

Chapter 161
RENTAL HOUSING

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[HISTORY: Adopted by the Mayor and Council of the Town of Manchester 5-10-2005 by Ord. No. 159 (Ch. 73 of the 1979 Code). Amendments noted where applicable.]

GENERAL REFERENCES

County legislation — See Ch. 7.
Disorderly house nuisances — See Ch. 81.
Nuisances — See Ch. 122.

Property maintenance — See Ch. 147.
Garbage, rubbish and refuse — See Ch. 188, Art. I.
Zoning — See Ch. 250.

ARTICLE I
Licensing and Regulation

§ 161-1. 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.

§ 161-2. 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:

DWELLING UNIT — A building or portion thereof, arranged or designed for use of occupancy by not more than one family, which contains cooking, eating, sanitation and sleeping facilities.

INSPECTION — An examination of rental housing or any part thereof as the Town 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 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 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 —

- A. 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.
- B. "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, which the owner or operator thereof provides for a consideration one or more dwelling units. "Rental housing" includes rooming houses, multiple-family dwelling units, single-family 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.

REPRESENTATIVE —

- A. A person authorized to do the following on behalf of the landlord/owner:

- (1) Make, contract for, and authorize necessary repairs to the rental housing;
- (2) Comply with the orders, notices and requests of the Town representatives and the Board of Rental Housing Appeals;
- (3) 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.

B. The representative may, but need not be, the operator of the rental housing.

SINGLE-FAMILY DWELLING — A building containing not more than one 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 — The Town of Manchester or any employee, department, officer or agency of the Town designated by the Mayor and Town Council to carry out the duties and responsibilities ascribed to the Town under this chapter.

VIOLATION — Any condition in rental housing which violates this chapter or any other section of the Town Code of Manchester 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.

§ 161-3. 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.

§ 161-4. 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 general public law, state law shall prevail.

§ 161-5. Rental housing license.

- A. It shall be unlawful to conduct or operate rental housing within the Town without having first obtained a license to operate or conduct such rental housing. It shall be unlawful to operate rental housing within the Town 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 license. Rental of rooms that do not meet the standards of a dwelling unit do not require a multiple-family dwelling license.

§ 161-6. 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 and necessary to cover the additional administrative costs associated with administering this chapter.
- 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 50 miles outside the Town limits shall have a representative as defined herein, who shall reside within 50 miles of the Town and shall certify to the Town the name, address and telephone number of such representative and shall keep such information current.

§ 161-7. Inspections.

Rental housing shall be inspected upon receipt of a complaint or as deemed necessary by the Town to enforce this chapter. Any person may make a complaint about the condition of a rental property.

§ 161-8. Licenses for existing rental housing owners and/or representatives.

- A. Upon enactment of this chapter, existing owners and/or representatives of rental housing within the Town shall apply for a rental housing license within 90 days of enactment. The owner of any property converted to rental housing after the enactment of this chapter shall apply for a rental housing license within 30 days of such conversion.
- B. Upon approval of an initial application by the Town, a rental housing license will be issued. Conditions of approval shall include appropriate zoning or a conditional use granted by the Manchester Board of Zoning Appeals and other conditions as determined by the Board of Rental Housing Appeals.

§ 161-9. 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.

§ 161-10. Display of license.

The person to whom the rental housing license is issued shall display it in the lobby, vestibule, rental office or other prominent public place on the premises for which the license is issued during the entire period it is in effect. A telephone number where the operator or representative thereof may be reached at all times shall be included on the license. In the case of a single-family dwelling, it is sufficient if a copy of the license is provided to the tenant.

§ 161-11. Operation of rental housing without license.¹

Operation of rental housing without a rental housing license shall be punishable as provided in § 161-14. Each day and each dwelling unit shall constitute a separate occurrence.

§ 161-12. Transferability of license.

- A. In the event the holder of a license transfers ownership of the real property which is the subject of the license or shall change his address, the holder shall notify the Town within 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 representative.

§ 161-13. Obligation to maintain rental housing and provide services.

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:

- A. 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;
- B. Keeping all areas of the building, grounds, facilities and appurtenances in a clean, sanitary and safe condition or assuring that the tenant does so if provision is made for tenant responsibility thereof by the lease, law, ordinance, or regulation;

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- C. 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;
- D. 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;
- E. All buildings, grounds, facilities and appurtenances must 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 by one nail and hanging crooked), anything painted must be not be chipping, porch rails must be in their proper/intended position, fences should be upright, intact, and not rusting, etc.

§ 161-14. Violations and penalties; enforcement.

- A. Failure to comply with the provisions of this chapter shall be a violation, and each day shall constitute a separate occurrence. A violation of any provision of this chapter shall constitute a municipal infraction subject to a fine of up to \$100. No penalty shall be imposed for that period of time when an alleged violation is the subject of an investigation or before the Board of Rental Housing Appeals, or when the violation is the subject of an order which is complied with or when a good faith effort is made to correct the violation or comply with an order.
- B. A rental housing license may be revoked or suspended and a renewal may be denied at any time by the Town if the landlord, after 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.
- C. In the event that a license is revoked or suspended or any application for license renewal is denied, the landlord shall give any tenants occupying the premises in question 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.

§ 161-15. Ceasing operations in lieu of compliance.

Where a person, rather than comply with an order of the Town or Board of Rental Housing Appeals, chooses to cease to conduct or operate rental housing, he shall give any tenant occupying the premises in question 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-day period that tenants have to vacate the facility, provided that the holder of the license to conduct or operate the rental housing relinquishes it and submits it to the Town.

ARTICLE II
Administrative Appeals

§ 161-16. Overview.

- A. Any person aggrieved by an action of the Town under the provisions of this chapter may, within 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 unless the action is stayed by order of the Board for good cause shown.
- B. Within 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 or regulations, the Board or Board panel shall by order, within 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 for Carroll County, however, this appeal shall not stay any findings, opinions or orders of the Board.

§ 161-17. Creation and membership of Board of Rental Housing Appeals.

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

§ 161-18. Powers of Board.

- A. The Board shall have the power 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.

§ 161-19. 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, the Board may request testimony at its hearings for purposes of securing technical aid or factual evidence from any Town or 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.

§ 161-20. Appeals.

An appeal to the Board may be taken by any person aggrieved by an administrative official of the Town in the enforcement of this chapter of the Town Code. Such appeal shall be taken within 30 days after the decision by filing with the Town and with the Board a notice of appeal, specifying the grounds thereof. The Town shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken.

§ 161-21. Actions preparatory to hearing.

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

- A. The Board shall fix a reasonable time for a hearing of the application on appeal.
- B. Notice of the hearing shall be advertised at least once in a newspaper having general circulation in the Town of Manchester and such advertisement shall be made at least 20 days prior to such hearings.
- C. Property at issue shall be posted conspicuously by a zoning notice, no less in size than 22 inches by 28 inches, at least 14 days before the date of the hearing.
- D. Notification by certified mail shall be made to the appellant or petitioner and to the owners of those properties and the addresses certified on the notice of appeal by the appellant or petitioner as being contiguous to the property with which the hearing is concerned.
- E. The Board, upon application in writing by any interested party filed with the Town no less than 10 days prior to the date of scheduled hearing, shall visit the specific property involved prior to the hearing. The Board, in its discretion, may otherwise visit the specific property prior to or after the hearing.

§ 161-22. 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.

§ 161-23. Decisions; appeal to Circuit Court.

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.

§ 161-24. Fees.

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 Manchester.