



TITLE #: 27
Ordinance #: 05-04-15-011

Date: 05-04-2015

ORDINANCE

for the Establishment of the Inspection and Maintenance of Rental Properties

DESCRIPTION: This Ordinance shall be known as the “Rental Inspection Ordinance”, as it defines the establishment of the policies, procedures, construction standards, codes and administration for the inspection and maintenance of residential rental properties, within the corporate limits of the Town of Cheswold.

Section 1. PURPOSE

It is the intent of the Town of Cheswold to provide rental residents within the Town, the right and opportunity to inhabit environmentally and physically, clean, safe and healthy living conditions within and immediately surrounding their rental property, through the inspection of those properties and by establishing and ensuring adherence to rules, regulations, processes, policies, fines, penalties, violations and procedures for the maintenance of such properties.

It is additionally the intent of the Town of Cheswold to assist property owners of rental properties and surrounding properties the right and opportunity to maintain and reside in an environment as free of criminal activity as possible, by establishing and enforcing fines, penalties and violations conducted on or in rental properties with or without the knowledge of the property owner.

The health, safety and welfare of the occupants of leased/rented dwellings are of the utmost importance to the Town, as are the neighborhoods in which these dwellings are located.

Section 2. AUTHORITY TO ACT

Section 4.2.25 of the Town Charter of the Town of Cheswold provides that the Town Council may provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants and additionally provides in Section 4.2.48 that the Town Council may make, adopt, and establish, alter and amend all such Ordinances, Regulations, Rules and By-Laws, not contrary to the laws of the State and the United States, as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State generally relating to municipal corporations or which they may deem proper and necessary for the order, protection and good government of the Town, the protection and preservation of persons and property, and of the public health and welfare of the Town and its inhabitants.....

Section 3. APPLICABILITY

The policies, procedures, and administration of this Ordinance shall apply to all persons leasing residential properties, for any length of time and receiving payment in return for such lease.

Where applicable, it shall also apply to all tenants and occupants of leased/rented properties, whether legal occupants of the leased property or not.

Section 4. DEFINITIONS

As used in this Ordinance, the following terms and words shall have the following meaning/s:

- 4.1 Authorized Agent** – is the person or company that has been given permission by the property owner to perform on his or her behalf. An Authorized Agent must be available on a twenty-four-hours, (24), seven, (7) day a week basis. An Authorized Agent will be considered to be authorized to accept service for any landlord of any inquiry, notice, complaint or violation regarding rental unit's health, safety and/or condition. Identification of an Authorized Agent must be submitted to the Town of Cheswold by notarized documentation from the property owner of record. An Authorized Agent is not required to be a Registered Agent. However, a Registered Agent must be an Authorized Agent.
- 4.2 Building Inspector** – is the person employed by the Town of Cheswold with the responsibility for reviewing construction plans; ensuring compliance with the Land Use Ordinance and Comprehensive Plan of the Town; ensuring compliance with State and Federal building and land use requirements and administering the policies and procedures of the Department of Public Works of the Town of Cheswold. Until such time as the Town of Cheswold determines that a change is warranted, the position of Building Inspector and Code Enforcement Officer shall be held by the same person.
- 4.3 Code Enforcement Officer** – is the person employed by the Town of Cheswold to enforce this Ordinance and with the responsibility for the prevention, detection, investigation and administration of violations of Ordinances regulating public health, safety, and welfare, public works, business activities and consumer protection, building standards, land use and designated municipal affairs. Until such time as a change is warranted, as the Town of Cheswold determines that a change is warranted, the position of Building Inspector and Code Enforcement Officer shall be held by the same person.
- 4.4 Commercial Lodging Facility** – is a building or portion thereof, intended as a temporary residence, that contains sleeping and sanitary facilities and may contain cooking facilities, whose use is paid by others for the profit of the owner, lessee or licensee.
- 4.5 Dwelling Unit** – a building or portion of a building used as a single unit as a place of residence, containing complete independent living facilities for sleeping, cooking and sanitation, excluding commercial lodging facilities.

Section 4. DEFINITIONS – “continued”

- 4.6 Landlord** – is the owner, lessor, sub-lessor or authorized agent of a rental unit, or any person authorized to exercise any management of a rental unit, including any person who is authorized to receive any rent or any part of the rent, other than as a bona fide purchaser, and who has no obligation to deliver any portion of that rent to another unless acting as a paid agent and so directed by the owner.
- 4.7 Lease** – a contractual agreement between a tenant and a, or authorized agent of an owner, to rent a dwelling unit in return for financial compensation to the owner for a designated amount; period of time and contract requirements as applicable.
- 4.8 License** – the written document certified by the Town of Cheswold Public Works Department designated representative, that the holder is authorized to rent/lease a particular dwelling unit within the corporate limits of the Town of Cheswold.
- 4.9 Licensee** – the owner or authorized agent to whom a license has been granted.
- 4.10 Licensor** – the designated representative of the Town of Cheswold Public Works Department or Town Administrator.
- 4.11 Multiple-Family Dwellings** – dwelling units operated as a group, and located in the same building. This shall include:
- 4.11.a.** Apartments
 - 4.11.b.** Rooming/Houses
 - 4.11.c.** Condominium Dwelling Units
 - 4.11.d.** Accessory Apartments located within structures principally used for owner occupancy.
- 4.12 Occupant** – the tenant with whom a lease agreement is in force with the owner of the dwelling unit.
- 4.13 Owner** – any person, agent, operator, firm or corporation having a legal or equitable interest in a property; or is recorded in the official records of the State of Delaware, Kent County, or the Town of Cheswold, as holding title to a 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.

Section 4. DEFINITIONS – “continued”

- 4.14 Owner Occupied** – a dwelling unit that is occupied in whole or in part by an individual whose name specifically appears on the deed for the property where the dwelling unit is located.
- 4.15 Person** – any individual, or any natural or legal entity, such as but not limited to corporations, partnerships, limited liable companies or any other group acting as an unit.
- 4.16 Premises** – a lot, plot, or parcel of land, including the buildings or structures thereon.
- 4.17 Public Works Department**– the department of the Town of Cheswold charged with administering the rules, regulations, processes and procedures associated with this Ordinance.
- 4.18 Registered Agent** – person or company performing as an Authorized Agent and has been properly registered as such with the Public Works Department of the Town of Cheswold. They will then be known as the Registered Agent. A Registered Agent must be available in the State of Delaware, or within a fifty, (50), mile radius of the incorporated Town of Cheswold, on a twenty-four, (24), hour a day; seven days a week basis to accept service for any landlord of any inquiry, notice, complaint or violation regarding the condition of a rental unit.
- 4.19 Registration Form, Rental Property** – an application, PW 05-04-15-014, provided by the Town of Cheswold Public Works Department that must be completed for each rental unit that is subject to regulation pursuant to this Ordinance.
- 4.20 Rental Dwelling Unit** – that portion of any house, dwelling unit, dwelling place, building or structure which is occupied, rented, or leased as the home or residence of one or more persons to the exclusions of all others, in exchange for monetary payment or provision of goods or services to the owner of the dwelling unit.
- 4.21 Single Family Dwelling** – dwelling units operated singly, and separated from other units. In general, this definition shall apply to single family detached dwellings, including mobile, manufactured and modular homes, and attached units including duplexes, and townhouses.
- 4.24 Sub-Lessor** – a person, agent, corporation or entity given authority by the owner/lessor to perform the duties of such person, agent, corporation or owner.

Section 4. DEFINITIONS – “continued”

4.25 Tenant – a person, corporation, partnership or group, whether or not the legal owner of record, who occupies a building or portion thereof as a unit.

Section 5. INSPECTION REQUIREMENTS

All residential rental properties, shall be inspected and comply with the standards and provisions of this Ordinance, the properly adopted International Property Maintenance Code, and all other applicable statues, codes and Ordinances of the Town of Cheswold, State of Delaware and the Office of the State Fire Marshal.

5.1 The Public Works Department of the Town of Cheswold, in accordance with the procedures outlined in this Ordinance shall inspect all residential rental dwellings for compliance with this Ordinance, the current approved International Property Maintenance Code, and all other applicable codes, statues and Ordinances.

5.2 Following an inspection, the Public Works Department shall issue a report, (which may be in letter form), of any code violation/s and provide a timeline for property owner compliance.

5.3 There shall be no fee for the first follow-up inspection.

5.4 Each subsequent re-inspection shall be subject to the fee/fine as provided in form PW 05-04-15-016.

Section 6. TENANT REGISTRATION

6.1 Existing Rentals – Any property owner, authorized agent, or landlord engaged in renting/leasing residential property within the corporate limits of the Town of Cheswold must complete and submit Form # 05-04-15-014, Tenant Registration Form, to the Department of Public Works **within one-hundred, (120), days** of approval of this Ordinance. Failure to do so will result in the assessment of fines as specified in Section 8.

6.2 New Rentals - Any property owner/authorized agent/landlord engaged in renting or leasing residential property within the corporate limits of the Town of Cheswold must complete and submit Form # 05-04-15-014, Tenant Registration Form, to the Public Works Department within one-hundred twenty, (120), days of renting or leasing the dwelling unit. Failure to do so will result in the assessment of fines as specified in Section 8.

Section – 7. INSPECTIONS

A. General.

- 7.1 Except as provided in Sub-section C, all rental units are required to be inspected by the Public Works Department, at the change of each tenant.
- 7.2 All rental dwelling units must comply with this Ordinance, the current approved International Property Maintenance Code, and all other applicable codes, statues, and Ordinances of the Town of Cheswold, the State of Delaware and the Office of the Fire Marshal.
- 7.3 If the first inspection complies as specified in Section 7.2 above, the Public Works Department will issue a passing Housing Code Inspection Report.
- 7.4 If inspection is not satisfactory, one (1) re-inspection will be allowed at no charge for compliance. All further re-inspections will be charged as a new inspection fee.

B. Complaints.

- 7.5 If a complaint is filed with the Town and it is determined by the Public Works Department that rental unit was in violation of this Ordinance, the current approved International Property Maintenance Code or any other applicable code, statue or Ordinances of the Town of Cheswold, the State of Delaware and the Office of the Fire Marshal, the unit will be considered non-compliant and there will be an inspection fee assessed to the owner or authorized agent of the rental unit.

C. Exemptions.

- 7.6 New rental units that have been issued a certificate of occupancy from the Public Works Department for newly constructed building(s) or a newly renovated building(s) shall be exempt from the rental inspection for six (6) months from the date of issuance. All rental units must comply with this Ordinance.
- 7.7 Rental inspections are good for six (6) months from the date of a passed inspection; if the rental unit has not been occupied or altered within this time.
- 7.8 Nothing in this Sub-section shall preclude the inspection of said rental units pursuant Sub-section 7-D of this Ordinance.

Section – 7. INSPECTIONS – “continued”

D. Basis for Inspections.

Inspections may be made to obtain and maintain compliance with the standards of this Ordinance based upon one of the following:

- 7.9 A complaint received by the Public Works Department, the Town of Cheswold Police Department, the Town of Cheswold Fire Chief, or a State Agency, indicating that there is a violation of the standards or the provisions of any Ordinance or code adopted by the Town of Cheswold or any State code or State law;
- 7.10 An observation by the Public Works Department, the Cheswold Police Department, the Town of Cheswold Fire Chief, or a State Agency, of a violation of the standards or the provisions of any Ordinance or code adopted by the Town of Cheswold or any Sate code or State law;
- 7.11 A report or observation of a rental unit that is unoccupied and unsecured or a dwelling that has been damaged in any way, or is considered to be unsafe;
- 7.12 The registration, re-registration or certification of a rental unit as required by this Ordinance;
- 7.13 The need to determine compliance with a notice, violation, or an order issued by the Town;
- 7.14 An emergency observed or reasonably believed to exist or;
- 7.15 Requirements of law where a rental unit is to be demolished by the Town or where ownership is to be transferred to the Town.

E. Inspection Procedures.

- 7.16 Once the Public Works Department has determined that a rental unit complies with this Ordinance and the current approved International Property Maintenance Code or any other applicable code, statue or Ordinances of the Town of Cheswold, the State of Delaware or the Office of the Fire Marshal, a passed Housing Code Inspection Report shall be issued. The inspection shall then be valid for the period of time that the tenant occupies the premises. A new rental inspection is required at the change of each tenant.

Section – 7. INSPECTIONS – “continued”

E. Inspection Procedures.

- 7.17 If, upon completion of an inspection, the premises are found to be in violation of this Ordinance, the current approved International Property Maintenance Code or any other applicable code, statute or Ordinances of the Town of Cheswold, the State of Delaware or the Office of the Fire Marshal, then the Public Works Department shall provide the owner or authorized agent with verbal or written notice of all such violations. The Public Works Department shall schedule a date for re-inspection at which time all violations must be corrected. If it is determined by re-inspection all violations have been corrected, the Public Works Department will issue a passed Housing Code Inspection Report.
- 7.18 If all violations have not been corrected within the allotted time, the Public Works Department shall not issue a passed Housing Code Inspection Report and may revoke the rental registration, and or property owner Business License, and may take any action necessary to enforce compliance with the current approved International Property Maintenance Code or any other applicable code, statute or Ordinances of the Town of Cheswold, the State of Delaware or the Office of the Fire Marshal. Administrative penalties will be followed in accordance with Section 9.
- 7.19 When a re-inspection must be made to ensure conformity with this Ordinance before a passed Housing Code Inspection Report may be issued for those rental units that have been issued violation(s), the first re-inspection shall be included in the original fee. The Town will charge a separate inspection fee for every subsequent inspection if the violation(s) have not been corrected.
- 7.20 If a rental inspection is scheduled and the owner or authorized agent fails to appear, this will count as the first inspection, and the re-inspection will be the first included re-inspection. Any other inspections that are to be made to pass the rental inspection shall be charged a separate fee, and must be paid in full before scheduling another inspection.
- 7.21 If there is a complaint filed on a property with the Town of Cheswold, and the Public Works Department determines there is an inspection of the property needed, and the inspection of the property is needed, and the inspection of the property is conducted, the owner or authorized agent will be billed an inspection fee for this inspection. The owner or authorized agent will be notified either verbally or in writing of issues and violations pertaining to the rental property that have been found.

Section – 7. INSPECTIONS – “continued”

E. Inspection Procedures.

7.22 If the complaint is of an emergency nature, as determined by the Public Works Department, the Town of Cheswold Police Public Works Department, the Town of Cheswold Fire Chief or a State Agency it will require immediate compliance with all applicable Town Ordinances, codes, and State codes. If the complaint is not of an emergency nature, the Public Works Department shall set a re-inspection date by which such violation(s) must be corrected.

7.23 If a violation is not corrected by the property owner/authorized agent as required by this Ordinance, the Public Works Department may revoke the rental registration, or property Business License and may take any action necessary to enforce compliance with applicable Town Ordinances, statues, codes and State codes. Administrative penalties will be assessed in accordance with Section 9.

7.24 To ensure conformity with this Ordinance and with the current approved International Property Maintenance Code or any other applicable code, statue or Ordinances of the Town of Cheswold, the State of Delaware or the Office of the Fire Marshal, when a re-inspection must be made due to a complaint for those rental units that have been issued a violation(s), the first re-inspection shall be included in the original fee. The Town will charge a separate inspection fee for every subsequent inspection if the violation(s) have not been corrected.

7.25 If an inspection is initiated by a complaint and no violation is found to exist, then no inspection fee will be assessed against the owner of the inspected rental unit in compliance.

Section 8 - FEES/FINES.

The following fees/fines shall apply for all Registration and Inspection services provided by the Public Works Department or any agent hired by the Town Council of the Town of Cheswold:

8-1 Registration – **\$50.00**

8-2 Initial Inspection – **\$0.00**
(Included in registration fee)

8-3 Second, (2nd), Inspection – **\$100.00**
(Required due to failure of Initial Inspection)

Section 8 - FEES/FINES. – “continued”

- 8-4 Subsequent Inspections - **\$100.00**
(required due to failure of 2nd Inspection & any other subsequent inspections)
- 8-5 Complaint Inspections - **\$150.00**
(No fee if complaint is found to be unjustified)
- 8-6 Re-scheduling of Inspections – **\$25.00**
*(Failure to re-schedule within 24 hours of inspection date & time.
Re-scheduling request be e-mailed to: codeenforcement@townofcheswold.com)*
- 8-7 Failure to Register Existing Rental – **\$150.00**
(See Ordinance 05-04-15-009)
- 8-8 Failure to Register New Rental – **\$150.00**
(See Ordinance 05-04-15-009)

Section 9 - ADDITIONAL INFORMATION.

- 9-1 If the first inspection is in compliance with **this Ordinance**, the current approved International Property Maintenance Code or any other applicable code, statue or Ordinances of the Town of Cheswold, the State of Delaware or the Office of the Fire Marshal, this will be satisfactory for the issuance of the passed Housing Code Inspection Report.
- 9.2 **When** a re-inspection must be made to ensure conformity with **this Ordinance**, the current approved International Property Maintenance Code or any other applicable code, statue or Ordinances of the Town of Cheswold, the State of Delaware or the Office of the Fire Marshal, the first re-inspection shall be included with the original rental inspection fee. For those rental units that do not comply after the first re-inspection, the Town will charge a separate inspection fee for every inspection thereafter when the violation has not been corrected.
- 9.3 **When** an inspection must be made due to a complaint filed with the Public Works Department, to ensure conformity with this Ordinance, the current approved International Property Maintenance Code or any other applicable code, statue or Ordinances of the Town of Cheswold, the State of Delaware or the Office of the Fire Marshal, and a violation is found to exist, the owner / or authorized agent will be billed an inspection fee for the inspection.

Section 9 - ADDITIONAL INFORMATION. - "continued"

- 9.4 If an inspection is initiated by a complaint and no violation is found to exist, no inspection fee will be assessed against the owner of the inspected rental unit in compliance.

- 9.5 If a rental inspection is scheduled and the owner or authorized agent fails to appear, this will count as the first inspection, and the re-inspection will be the first included re-inspection. Any other inspections that are to be made to pass the rental inspection shall be a separate fee and must be paid in full before scheduling another inspection.

Section 10: SEVERABILITY and CAPTIONS

This Ordinance and the various parts, sections, phrases and clauses thereof are hereby declared to be severable. If any part, section, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby. The Captions included at the beginning of each Section are for convenience only and shall not be considered a part of this Ordinance.

Section 11: APPEALS

- 11.1 Any person aggrieved by any decision of the Town of Cheswold Public Works Department as it applies to this Ordinance shall have the right to appeal to the Town Council by filing a written appeal with the Town Council within thirty (30) days following the effective date of the action or decision complained of. The appeal shall set out a copy of the order or decision appealed from and shall include a statement of facts relied upon to avoid the order.

- 11.2 The Town Council shall fix a time and a place for hearing the appeal and shall serve written notice upon the person requesting the appeal informing them of the hearing. The findings of the Town Council shall be final and conclusive and a written report of their findings shall be served upon the person who requested the appeal.

Section 12: REPEAL

All resolutions, Ordinances, orders or parts thereof in conflict in whole or in part with any of the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 13: ADMINISTRATIVE LIABILITY

No official, inspector, agent, employee or member of the Town of Cheswold shall render himself or herself personally liable for any damage that may occur to any person or entity as a result of any act or decision performed in the discharge of his or her duties and responsibilities pursuant to this Ordinance.

Section 14: EFFECTIVE DATE

This Ordinance shall become effective immediately upon passage by the Council of the Town of Cheswold.

PASSAGE of ORDINANCE

Whereas, the Town Council of the Town of Cheswold, approved Resolution 11-16-23-119, on December 4, 2023 and then properly posted and held a Public Hearing on January 8, 2024, at 5:00 p.m., in the Cheswold Town Hall, at 691 Main Street, Cheswold, DE 19936, to receive public comment on this Ordinance; and

Whereas, there were not any adverse public comments made against this Ordinance, at the above mentioned Public Hearing; and

Whereas, the Town Council at their regularly scheduled Town Council meeting, on January 8, 2024, held at 5:30 p.m., in the Cheswold Town Hall, at 691 Main Street, Cheswold, DE 19936, voted unanimously to approve this Ordinance; and

I, Santo Feronea, Mayor of the Town of Cheswold, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by an affirmative majority vote of all elected members of the Town Council of Cheswold at a regularly scheduled Town Council Meeting, held on, Monday, January 8, 2024, at which a quorum was present and voting throughout, and that the same is still in force and effect.

CERTIFIED: [Signature]
Santo Ferona - Mayor

Date: January 8, 2024

ATTEST: [Signature]
Theon E. Callender - Secretary/Treasurer

Date: January 8, 2024

Agreed: [Signature]
Vice-Mayor Maxwell Amoako

Date: January 8, 2024

Agreed: [Signature]
Councilperson Judith Johnson

Date: January 8, 2024

Agreed: [Signature]
Councilperson Mark Moxley

Date: January 8, 2024

Agreed: [Signature]
Councilperson Robin Ridgway

Date: January 8, 2024

NOTARIZED: [Signature]
Camryn Tunnell - Asst. Town Clerk

Date: January 8, 2024

Camryn Alexes Tunnell
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires February 6, 2025

Primary Sponsor: Secretary/Treasurer Theon E. Callender

Introduction: May 3, 2023

READINGS & REVIEWS:

Introduction to Council via E-Mail	June 20, 2023
Forwarded for Attorney Review	June 20, 2023
1 st Council Reading	July 10, 2023
Attorney Review Response	September 10, 2023
2 nd Council Reading/1 st Public Reading	October 2, 2023
3 rd Council Reading/2 nd Public Reading	November 6, 2023
Resolution for Public Hearing	December 4, 2023
Public Hearing	January 8, 2024
Council Vote	January 8, 2024

REVISION LOG

<u>Revision Date</u>	<u>REVISION REASON</u>