

## **TOWNSHIP OF LOWER MERION**

### ***Building & Planning Committee***

#### **Issue Briefing**

**Topic:** Proposed Ordinance to Rename and Amend Chapter 75, entitled Fair Housing, and Chapter 92, entitled Housing-Property Maintenance, to enact new licensing requirements and regulations for student and residential rentals in the Township.

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**Date:** September 6, 2024

#### **I. Action To Be Considered By The Board:**

Authorize the Township Secretary to advertise notice of intent to adopt an ordinance to amend the Code of the Township of Lower Merion, Chapter 92, Housing-Property Maintenance by removing the provisions for residential rental licensing and the definitions of certain defined terms found only in those provisions; by amending Chapter 75, Fair Housing, to read Chapter 75, Housing; by amending Chapter 75 in its entirety to retain provisions for Fair Housing and by adding thereto provisions for student rental licensing and residential rental licensing; by amending Chapter A167, Fees, to provide a fee schedule for student and residential rental licensing; and incorporating changes to the language of the proposed ordinance as recommended by staff.

#### **II. Why This Issue Requires Board Consideration:**

Amendments to the Township Code are subject to the approval of the Board of Commissioners.

#### **III. Current Policy or Practice (If Applicable): N/A**

#### **IV. Other Relevant Background Information:**

All rental properties in Lower Merion are required to be licensed pursuant to Chapter 92, Housing-Property Maintenance, § 92-2: Insertions, additions and revisions, subsection (M) of the Township Code. These properties include single and multi-unit dwellings that are rented to student and non-student residents of the Township. Staff have experienced difficulties administering the provisions of the Code's rental licensing regulations due to a lack of specificity in enforcement actions available to Township officials and the process by which to pursue them, a limited description of the duties and responsibilities of property owners, property managers, and tenants, and the absence of regulatory distinctions between student and residential/non-student rentals. The lack of a distinction

between student and non-student residential rentals is a particular difficulty in upholding citations given the transient nature of student rentals. Frequently, by the time a violation reaches the court system, the student(s) have already moved out of the rental unit. This proposed ordinance seeks to amend those sections of the code related to housing and rental licensing in order to eliminate these difficulties and make the enforcement of rental licensing regulations in Lower Merion Township more efficient, effective, and comprehensive.

The first major change proposed by this ordinance is the relocation of the licensing regulations in the Township Code and the renaming of Chapters 75 and 92. Presently located in Chapter 92, the proposal would eliminate the current licensing language found in § 92-2(M) and insert new definitions and regulations for rental licensing in Chapter 75. The new definitions related to housing and rental licensing would be constituted under a new Article I in Chapter 75 with the existing Fair Housing provisions reorganized as Article II in Chapter 75. The ordinance also proposes separate licensing requirements and regulations for student and non-student/residential rentals. The new requirements and regulations for student rentals will be added as Article III in Chapter 75 with the requirements and regulations for non-student/residential rentals added as Article IV.

As part of the code amendments, the proposed ordinance seeks to add definitions for “student,” “disruptive conduct,” and “manager” along with several other terms that coincide with the separation of student and non-student rentals, licensing requirements, and enforcement actions. For example, the term disruptive conduct would be utilized by township officials responding to student rental units for any incident or behavior that may not rise to the level of criminal or civil offense but ultimately impacts the quality of life for the community. The generation of a disruptive conduct report to keep on file with the student rental unit’s license would enhance the ability of staff to track and take prompt action.

Another important change included in the proposed ordinance relates to the existence of violations issued by the Township. Currently, when a Township official issues a violation, the court must uphold the violation. This process is time-consuming and in the case of the more transient-oriented student rentals, often occurs after the rental unit has been vacated (thus negating the basis for enforcement action). The proposed language of the new rental regulations codifies the Township’s position that a violation exists upon issuance and can exist, for the purposes of enforcement, without a criminal conviction. This change will further enhance the ability of staff to take prompt action regarding rental properties violating any Township code.

The proposed ordinance also introduces different licensing terms and requirements. In addition to outlining the responsibilities of both property owners and tenants, including a new provision whereby property owners who do not live in Lower Merion must appoint a property manager who lives within 10 miles of the Township, student rental license applicants would be required to identify every student living in the dwelling unit as part of a tenant affidavit that is to be submitted as a supplement to each student rental application and renewal. One of the most frequent violations encountered by staff is overcrowding in student rental units; each student rental unit in the Township is currently

and would continue to require no more than three individuals per student rental unit. By having names of each student living in a unit identified through the licensing process, staff will be able to more effectively track and enforce cures for overcrowding violations. Property owners/managers would also be required to submit an updated tenant affidavit notifying the Township should any change to the list of individuals living in the student rental unit occur.

An additional proposed change involves how both student and non-student/residential licenses are issued. Presently, the Township issues a single license to each property with one or more rental units. Regardless of whether the property contains a single rental unit or multiple rental units, the Township currently issues a single rental license. The issuance of a single license to properties with multiple rental units complicates enforcement and action against such licenses. For example, if a violation is issued because of one rental unit, meaningful enforcement/action against the property's rental license would impact all rental units associated with that license. The proposed ordinance would require a license to be issued for each rental unit. Dwellings with multiple rental units would therefore be issued multiple rental licenses, one for each rental unit in the multi-unit dwelling. Issuing rental licenses to the individual units rather than to the property is intended to empower Township officials to take prompt action regarding individual rental units and their licenses without negatively impacting other rental units in multi-unit dwellings.

The length of the license and the application period would also change through this ordinance. Currently, all rental licenses are annual with no clearly set application or renewal period other than before the expiration license. The proposed ordinance would establish an annual licensing period from January 1 through December 31 of every calendar year for student rental licenses and non-student/residential rental licenses.. The establishment of a set licensing period aligning with the calendar year is expected to simplify the application process for rental license applicants as well as enhance the ability of Township officials to track rental applications, renewals, and units with expired licenses.

Lastly, the proposed ordinance offers a defined list of criteria for taking enforcement action against a rental unit and its license and would provide for several enforcement actions that are not currently stated in the Code. In addition to revocation of a license, the proposed ordinance adds the following actions:

**Formal warning** - written notification of at least one violation. Upon satisfactory compliance and any conditions imposed by the Township, the formal warning shall be removed when the owner applies for license renewal

**License Suspension** - The immediate loss of the privilege to rent student rental units for a period of time set by the Township. The owner, after the expiration of the suspension period, may apply for license renewal

**License Non-renewal** - The denial of the privilege to apply for license renewal after expiration of the student rental license term. The Township will permit the owner

to maintain tenants in the premises until the end of the license term but will not accept applications for renewal of the student rental license until a time set by the Township.

The proposed ordinance also outlines the appeal process to the Board of Commissioners should the Township act against a license and the owner of a property with rental units wishes to appeal the decision. Given that the rental licensing requirements and regulations are being relocated to Chapter 75, language describing an appeal process was needed since the current code language generally speaks and refers to property maintenance appeals.

Since the proposed ordinance was published to the public “for information only” on July 31, 2024, staff have identified several changes that it would like to present for incorporation into the proposed ordinance prior to advertisement.

The first change would amend sections of § 75-9 (E-1 & E-5) to eliminate the need for applicants/owners to submit a written rental agreement for each student rental unit and replace this language with a requirement to submit a tenant affidavit identifying the current tenant of each student rental unit with each student rental application and renewal. Applicants/owners would also be required to submit an updated tenant affidavit for each student rental unit upon any change in residency of the unit. Agreements were originally proposed as a means to clearly identify the tenants of each student rental unit and strengthen the Township’s ability to enforce the code and prevent overcrowding. Upon further consideration, staff identified the potential for the Township to be drawn into disputes over rental agreements if such agreement were kept on file. Requiring a tenant affidavit instead of a copy of the rental agreement accomplishes the same goal while minimizing the likelihood that the Township will be drawn into agreement disputes.

### **Proposed Language Revision #1:**

#### **§ 75-9 Owner's Duties.**

##### **E. Written Rental Agreement.**

(1) All rental agreements for student rental units shall be in writing ~~and submitted to the Township with all student rental license applications~~. No oral leases and no oral modifications thereof are permitted. All disclosures and information required to be given to tenants by the owner shall be furnished before the signing of the rental agreement. The owner shall provide each tenant with copies of the rental agreement upon execution.

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(5) The Township shall be furnished with a tenant affidavit identifying the current tenants ~~copy of the current rental agreement entered into~~ for each student rental unit as a supplement to each student rental license application. Student rental licenses shall not be issued without a current tenant affidavit ~~rental~~

~~agreement~~ on file with the Township. It shall be the responsibility of the owner/manager of the student rental unit to keep this information current and submit new or amended ~~tenant affidavit rental agreements~~ to the Township within 20 days from the date of execution ~~of any new rental agreement~~.

The second set of revisions to the proposed ordinance amends § 75-11. Additional language is added to § 75-11 (A-4) to clarify that dormitory units are not subject to the provisions of student rental regulations, § 75-11 (A-6) is edited to reflect the elimination of the rental agreement requirement and subsequent requirement to submit a tenant affidavit, § 75-11 (A-7) and § 75-11 (A-8) are removed to eliminate the need to submit a rental agreement and floor plan for each student rental unit, and the rest of the subsection is renumbered in accordance to the removed provisions.

### **Proposed Language Revision #2:**

#### **§ 75-11 Licenses and inspection.**

##### **A. License Requirement.**

(4) The following categories of rental properties shall not require a student rental license, and shall not, therefore, be subject to the permitting provision of this Article:

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##### **(f) Dormitory units.**

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(6) The owner shall maintain a current and accurate list of the tenants ~~for in~~ each student rental unit which shall include their name, permanent address and permanent telephone number which shall be provided to the Township on an annual basis ~~as part of a tenant affidavit to be submitted with each student rental application and renewal and kept on file with the Township as a supplemental document with the associated student rental license and available for inspection upon reasonable notice.~~ The owner shall notify the Township of changes in the occupancy within ~~2040~~ days of the change and shall provide ~~an updated tenant affidavit the name of the person who is no longer residing in the premises in the event a person departs and the name, permanent address and permanent telephone number of new tenants in the event a new person is added.~~

(7) ~~The owner shall furnish with his or her application for a student rental license a copy of the executed rental agreement for the student rental unit. The license will not be issued if the rental agreement does not meet the requirements of § 75-10(E) of this Article. The student rental license will not be issued if a fully executed rental agreement for the student rental unit is not furnished with the owner's application. The Township shall keep copies of leases that it retains~~

~~in confidence and shall not disclose their contents except as part of official Township Business.~~

(8) ~~The owner shall furnish with his or her application for a license a floor plan, drawn to scale, with the measurements of each room within the student rental unit. The owner shall submit the scale drawing only with the first application submitted after the enactment of this Article. In the event that there are changes to the floor plan, the owner shall submit a revised floor plan with the application first submitted after the changes to the floor plan were made.~~

(9) (7) In the event that a license is denied by the Director, the owner shall have the right to appeal to the Board of Commissioners of the Township of Lower Merion within 30 days of mailing of the notice of denial of the application. The hearing before the Board of Commissioners shall be governed by the Local Agency Act.

(10) (8) No license shall be issued to an owner unless the student rental unit is in compliance with all applicable codes and ordinances of the Township of Lower Merion.

The third set of revisions amends § 75-12 (D) to correct references to other subsections of the proposed ordinance, removes § 75-12 (D-4), and renames the rest of the subsection in accordance to the removed provisions. Upon further consideration, § 75-12 (D-4) is being recommended for removal for the proposed ordinance to eliminate the likelihood of Township involvement in eviction proceedings. The intended nature of this proposed ordinance is to strengthen the ability of the Township to regulate rental licenses. Any action the applicant/owner of the student rental unit to bring the unit into compliance involving the eviction of tenants does not involve the Township is a matter strictly between the applicant/owner and the tenants subject to the provisions of any agreements entered into between those two parties.

#### **Proposed Language Revision #3:**

##### **§ 75-12 Grounds for nonrenewal, suspension or revocation of license.**

D. Grounds for Imposing Discipline. Any of the following may subject an owner to discipline as provided for in this Article:

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(1) Refusal to permit the inspection of the premises by the Township as required by this Article § 75-12(C).

(2) Failure to take steps to remedy and prevent violations of this Article by tenants of student rental units as required by § 75-10 of this Article.

- (3) Failure to file and implement an approved plan to remedy and prevent violations of this Article by tenants of a student rental unit as required by ~~§ 75-10 of this Article.~~
- (4) ~~Failure to evict tenants after having been directed to do so by the Township as provided for in § 75-10 of this Article.~~
- (5) Three violations of this Article or other ordinances of the Township that apply to the premises within a license term. For purposes of this Article, there need be no criminal conviction before a violation can be found to exist. Before a prior violation can be considered under this Section, the owner must have received notice in writing of this violation within 30 days after the Director issues the notice of violation.
- (6) Failure to register with the Township's Business Tax Collector, maintain their current business license, and pay any tax or fee as outlined and required by Chapter 138 of the Code of Lower Merion Township.

The fourth set of revisions pertains to non-student/residential rental licenses, amending § 75-17 and § 75-19. First, § 75-17 (A-1)(f) is edited to require a separate license rather than application for each residential rental unit. The intended purpose of this revision is to simplify the application process and allow for a single application to be submitted for multi-unit dwellings. Separate licenses will still be issued as proposed for each residential rental unit. Additionally, § 75-19 (A-1)(f) is amended to change the proposed three year license period for residential rental units to an annual licensing period. Although originally proposed to align with the inspection schedule, staff now recommend an annual licensing period independent of the inspection schedule as a means to further simplify the licensing process and avoid unnecessary complications from transitioning to a three-year licensing period.

#### **Proposed Language Revision #4:**

#### **§ 75-17 Residential Rental License Procedures and Requirements.**

##### **A. Regular Licenses.**

- (1) The application for a residential rental license must contain the following information and any other information that the Director may require to assess compliance with the property maintenance code and this Article:

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- (f) If the applicant is an owner of more than one dwelling or multi-unit dwelling(s) in the Township of Lower Merion, a separate license application is required for each residential rental unit ~~to be licensed~~.

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(7) If the Director concludes, as a result of the information contained in the application or other available information, including an inspection of the premises, that a residential rental unit or the premises of the unit is not in compliance ~~in compliance~~ with applicable codes and this section, the applicant will have a designated time period, to be determined by the Director, from receipt of notice of noncompliance to correct the defects specified in the notice, but tenant occupancy may continue during the correction period only if the defects do not create an imminent hazard. The Director may authorize additional time for compliance by the owner in the exercise of reasonable discretion.

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## § 75-19 Renewal of Regular License.

### A. License Term, Fee and Occupancy Limit.

(1) The term of a residential rental license granted under this subsection is annual, ~~three years~~ running from January 1 through December 31. As a requirement of renewal of a regular license, the Director must inspect the residential rental unit and the premises to ensure compliance with the applicable codes. The licensee must give notice of the inspection to all applicable residents of residential rental units owned by the licensee that are to be inspected.

The fifth and final set of revisions to the proposed ordinance focuses amending the fees associated with the Township rental licensing program for both student rental licenses and nonstudent/residential rental licenses. Upon public publishing of the proposed ordinance, staff was instructed to assess the rental licensing fees in respect to the actual cost incurred by the Township for managing the program as well as those fees charged by neighboring municipalities. A cost analysis conducted by Lower Merion Township Department of Building and Planning staff revealed that the current fees associated with the rental licensing program did not capture the true cost of the program and that the fees should be increased accordingly. This set of revision amends the proposed fee schedule for rental licenses by increasing the cost of student and residential rental licenses, reverting the residential rental license fees to an annual cost rather than a three-year cost as originally proposed, increases the cost of the Township's reinspection fee, and reintroduces an increased late fee that was inadvertently excluded from the originally proposed ordinance.

### Proposed Language Revision #5:

Chapter A167, Fees, §A167-1, Schedule of Fees, Chapter 75, Housing, shall be revised to add the following:

## Chapter 75, Housing

Annual license to operate a student or residential rental unit or a multi-unit dwelling

### Student Rental Licenses

Dwelling with up to 2 Student Rental Units	<u>\$150</u> \$135
Multi-unit Dwelling of 3 or more Student Rental Units	
First 2 Student Rental Units	<u>\$150</u> \$135
Each additional Student Rental Units over 2 units	<u>\$75</u> \$25

### Residential Rental Licenses

Dwelling with up to 2 Residential Rental Units	<u>\$100</u> \$255
Multi-unit dwellings, 3 or more Residential Rental Units	
First 5-2 units	<u>\$100</u> \$300
Each additional Residential Rental Unit	<u>\$50</u> \$30
Re-inspection Fee (per inspection)	<u>\$100</u> \$75
<u>Late fee (after January 1)</u> per unit	\$100
Annual license to operate rooming house	
Per rental room within a rooming house	\$50 \$25

## V. Impact On Township Finances:

In 2023, the Township received \$189,871 in rental licensing revenue from 1,388 nonstudent/residential rental licenses and 71 student rental licenses issued or renewed by the Township. The revisions to the originally proposed fee schedule for the rental licensing program is anticipated to result in a 50% increase in the revenue generated by the rental licensing program. The proposed fee increases would capture the full cost incurred by the Township for administering the program and bring the rental licensing fees more closely in alignment with those fees charged by neighboring Townships.

## VI. Staff Recommendation:

Staff recommends advertisement of the proposed ordinance. If advertised and adopted by the Board of Commissioner this fall, the intended implementation of the new licensing requirements and regulations would go into effect January 1, 2025.