caused by failure of the owner to maintain a dwelling in a rodent-proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any rental property or in the shared or public parts of any rental property containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.

- H. Every owner of a rental property shall keep all plumbing fixtures therein in operable condition.
- I. From October 1 until April 30 and from 6:00 a.m. to 11:00 p.m. in every rental property when the control of supplied heat is the responsibility of a person other than the occupant, a temperature of at least 68° F. shall be maintained in all habitable rooms, bathrooms and water closet compartments at a distance of 18 inches above the floor level.

#### **§ 151-4. Minimum standards for handrails.**

No person shall occupy as owner or occupant or let to another for occupancy any rental property, for the purpose of living, which does not comply with the following requirements: Structurally sound handrails shall be provided for any steps containing three risers or more. If steps are not enclosed, handrails and balusters spaced no more than six inches apart shall be provided. Porches and/or balconies located more than three feet higher than the adjacent area shall have structurally sound protective handrails 30 inches to 36 inches high and, if unenclosed, balusters spaced no more than six inches apart.

#### **§ 151-5. Minimum standards for light and ventilation.**

No person shall occupy as owner or occupant or let to another for occupancy any rental property for the purpose of living therein which does not comply with the following requirements:

- A. Every bathroom and water closet compartment and nonhabitable room used for food preparation shall be equipped with a window and or ventilation system in working condition, which is approved by the appropriate authority.
- B. Every public hall and stairway in every multiple dwelling shall be adequately lighted by natural or electric lights at all times so as to provide in all parts thereof at least six footcandles of light at the tread or floor level. Every public hall and stairway in structures containing not more than two dwellings may be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

#### **§ 151-6. Minimum thermal standards.**

No person shall occupy as owner or occupant or let to another for occupancy any rental property for the purpose of living therein which does not comply with the following requirements:

- A. Every dwelling shall have heating facilities which are properly installed and are maintained in safe and good working condition and are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit located therein to a temperature of at least 68° F. at a distance of 18 inches above floor level under ordinary winter conditions.
- B. No owner or occupant shall install, operate or use an unvented space heater employing a flame unless the same contains a functioning automatic oxygen sensor.

**§ 151-7. Sanitary maintenance of structural elements.**

No person shall occupy as owner or occupant or let to another for occupancy a rental property, for the purpose of living therein, which does not comply with the following requirements:

- A. Every foundation, roof and exterior wall, door, skylight and window shall be reasonably weathertight, watertight and damp-free and shall be kept in sound condition and good repair. Floors, interior walls and ceilings shall be sound and in good repair. All exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by paint or other protective covering or treatment using nontoxic material where readily accessible to children. Walls shall be capable of affording privacy for the occupant. Every premises shall be graded, drained, free of standing water and maintained in a clean, sanitary and safe condition.
- B. Every window, exterior door and basement hatchway or similar device shall be kept rodent-proof and reasonably watertight and weathertight and shall be kept in working condition and good repair.
  - (1) During that portion of the year when there is a need for protection against mosquitoes, flies and other flying insects, every door opening directly from a dwelling unit to outside space shall have supplied properly fitting screens having at least sixteen-mesh and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens, except that such screen shall not be required during such period in rooms deemed by the Codes Enforcement Officer to be located high enough in the upper stories of a building as to be free from such insects and in rooms located in areas of the Borough which are deemed by the Codes Enforcement Officer to have so few insects as to render screens unnecessary.
  - (2) Every window located at or near ground level used or intended to be used for ventilation and every other opening located at or near ground level which might provide an entry for rodents shall be supplied with adequate screens or such other devices as will effectively prevent their entrance.
- C. Every rental property and the premises on which located shall be maintained so as to prevent and eliminate rodent harborage.

- D. All fences provided by the owner or agent on the premises and/or all fences erected or caused to be erected by an occupant shall be constructed of manufactured metal fencing material, wood, masonry or other inert material. Such fences shall be maintained in good condition, uniform in height throughout, and any wood material shall be protected against decay by use of paint or other preservative. Such fences shall be maintained in good repair. The permissible height and other characteristics of all fences shall conform to the appropriate statutes, ordinances and regulations of the Borough and Commonwealth of Pennsylvania. Wherever any egress from the dwelling opens into the fenced area, there shall be a means of egress from the premises to any public way adjacent thereto.
- E. Accessory structures present or provided by the owner, agent or tenant-occupant on the premises of a rental property shall be structurally sound, be designed to prevent rodent harborage and be maintained in good repair and free of vermin by the owner, agent or occupant or such structure shall be removed from the premises. The exterior of such structure shall be made weather-resistant through the use of decay-resistant material or the use of paint or other preservatives.
- F. Every foundation, roof, floor, exterior and interior wall, ceiling, inside and outside stair, every porch and every appurtenance thereto shall be safe to use and capable of supporting the loads that normal use may cause to be placed thereon and be kept in sound condition and good repair. Every inside and outside stair or step shall have uniform risers and treads.
- G. Every plumbing fixture and water and waste pipe shall be properly installed in accordance with the Borough ordinances and maintained in good sanitary working condition.<sup>1</sup>
- H. Every water closet compartment, bathroom and kitchen floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
- I. Every plumbing fixture and pipe, every chimney, flue and smoke pipe and every other facility, piece of equipment or utility which is present in a dwelling or dwelling unit or which is required under this chapter shall be constructed and installed in conformance with the appropriate statutes, ordinance and regulation of the Borough and the Commonwealth of Pennsylvania.
- J. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this chapter to be removed from or shut off from or discontinued for any occupied rental property let or occupied by such person or entity, except for such temporary interruption as may be necessary while actual repairs or alterations are in process or during temporary emergencies when discontinuance of service is approved by the appropriate authority.
- K. All construction and materials, ways and means of egress and installation and use of equipment shall conform to applicable state and local laws dealing with fire protection.

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1. Editor's Note: See Ch. 146, Plumbing Standards.



**§ 151-8. Maximum density and minimum space, use and location requirements.**

No person shall occupy or let to be occupied any rental property for the purpose of living therein unless there is compliance with the following requirements:

- A. Not more than one family, plus one occupant unrelated to the family, except for guest or domestic employees, shall occupy a dwelling unit unless a permit for a rooming house has been granted by the appropriate authority.
- B. In the case of rental properties which contain attached or detached garages, garage space must be rented with the dwelling unit to insure adequate off-street parking in accordance with Ch. 224, Zoning, requirements and may not be rented to a nontenant of the property unless adequate parking spaces exist.

**§ 151-9. Rooming houses, dormitory rooms and rooming units.**

No person shall operate a rental property rooming house or shall occupy or let to another for occupancy any rental property dormitory room and/or rooming unit in any rooming house which is not in compliance with the provisions of this chapter. No owner or other person shall occupy or let to another person any rooming unit or dormitory room unless it is clean and sanitary and complies with all applicable requirements of the Borough of Dallastown including the following:

- A. No person shall operate a rental property rooming house unless he holds a valid occupancy permit issued by the appropriate authority in the name of the operator and for the specific dwelling or dwelling unit. The operator shall apply to the appropriate authority upon compliance by the operator with the applicable provisions of this chapter and of any rules and regulations adopted pursuant thereto. The permit shall be transferable. Every person holding such a permit shall give notice, in writing, to the appropriate authority within 24 hours after having sold, transferred, given away or otherwise disposed of ownership of, interest in or control of any rooming house. Such notice shall include the name and address of the person succeeding to the ownership control of such rooming house.
- B. At least one flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the Codes Enforcement Officer and in good working condition, shall be supplied for each six persons or fraction thereof residing within a rooming house, including members of the operator's family wherever they share the use of said facilities, provided that:
  - (1) In a rooming house where rooms are let only to males, flush urinals may be substituted for not more than 1.2 of the required number of water closets.
  - (2) All such facilities shall be so located within the dwelling as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities.
  - (3) Every lavatory basin and bathtub or shower shall be supplied with heated and unheated water under pressure at all times.
  - (4) No such facilities shall be located in a basement.

- C. The following provisions shall apply in all rental property rooming houses:
- (1) Cooking in dormitory rooms and rooming units is prohibited.
  - (2) Communal cooking and dining facilities in a rooming house are prohibited.
  - (3) Access doors to rooming units shall have operating locks to ensure privacy.
- D. Unless exempted by the Codes Enforcement Officer in writing, the operator of every rental property rooming house shall change supplied bed linen and towels therein at least once a week and prior to the letting of any room to any occupant, and the operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.
- E. Structurally sound handrails shall be provided on any steps containing three risers or more. If steps are not enclosed, handrails and balusters spaced no more than six inches apart shall be provided. Porches and/or balconies located more than three feet higher than the adjacent areas shall have structurally sound protective handrails 30 inches to 36 inches high, and, if unenclosed, balusters spaced no more than six inches apart shall also be provided.

**§ 151-10. Inspections; enforcement.**

- A. The Codes Enforcement Officer is hereby authorized and directed to inspect rental property rooming houses and all other rental properties subject to the provisions of this chapter.
- B. The Codes Enforcement Officer shall inspect each rental property in the Borough to determine compliance with this chapter once every two years pursuant to a reasonable schedule to be established by such officer, or in response to a complaint that an alleged violation of the provisions of this chapter or of applicable rules or regulations pursuant thereto has been committed, or when the Codes Enforcement Officer has valid reason to believe that a violation of this chapter or any rules and regulations pursuant thereto has been committed. **[Amended 2-11-2002 by Ord. No. 481]**
- C. The Codes Enforcement Officer is authorized and directed to make inspections at any reasonable hour to determine compliance with this chapter. For this purpose, the Codes Enforcement Officer is authorized to enter and examine any rental property or rooming house, yard or part, or either, and every owner, operator, occupant or agent shall give the Codes Enforcement Officer free access to it. Inspection may be postponed and/or rescheduled due to illness or other emergency or unforeseen circumstance.
- D. The Codes Enforcement Officer is hereby authorized to inspect the premises surrounding dwellings, dwelling units, rooming houses, rooming units and dormitory rooms subject to this chapter for the purpose of determining whether there is compliance with its provisions.
- E. The Codes Enforcement Officer and the owner or occupant or other person in charge of a dwelling, dwelling unit, rooming house, rooming unit or dormitory subject to this chapter may agree to an inspection by appointment at a time other than the hours provided by

this chapter. The owner, agent or person in charge must be present at all times during the inspection.

- F. The owner or occupant or other person in charge of a rental property dwelling, dwelling unit, rooming house or dormitory room, upon presentation by the Codes Enforcement Officer of proper identification, shall give the Codes Enforcement Officer entry and free access to every part of the dwelling, dwelling unit, rooming house, dormitory room or to the premises surrounding any of these. Before making inspections within a contiguous area, the Codes Enforcement Officer shall first consult with organizations representative of property owners and other residents of such contiguous area, if any such organization exist.
- G. If any owner or occupant or other person in charge of a rental property dwelling, dwelling unit, rooming unit, dormitory room or a multiple dwelling or rooming house subject to the provisions of this chapter refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to every part of the structure or premises where inspection authorized by this chapter is sought, the Borough may seek, in a court of competent jurisdiction, an order that such owner or occupant or other person in charge cease and desist with such interference. If any owner or occupant or other person in charge of a rental property subject to the provisions of this chapter refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to any part of the dwelling unit or premises where inspection is authorized by this chapter is sought, the Codes Enforcement Officer and the Borough are authorized to seek in a court of competent jurisdiction an order that such person in charge cease and desist with such interference. Such person may also be liable for such fines and criminal penalties as set forth in other sections of this chapter.
- H. The Codes Enforcement Officer and the Borough shall have the authority to institute any action permitted by law to enforce the provisions of this chapter.
- I. Any inspection scheduled pursuant to any provision of this chapter may be canceled one time by contacting the Borough Office during normal business hours at least 72 hours in advance of the scheduled inspection. Failure to comply with these procedures for canceling, or canceling the inspection more than one time, will result in the imposition of a cancellation fee as set forth in § 151-22 of this chapter. [Added 2-24-2003 by Ord. No. 492]

#### **§ 151-11. Notification of transfer of ownership.**

Every person owning a rental property rooming house or other rental property shall give notice, in writing, to the Codes Enforcement Officer within 24 hours after having transferred or otherwise disposed of the legal control of any licensed rooming house or rental property. Such notice shall include the name and address of the person or persons succeeding to the ownership or control of such rooming house or rental property.

**§ 151-12. Keeping of records.**

Every owner or other person in charge of a rental property or rooming house shall keep or cause to be kept records of all request for repairs and complaints by tenants, which are related to the provisions of this chapter and to any applicable rules and regulations, and of all corrections made in response to such requests and complaints. Such records shall be made available by the owner or other person in charge to the Codes Enforcement Officer for inspection and copying upon demand. Such records shall be admissible in any administrative or judicial proceedings pursuant to the provisions of this chapter as prima facie evidence of the violation or the correction of violations of this chapter or applicable rules and regulations pursuant thereto.

**§ 151-13. Action upon finding violations.**

Whenever, upon inspection of the rental property or rooming house or of the records required to be kept by this chapter, the Codes Enforcement Officer finds that conditions or practices exist which are in violation of the provisions of this chapter or of any applicable rules and regulations pursuant thereto, the Codes Enforcement Officer or the Borough shall serve the owner or other person in charge with notice of such violation in a manner hereinafter provided. Such notice shall state that unless the violations cited are corrected within the time provided, the owner shall be subject to penalties provided by this chapter.

**§ 151-14. Registration required. [Amended 12-11-2006 by Ord. No. 543]**

Every person proposing to operate a rental property or rental property rooming house approved by the Borough for such purpose shall be required to register said rental property or rental property rooming house with the Borough of Dallastown. A registration fee is hereby imposed upon each rental property or rental property rooming house located in the Borough of Dallastown and shall be paid to the Borough of Dallastown by the owner thereof. If a rental property contains more than one dwelling unit, the registration fee is hereby imposed upon each such dwelling unit.

**§ 151-15. Rules and regulations.**

The Codes Enforcement Officer may propose for adoption by the Borough Council such rules and regulations, and revisions and amendments thereto, as are deemed appropriate for giving effect to the purpose of this chapter.

**§ 151-16. Notice of violation.**

- A. Whenever the Codes Enforcement Officer determines that any dwelling, dwelling unit or rooming house or the premises surrounding any of these fails to meet the requirements set forth in this chapter or in applicable rules and regulations issued pursuant hereto, such Officer or the Borough Manager or other Borough designee shall issue a notice setting forth the alleged failures and advising the owner or occupant or other person in charge that such failures must be corrected. This notice shall:

- (1) Be in writing.
  - (2) Set forth the alleged violations of this chapter or of applicable rules and regulations issued pursuant thereto.
  - (3) Describe the dwelling, dwelling unit, rooming unit or premises where the violation is alleged to exist or to have been committed.
  - (4) Provide a reasonable time for the correction of any violation alleged. The time for compliance shall take into consideration the seriousness of the violation and the climatic conditions. The Codes Enforcement Officer or the Borough Manager may, in his or her sole and absolute discretion, give one additional extension of time, provided that the property owner is exercising due diligence and the inability to make the correction is through no fault of the property owner.
  - (5) Be served upon the owner or occupant or other person in charge of the dwelling, dwelling unit, rooming unit or premises personally, or by certified mail, return receipt requested, addressed to the last known place of residence of the owner or occupant or other person in charge. If one or more persons to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such persons by posting a notice in or about the dwelling, dwelling unit, rooming unit or premises described in the notice or by causing such notice to be published in a newspaper for three consecutive days.
  - (6) Be served upon a resident agent for the receipt of such service of notice designated pursuant to this chapter.
- B. All rental property dwellings, dwelling units, rooming house, rooming units, dormitory rooms must register at the Borough Office each year between January 1 and January 31. All owners or legal controlling persons must comply with registration providing name of occupant, roomers or person living with the dwelling, dwelling unit, rooming unit or dormitory, and provide the names and address of owner along with other needed information.
- C. At the end of the period of time allowed for the correction of any violation alleged, the Codes Enforcement Officer shall reinspect the dwelling, dwelling unit, rooming unit or premises described in the notice.
- D. Designation of unfitness.
- (1) Whenever the Codes Enforcement Officer finds that any dwelling, dwelling unit or rooming unit constitutes a serious hazard to the health and safety of the occupants or the public because it is dilapidated, unsanitary, vermin-infested or lacking in the facilities and equipment required by this chapter and any amendments thereto, the Codes Enforcement Officer or the Borough Manager shall designate such dwelling as unfit for human habitation. Such designation shall be posted on the dwelling or dwelling unit and shall specify the reason or reasons. It shall be unlawful for any person other than the Codes Enforcement Officer to remove such notice.
  - (2) Any dwelling or dwelling unit so designated as unfit for human habitation shall be vacated within 24 hours and shall not again be used for human habitation until the

conditions have been eliminated and the Codes Enforcement Officer or the Borough Manager has removed the designation and given written approval for occupancy.

- (3) Any person aggrieved by a designation of unfitness for human habitation may appeal to the Building Appeals Board, as provided in this chapter.

#### **§ 151-17. Effect on other regulations.**

The building regulations of the Department of Labor and Industry of the Commonwealth of Pennsylvania for the protection from fire and panic shall take precedence over the provisions of this chapter where they are applicable and more stringent. All other regulations of the Borough shall be complied with where they are applicable.

#### **§ 151-18. Fees and charges. [Amended 12-11-2006 by Ord. No. 543]**

All fees and charges due under this chapter that remain unpaid for 30 days may be recovered by the Borough as other debts due the Borough are now by law recovered, together with attorneys' fees, and shall constitute a municipal claim against the property for which the fee was charged.

#### **§ 151-19. Violations and penalties.**

Any owner or occupant or other person in charge of a rental property who has received notice of a violation of this chapter and fails to take the necessary corrective action shall, upon conviction thereof, be sentenced to pay a fine of not less than \$50 nor more than \$1,000 together with the costs of prosecution and, in default thereof, be sentenced to imprisonment in the York County Prison for a period of not more than 30 days. Each day of continued violation shall constitute a separate offense.

#### **§ 151-20. Appeals.**

- A. Any person aggrieved by a determination of violation issued by the Codes Enforcement Officer, Borough Manager or other Borough designee may appeal the determination to the Building Appeals Board on an appeal form which may be obtained from the Codes Enforcement Officer or the Borough Manager.
- B. The appeal must be filed with the Borough Manager not later than 15 days after the date of the determination of violation.
- C. An appeal fee shall be paid by the appellant at the time the appeal is filed. The amount of the appeal fee hereby imposed may be set by the Borough Council by resolution from time to time. In the event the appeal is successful, for reasons other than the grant of an extension of time for compliance, the appeal fee shall be refunded to the appellant.
- D. The Building Appeals Board shall meet to hear the appeal not later than 45 days after the appeal is filed. Notice of the time and date and place of the hearing shall be sent by

ordinary mail to the appellant or the appellant's attorney of record not less than 10 days prior to the date and time of the hearing.

**§ 151-21. Building Appeals Board.**

- A. A Building Appeals Board is hereby established to hear and determine appeals filed under this chapter. The Building Appeals Board shall consist of three members who shall be residents of the Borough of Dallastown. The Borough Council shall appoint the members of the Building Appeals Board, and may also appoint one alternate member for the Board. The term of office for the members and alternate member of the Building Appeals Board shall be three years, which terms shall run from January 1 to December 31, of the applicable years; except for the initial Building Appeals Board which shall have one of its regular members appointed for one year, one of its regular members appointed for two years, and one of its regular members appointed for three years. After the appointment of the initial members of the Building Appeals Board, the terms of all subsequent members of the Building Appeals Board shall be staggered so that each will end in a different year. If the Borough Council appoints an alternate member of the Board, such alternate member may act as a member of the Building Appeals Board only where a regular member of the Board is absent.
- B. The Building Appeals Board may establish such rules and regulations to regulate the conduct of its hearings as it may deem appropriate. The Board shall elect from its members a Chairperson, Vice-Chairperson and Secretary annually.
- C. The burden of proof shall be on the Codes Enforcement Officer to establish a violation of this chapter. The determination of the Codes Enforcement Officer shall be affirmed if supported by substantial evidence. Formal rules of evidence shall not apply so long as the decision of the Building Appeals Board is based on reliable information, but the decision of the Building Appeals Board may not be based solely on hearsay evidence.

**§ 151-22. Fees. [Amended 2-24-2003 by Ord. No. 492; 12-11-2006 by Ord. No. 543]**

- A. The registration fee imposed by this chapter shall be commensurate with the average of the expenses incurred by the Borough in connection with registering and inspecting properties under this Rental Properties Maintenance and Housing Occupancy Ordinance of the Borough of Dallastown and all other administrative matters associated with this chapter.
- B. A cancellation fee is hereby imposed in and for the following occurrences: canceling any inspection more than one time where such inspection has been scheduled in accordance with this chapter and canceling any scheduled inspection without following the procedures set forth in § 151-10I of this chapter.
- C. A follow-up inspection fee is hereby imposed for each inspection subsequent to the initial biannual inspection of a rental unit or rental property rooming house where the initial inspection thereof under this chapter failed.

- D. The amount of the registration fee imposed by this chapter shall be at the annual rate of \$50, payable by January 31 of each year or within 30 days after a property becomes a rental property, without proration, whichever first occurs. The amount of the cancellation fee imposed by this chapter shall be \$25 for each cancellation as defined herein. The amount of the follow-up inspection fee imposed by this chapter shall be \$25 for each such follow-up inspection. The rate of these fees may be amended and set from time to time by resolution of the Council of the Borough of Dallastown.

**§ 151-23. (Reserved) <sup>2</sup>**

**§ 151-24. Conflict with other provisions.**

In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire safety or health ordinance or code of the Borough existing on the effective date of the ordinance, the provision which establishes a higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where provision of this chapter is found to be in conflict with provision of any other ordinance or code of the Borough existing on the effective date of this chapter which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this chapter shall prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this chapter.

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2. Editor's Note: Former § 151-23, Mandatory inspection upon change of tenant, was removed per the Borough's request. Ordinance No. 481, adopted 2-11-2002, amended § 151-10B to provide for revised inspection regulations.