

**BOROUGH OF NEW CUMBERLAND
CUMBERLAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. 689 of 2017

**AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF
NEW CUMBERLAND, CUMBERLAND COUNTY, PENNSYLVANIA, ADOPTING
A RESIDENTIAL RENTAL DWELLING UNIT INSPECTION ORDINANCE.**

BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of New Cumberland, Cumberland County, Pennsylvania, and it is hereby enacted and ordained by the Authority of the same as follows:

Section 1. Legislative Findings. The Borough has determined non-owner-occupied dwellings or Residential Rental Dwelling Units are sometimes maintained at a standard significantly less than Owner-occupied dwelling units and that such failure to maintain those Residential Rental Dwelling Units can and does result in dwelling units which are unsafe, unsanitary and, in many instances, not maintained to the minimum standards required by the various applicable codes and laws in effect in the Borough of New Cumberland. Therefore, the New Cumberland Borough Council determines it to be desirable in the public interest to enact the following provisions providing for the regular and systematic inspection of non-owner occupied dwellings or Residential Rental Dwelling Units to insure their continued compliance with applicable Borough Codes.

Section 2. Housing and Neighborhoods. The majority of New Cumberland Borough's residential housing are over fifty (50) years old; a number of individual, Owner-occupied housing units have been converted to multiple, non-owner-occupied or rental dwelling units; and the number of non-owner occupied dwelling units has continued to increase while the number of Owner-occupied dwelling units has continued to decrease; the Borough therefore seeks to develop an effective policy and program of enforcement on housing, building, and property maintenance.

Section 3. Short Title. This Ordinance shall be known and may be cited as The "Borough of New Cumberland Residential Rental Dwelling Unit Inspection Ordinance."

Section 4. Definitions. As used in this Ordinance, the following words shall have the following meanings, unless the context clearly indicates otherwise:

Borough: Borough of New Cumberland.

Code Enforcement Officer: The person or persons authorized by Borough Council to administer the Residential Dwelling Unit Inspection Ordinance Program and shall be referred to as the "CEO." This term shall also include the Borough Manager and any other designee as approved by action of the New Cumberland Borough Council, and may also include the Borough Zoning Officer and/or Building Code Official, as appointed, contracted or employed by the Borough from time to time.

Codes: All fire, building, property maintenance, electrical, and plumbing codes, and zoning, subdivision/land development, and other related building, development, property and safety ordinances and codes found in various Ordinances of the Borough of New Cumberland as adopted by the Borough Council from time to time, and any rules and regulations promulgated there-under.

Dwelling Unit: One or more rooms used for living and sleeping purposes and having a kitchen(s) with fixed cooking facilities, toilet and bathroom facilities and arranged for occupancy by not more than one family.

Immediate Family Member: The spouse, child, grandchild and parent of the Owner of a Dwelling Unit.

Inspection: Visual, non-destructive, observation of all accessible and non-hidden areas of the Residential Rental Dwelling Unit.

Owner: Any person, agent, operator, firm, corporation, partnership, limited liability company association, property managements group, or fiduciary having equal, equitable or other interest in any real property; or recorded in the official records of the 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 such person's estate. When used in this Ordinance in a clause proscribing any activity or imposing a penalty, the term, as applied to partnerships and limited liability companies, shall mean each partner/member, and as applied to corporations, the officers, and directors thereof.

Qualified Residential Rental Dwelling Unit: A Residential Rental Dwelling Unit which has been inspected and certified by the CEO – as complying with all the inspection requirements of this Ordinance and for which the annual fee has been paid.

Re-development: Conversion of an existing single family dwelling unit, detached or semi-detached dwelling, other buildings or portions thereof into a Residential Rental Dwelling Unit.

Residential Rental Dwelling Unit: A Residential Rental Dwelling Unit not occupied by the Owner thereof or Immediate Family Member. There shall be excluded from this definition - those dwelling units subject to a periodic inspection by a county, state or federal agency or authority at least once every thirty six (36) months providing the other agency applies standards substantially the same as or more thorough than the Borough Codes referenced in the definition of "Codes" above.

Residential Rental Dwelling Unit Inspection Checklist: The Borough Council, by Resolution, shall establish a Residential Rental Dwelling Inspection Checklist, which may be amended from time to time by Resolution of Borough Council, addressing matters which are standard items for every inspection of a Residential Rental Dwelling Unit.

Section 5. Registration. Every Owner of a Residential Rental Dwelling Unit must register the Dwelling Unit with the CEO within sixty (60) days after the effective date of this Ordinance in accordance with the following schedule:

A. All Owners of a Residential Rental Dwelling Unit must register each Residential Rental Dwelling Unit with the CEO within sixty (60) days after the effective date of this Ordinance.

B. Any individual, entity or firm which converts any structure to a Residential Rental Dwelling Unit or Units shall register each Residential Rental Dwelling Unit with the CEO of the Borough of New Cumberland within thirty (30) days of the completion of the conversion or within thirty (30) days of the time when any rent, including the exchange of other services for the Residential Rental Dwelling Unit, is obtained or within thirty (30) days of the date within which a tenant or tenants occupies the Residential Rental Dwelling Unit, whichever time period is sooner.

C. It shall be the responsibility of the purchaser and the purchaser's agent in the purchase of the said real estate to notify the Borough within seventy-two (72) hours of any purchase or transfer of a Rental Residential Dwelling Unit.

D. Registration information shall be provided by all Owners and shall include the following:

- (1) Owner name, address, telephone number.
- (2) Local manager name, address, telephone number (an emergency contact person).
- (3) Property address and number of units.
- (4) Maximum occupancy per unit.
- (5) Emergency telephone number.
- (6) Actual number of occupants.
- (7) Names and addresses of current tenants.

E. The Owner of a Residential Rental Dwelling Unit must update the registration information on record with the CEO within thirty (30) days of any changes of the information set forth below.

F. Any Owner of a Residential Rental Dwelling Unit shall notify the Borough of New Cumberland at the New Cumberland Borough Office within thirty (30) days of a new tenant occupying, renting or residing in the Owner's Residential Rental Dwelling Unit.

G. Notwithstanding any other provisions of this Ordinance, the names and addresses of a tenant shall not be disclosed by any Borough personnel in the event that the tenant is the subject of a court order requiring that this information be kept confidential.

Section 6. Inspection. Except as provided in this Ordinance, it shall be unlawful to occupy or permit persons to occupy any building or property with a Residential Rental Dwelling Unit which has not been properly inspected and certified as a Qualified Residential Rental Dwelling Unit pursuant to the provisions of this Ordinance. Notwithstanding the foregoing, during the initial phase-in period of the Residential Rental Dwelling Unit inspection program contemplated hereby, no building, property, and Residential Rental Dwelling Unit shall be considered out of compliance with the inspection requirements of this Ordinance until after the initial Residential Rental Dwelling Unit inspection has been concluded and the Residential Rental Dwelling Unit has been properly certified. However, payment of the annual administration fee shall be required if the building or property is to be rented for residential purposes. Except as provided in Subsection D of this section, the requirements for periodic inspections shall be as follows:

A. Each Residential Rental Dwelling Unit shall be inspected by the CEO at least one time in every thirty-six (36) month period and for such purpose and for any re-inspection required hereunder, the

Owner shall provide complete access to the Property to the CEO. A Dwelling Unit where inspection access is denied will not be deemed a Qualified Residential Rental Dwelling Unit until inspection access is provided and the inspection or re-inspection concluded to the satisfaction of the CEO.

B. The inspection shall include the exterior and interior of the Residential Rental Dwelling Unit.

C. For the purpose of enforcing this Ordinance, the CEO may seek an administrative search warrant issued by a competent authority, in accordance with applicable legal standards, for the purpose of compelling access and inspection of a Residential Rental Dwelling Unit. If access for inspection and re-inspection is not provided, the CEO shall deem the unit is not a Qualified Residential Rental Dwelling Unit.

D. If a building or property contains Residential Rental Dwelling Units and the Owner of the Dwelling Unit has received a certificate of use and/or occupancy for new construction under any other Borough Code, or Ordinance, the Owner of said building or property shall not be required to schedule an inspection of such new construction pursuant to this Ordinance until the expiration of thirty-six (36) months from the date of the initial issuance of said certificate of occupancy.

E. The Residential Rental Dwelling Unit inspections, required by this Ordinance, shall not be applicable to any hotel, motel, or bed and breakfast facility which advertises a weekly or monthly rate. No inspection under this Ordinance shall be required of hotels, motels, or bread and breakfasts principally providing overnight lodging for compensation to guests.

Section 7. Certificate of Compliance. The CEO will issue a Certificate of Compliance with this Ordinance upon the occurrence of the events defined in Items A and B of this Section 7. Issuance of a Certificate of Compliance shall represent compliance with the requirements of this Ordinance but shall not denote compliance with any other Code nor any standard of safety. The CEO will issue a Certificate of Compliance upon the occurrence of the following events:

A. The inspection of the Residential Rental Dwelling Unit by the CEO does not note any violations of the Codes referenced in the definition of "Codes" above and meets all requirements contained in the Residential Rental Dwelling Unit Inspection Checklist attached hereto as Attachment 1; or

B. The inspection of the Residential Rental Dwelling Units by the CEO violations were noted; however, upon subsequent re-inspection the violations were corrected.

Section 8. Notice of Code Violation. If the inspection of a Residential Rental Dwelling Unit discloses Code violation(s) or does not meet the requirements of the Residential Rental Dwelling Unit Inspection Checklist, the CEO shall issue a notice of violation. The Notice of Code Violation(s) shall set forth the following data:

A. The street address or appropriate description of the subject property, building, or Residential Rental Dwelling Unit.

B. The date of the inspection;

C. The identity of the inspector;

D. A list of Code and/or checklist deficiencies with specific sections of the Code and/or checklist;

E. The number of days in which the Owner is to accomplish corrections;

- F. and/or otherwise eliminate the deficiencies noted in the codes; and
- G. If defects are not corrected within the time specified in the notice of violations, the tenant and/or the Owner of the Residential Rental Dwelling Unit may be prosecuted and/or the Residential Rental Dwelling Unit may be placarded and noted as unfit for human occupancy. The Borough shall have the sole authority to institute prosecution proceedings under the terms of this Ordinance.

Section 9. Re-inspection.

- A. Upon the expiration of the time specified to accomplish the corrections or otherwise bring the premises into compliance with the Notice of Code Violation, or upon notice from the Owner the corrections have been accomplished or code deficiencies otherwise eliminated, the CEO or Qualified and Certified Independent Inspector, as the case may be, shall re-inspect the subject Residential Rental Dwelling Unit.
- B. In the event such re-inspection discloses the deficiencies were corrected, the CEO shall issue a certificate of compliance to the Owner or tenant in accordance with this Ordinance.
- C. In the event such re-inspection discloses that the Owner did not correct the deficiencies, the CEO may prosecute the Owner of the property, building, and Residential Rental Dwelling Unit using the fines and enforcement provisions provided in the Borough Property Maintenance Code or any other Ordinance of the Borough of New Cumberland.

Section 10. Inspection Fees.

- A. The Owner of a Residential Rental Dwelling Unit shall be billed tri-annually for the total program costs of the inspections proposed by this Ordinance. The Borough Council, by Resolution, shall establish the inspection fees from time to time and said fees shall remain in place until amended by subsequent resolution by Borough Council. Invoices for the inspection fee shall be mailed to the Owner for each Residential Rental Dwelling Unit before March 1 of each year. Payment of all invoices is due by July 1st, annually. Failure to pay the inspection fee may result in the issuance of a notice the Residential Rental Dwelling Unit is not a Qualified Residential Rental Dwelling Unit and may not be utilized as a Qualified Residential Rental Dwelling Unit until the fee is paid. Authorized fees shall include, but not be limited to, issuance of certificates of compliance, renewal of Certificate of Compliance, inspections, re-inspections and review of independent inspection reports.
- B. In the event violations of any of the Codes defined above, are found during the initial inspection of the Residential Rental Dwelling Unit, a fee may be charged for each re-inspection of the Residential Rental Dwelling Unit. Where the violation notice specifies times for correcting the violations, an additional inspection fee will be required for each re-inspection.

Section 11. Non-liability of Borough. The issuance of a Certificate of Compliance is not a representation by the Borough the Residential Rental Dwelling Unit inspected and/or the building in which it is located does not contain any violation of any of the codes, referenced in the definition of "Codes" above. The issuance of a certificate of compliance represents on the date of inspection, no material violations of any of said Codes were noted. Neither the enactment of this Ordinance nor the issuance of a certificate of compliance is a guarantee to any person that no code violations exist in the Residential Rental Dwelling Unit at that time or in the future. The Borough shall not be liable for any errors or omissions involved in the issuance of the certificate of compliance.

Section 12. Appeals. If the Owner or tenant of a Residential Rental Dwelling Unit has been cited by a decision of the CEO, the Owner, within thirty (30) days of the date of receipt of the Notice of Violation or the time fixed to correct the deficiencies, whichever first to occur, may appeal the decision to the Borough Council, or a committee appointed by Borough Council.

Section 13. Code Violations. Nothing in this Ordinance shall preclude or prohibit the CEO from inspecting any Residential Rental Dwelling Unit whether or not the particular Residential Rental Dwelling Unit is scheduled for periodic inspection. Such determination shall be in sole discretion of the CEO.

Section 14. Violations and Penalties.

A. The failure of any Owner to register the Residential Rental Dwelling Unit pursuant to Section 5 hereof or schedule an inspection or re-inspection as provided in this Ordinance shall result in the issuance of a notice to the Owner that the property is not a Qualified Residential Rental Dwelling Unit and it shall be unlawful for any person to occupy or let other persons occupy the Residential Rental Dwelling Unit in question until the Dwelling Unit becomes a Qualified Residential Rental Dwelling Unit.

B. Rental of a Dwelling Unit that is not a Qualified Residential Rental Dwelling Unit shall be a violation of this Ordinance and the Owner shall be subject to the penalties set forth in this Section 14 as well any other penalties permitted by law including the filing of an equity action by the Borough in the Court of Common Pleas of Cumberland County to enforce the provisions of this Ordinance. In such action, the property Owner shall be responsible for all costs and fees and attorney's fees incurred by the Borough in such a legal action.

C. Failure of any Owner to affect all corrections as provided for in this Ordinance shall be considered a violation of the Borough's Property Maintenance Code Ordinance and procedures and penalties prescribed therein shall be applicable.

D. The penalties for noncompliance with orders and notices of the CEO or the Borough Manager, and for any other violation of this Ordinance, shall include, but shall not be limited to, the provisions contained in this Section 14, including those set forth in this Section 14.D. Any Owner of a Residential Rental Dwelling Unit who shall violate any provision of this Ordinance shall, upon conviction, be sentenced to pay a fine of not less \$100.00 or more than \$1,000.00, plus costs of prosecution, and in default of payment of said fine and costs, said person may be subject to imprisonment up to thirty (30) days. Each day that a violation of this Ordinance continues shall constitute a separate offense. All fines collected for the violation of this Ordinance shall be paid over to the Borough of New Cumberland. An Owner shall include any person, firm, partner, member, director or officer of an Owner which can include, but shall not be limited to, a limited liability company, partnership, corporation or shareholder who shall be in violation or fail to adhere to the requirements of any provision of this Ordinance.

Section 15. State Law and Regulations. In all matters that are regulated by the laws of the Commonwealth of Pennsylvania or by regulations of departments or agencies of the Commonwealth of Pennsylvania and which laws or regulations are equal or greater than the standards contained in this Ordinance, then the former standards shall control in all cases.

Section 16. Regulation. The Borough may enact regulations concerning the administration of this Ordinance.

Section 17. Severability. If any sentence, clause, section or part of this Ordinance is found to be unconstitutional, illegal or invalid, such action shall not affect or impair any of the remaining provisions of this Ordinance.

Section 18. Repealer. All Ordinances or parts of Ordinances that are inconsistent herewith are repealed.

Section 19. Saving Clause. Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court; or affect any rights, or any cause of action, nor shall legal right or remedy be lost, impaired or affected by this Ordinance.

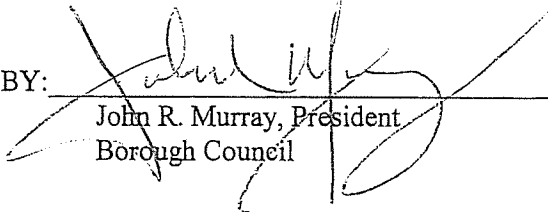
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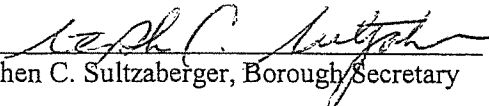
ENACTED AND ORDAINED by the Borough Council, the Borough of New Cumberland, Cumberland County, Pennsylvania, this 5th day of APRIL, 2017.

BOROUGH OF NEW CUMBERLAND

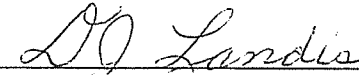
ATTEST:

BY:


John R. Murray, President
Borough Council


Stephen C. Sultzaberger, Borough Secretary

APPROVED this 5th day of APRIL, 2017, by Mayor of the Borough of New Cumberland, Cumberland County, Pennsylvania.


D. J. Landis, Mayor
Borough of New Cumberland

:807741

ATTACHMENT 1

BOROUGH OF NEW CUMBERLAND
RESIDENTIAL DWELLING UNIT INSPECTION CHECKLIST

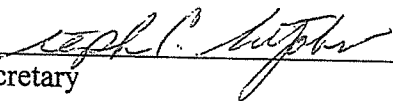
1. The following matters are standard items for every inspection of a Residential Rental Dwelling Unit and the Owner is advised to address each item preinspection in order to facilitate timely issuance of a Certificate of Compliance. Compliance with other Code provisions will be determined upon a case by case basis by the CEO.
 - A. Smoke detectors in operating order on every floor, including the basement and walk-up attics, with stairs. Smoke detectors shall be installed in each room used for sleeping purposes and on the ceiling or wall within five feet of each room used for sleeping purposes, in the hall or area used to access said rooms.
 - B. The Owner of a Dwelling Unit with a fossil fuel-burning heater or appliance, fireplace or an attached garage must ensure that operational and approved carbon monoxide alarms are located within five feet of the bedrooms and the heater or fireplace.
 - C. Handrails and guardrails shall be on all stairs exceeding three steps. Such handrails and guardrails shall be firmly fastened.
 - D. All doors must open from the inside without the use of key or special knowledge or effort.
 - E. The Property address must be posted outside and be clearly visible by emergency personnel and shall contrast with the background and be arabic numerals or alphabet letters a minimum of four inches in height and five inches in width.
 - F. Exterior and interior of the building: Structures and equipment must be properly maintained, i.e., foundation, beams and joists, wall finishes, floor membranes, roof, windows, gutters, downspouts, etc.
 - G. Kitchen: Sink with hot/cold running water; stove in safe working condition; floor in good repair.
 - H. Bathroom: All plumbing fixtures maintained in working order free from obstructions; leaks and defects; approved sewage disposal system; an openable window or operable ventilation system available. Every Dwelling Unit shall contain its own bathtub or shower, lavatory and water closet.
 - I. Thermal standards: Heating facilities properly installed and capable of heating all habitable rooms, including bathrooms, and maintaining a reasonable room temperature. Kerosene or portable propane heaters are not permitted.

- J. Electrical standards: Electric service available; properly installed and maintained as not to create a hazard as determined by the CEO.
 - K. General standards: Third floor units shall have two means of egress.
 - L. Common halls in multiple unit buildings shall be lit and have a smoke detector and an approved fire extinguisher.
2. This list includes standard items required for every inspection. The inspector is required to note all relevant Code violations, any and all of which may require correction before a Certificate of Compliance may be issued.

CERTIFICATE

I, the undersigned, Secretary of the Borough of New Cumberland, Cumberland County, Pennsylvania (the "Borough"), certify that: the foregoing is a true and correct copy of an Ordinance of the Council of the Borough of New Cumberland (the "Council"), which duly was enacted by affirmative vote of a majority of the members of the Council at a meeting held on April 5, 2017; being approved by the Mayor on April 5, 2017; said Ordinance duly has been recorded in the Ordinance Book of the Borough; said Ordinance duly has been published as required by law; and said Ordinance remains in effect, unaltered and unamended, as of the date of the Certificate.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Borough, this 5th day of April 2017.


Secretary _____ (SEAL)

**BOROUGH OF NEW CUMBERLAND
CUMBERLAND COUNTY, PENNSYLVANIA
RESOLUTION 01-2017**

A **RESOLUTION** of the Borough Council of the Borough of New Cumberland, Cumberland County, Pennsylvania, establishing fees for Residential Rental Dwelling Unit inspections.

WHEREAS, the Borough Council of the Borough of New Cumberland adopted Ordinance No. 689 of 2017 on March 1, 2017, establishing a Residential Rental Dwelling Unit Inspection Program; and

WHEREAS, Ordinance No. 689 of 2017 permits the Borough Council to establish, by Resolution, Inspection Fees to be charged to the owner of a Residential Rental Dwelling Unit; and


WHEREAS, the New Cumberland Borough Council now desires, to establish by Resolution, as permitted under the aforesaid Ordinance, the Inspection Fees that shall be charged to Residential Rental Dwelling Unit Owners.

NOW THEREFORE, BE IT RESOLVED, it is hereby resolved by the Borough Council of the Borough of New Cumberland, the following Inspection Fees shall be charged by the Borough:

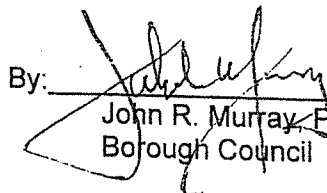
Tri-annual inspection fee:	\$75.00
Re-inspection fee:	\$25.00
Certificates of Compliance when Issued other than as part of a tri-annual inspection:	\$75.00
Review of independent inspection report	\$75.00

DULY ADOPTED AND RESOLVED by the Borough Council of the Borough of New Cumberland on this 7th day of June, 2017.

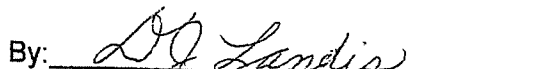
ATTEST:


Stephen C. Sultzaberger, Secretary

BOROUGH OF NEW CUMBERLAND

By: 
John R. Murray, President
Borough Council

APPROVED this 7th day of June, 2017.

By: 
D.J. Landis, Mayor