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NEW HOLLAND BOROUGH
LANCASTER COUNTY, PENNSYLVANIA

ORDINANCE No. 2012–553

**AN ORDINANCE OF NEW HOLLAND BOROUGH,
LANCASTER COUNTY, PENNSYLVANIA, ADOPTING
REQUIREMENTS FOR RESIDENTIAL RENTAL UNIT
OWNERS, MANAGERS, AND OCCUPANTS; AND
PROVIDING FOR REVOCATION OF RENTAL
LICENSES, EVICTION OF OCCUPANTS, FINES,
PENALTIES, INCARCERATION, ATTORNEY FEES,
LIENS, AND OTHER REMEDIES FOR VIOLATION OF
THIS ORDINANCE**

WHEREAS, New Holland Borough, of Lancaster County, Pennsylvania (herein also “Borough”) previously adopted the *International Uniform Property Maintenance Code of 2003* and regulations promulgated thereunder as the property maintenance code for the Borough (herein also “Maintenance Code”) pursuant to Borough Ordinance No. 512.

WHEREAS, the Borough previously adopted a Residential Rental Unit licensing and inspection ordinance (herein also “Licensing Ordinance”) pursuant to Borough Ordinance No. 511.

WHEREAS, there are growing concerns in the Borough regarding the greater number of disturbances at Residential Rental Units than owner-occupied units, and violations of the Borough’s ordinances being generally more severe or frequent at Residential Rental Units as compared to owner-occupied units.

WHEREAS, in order to better promote the general health, safety, and welfare of the citizens of the Borough, the Borough believes it is necessary (a) to establish rights and obligations of owners, Managers, and Occupants relating to Residential Rental Units in the Borough and (b) to encourage Owners and Occupants to maintain and improve the quality of residential rental housing within the Borough.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED AND ENACTED by the Borough Council of New Holland Borough, Lancaster County, Pennsylvania, as follows:

44 **Section 1. Residential Rental Unit Requirements.** The Borough hereby enacts and adopts the
45 following Part 2 of Chapter 11 (Housing) of the Borough's Code of Ordinances as follows:
46

47
48 **"Part 2**

49 **Residential Rental Unit Requirements**
50

51 **§ 201. Definitions.**
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54
55 a. **BOROUGH**—The Borough of New Holland, Lancaster County,
56 Pennsylvania.
57
58 b. **BOROUGH MANAGER**—The individual appointed by Borough Council
59 to manage the affairs of the Borough in accordance with applicable law.
60
61 c. **CODES or CODE**—Any Federal, state, or local code, statute, or ordinance
62 adopted, enacted or in effect in and for the Borough including, but not
63 limited to, the Code of Ordinances of the Borough, the Borough
64 Maintenance Code, the Borough Licensing Ordinance, and this Part.
65
66 d. **COUNTY**—The County of Lancaster, Pennsylvania.
67
68 e. **DISRUPTIVE CONDUCT**—Any act by an Occupant of a Residential
69 Rental Unit or by a person present at a Residential Rental Unit involving
70 public drunkenness; consumption of an alcoholic beverage in public; public
71 urination or defecation; the unlawful depositor of trash or litter on public
72 or private property; damage to or destruction of public or private property;
73 the obstruction of public roads, streets, highways, parking areas, or
74 sidewalks; interference with ambulance, fire, police, or emergency services;
75 unreasonable noise as defined in any Code; use of profane or obscene
76 language or gestures; indecent exposure; fighting; quarreling; any other act
77 defined as "disorderly conduct" in any Code; commission of any crime; and
78 any act prohibited by the ordinances or Code of the Borough (or any other
79 Code) that otherwise injures the health, safety, or welfare of the residents
80 of the Borough residing in the neighborhood or vicinity of the gathering. It
81 is NOT necessary that such conduct, action, incident, or behavior constitute
82 a criminal offense, nor that criminal charges be filed against any person in
83 order for said person to have perpetrated, caused, or permitted the
84 commission of Disruptive Conduct, as defined herein; provided, however,
85 that no Disruptive Conduct shall be deemed to have occurred unless a
86 police officer investigates and makes a determination that such did occur,
87 keep written records (including an Incident Report) of such occurrences,
88 and file an Incident Report with the Borough. The Occupant, Owner and,
89 if applicable, Manager shall be notified of any such occurrences in writing
90 by the Borough in accordance with this Part.
91
92 f. **DISRUPTIVE VIOLATOR**—Any tenant or Occupant of a Residential
93 Rental Unit who has been involved in three Disruptive Conduct incidents
94 in any twelve (12) month period documented by Incident Reports on file
95 with the Borough or police departments providing police services to the

Borough.

- g. **FAMILY**—One or more persons, related by blood, adoption, or marriage, living and cooking together as a single housekeeping unit, or a number of persons living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage.
- h. **HOTEL UNIT**—Any room or group of rooms located within a hotel or motel forming a single habitable unit used or intended to be used for living and sleeping only on a transient basis for a period of less than 30 days.
- i. **INCIDENT REPORT**—A written report of Disruptive Conduct to be completed by a police officer who actually investigates an alleged incident of Disruptive Conduct, which report shall be maintained by such officer's police department, who also should provide a copy such report to the Borough.
- j. **LICENSING ORDINANCE**—A Residential Rental Unit licensing and inspection ordinance also known as Borough Ordinance No. 511.
- k. **MANAGER**—A person employed or retained by an Owner to be responsible for one or more Residential Rental Units within the Borough.
- l. **NOTICE OF VIOLATION**—A written notice advising and describing three Disruptive Conduct incidents in any twelve (12) month period involving a Disruptive Occupant documented by Incident Reports, and notifying the Owner or Manager of their required duty to evict the Disruptive Occupant from a Residential Rental Unit within thirty days (30) of the receipt of such Notice of Violation in accordance with this Part.
- m. **OCCUPANT**—Any individual over one year of age living and sleeping in a Residential Rental Unit or having actual possession of said Residential Rental Unit including, but not limited to, tenants of a Residential Rental Unit.
- n. **OWNER**—The person who holds record title or the equitable owner under an agreement of sale of a property upon which a Residential Rental Unit is erected or maintained. If more than one person owns the Residential Rental Unit as joint tenants, tenants in common, tenants by the entireties, or tenants in co-partnership, each such person shall be considered an owner and shall have all of the duties of an Owner under this Part.
- o. **PERSON**—An individual, unincorporated association, partnership, corporation, estate, trust, or any other legally recognized entity, including (without limitation) each of the individuals, members, and officers of any such entities.
- p. **PREMISES**—Any parcel of real estate within the Borough (including, without limitation, the land and all buildings and appurtenant structures) on which one or more Residential Rental Units are located.
- q. **MAINTENANCE CODE**—The *International Uniform Property*

Maintenance Code of 2003 and regulations promulgated thereunder as the property maintenance code for the Borough also known as Borough Ordinance No. 512.

- r. **RESIDENTIAL RENTAL LICENSE**—A document issued by the Borough to the Owner of a Residential Rental Unit.
- s. **RESIDENTIAL RENTAL UNIT**—A rooming unit; or a dwelling unit let for rent; or a residential unit occupied by any persons other than one occupied solely by the Owner and members of the Owner's family. Each individual townhouse dwelling, each individual apartment unit, each individual unit in a multifamily building, and each rooming unit shall be considered a separate Residential Rental Unit. If a structure contains a rooming unit or if any portion of the structure is let for rent, it also shall be considered a Residential Rental Unit whether or not the Owner or a relative of the Owner also resides in the structure. A Residential Rental Unit shall not include a hotel unit or a hospital room utilized for medical services. A Residential Rental Unit also includes dwelling units under lease-purchase agreements or long-term (greater than six months) agreements of sale.
- t. **ROOMING UNIT**—A portion of a dwelling unit including, without limitation, any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking purposes. Granting of permission to use shared or common cooking facilities may be associated with the leasing of a rooming unit.

§ 202. Duties of Owners and Managers of Residential Rental Units.

- a. It shall be the duty of every Owner to:
 - i. Keep and maintain all Residential Rental Units in compliance with all applicable Codes.
 - ii. Keep and maintain all premises in good and safe condition.
 - iii. Be aware of, and to act to eliminate, Disruptive Conduct in all Residential Rental Units.
 - iv. Employ policies to and actually manage the Residential Rental Units under his/her control in compliance with the provisions of this Part and all applicable Codes.
 - v. Obtain and maintain a Residential Rental License for each Residential Rental Unit in accordance with Borough Codes.
 - vi. Take all actions necessary to ensure that each Residential Rental Unit is occupied by only one family. And
 - vii. Require a written rental agreement for each Residential Rental Unit, which agreement shall include, without limitation, the names of all permitted Occupants.
- b. If the Owner has appointed a Manager, the Manager shall be jointly and

severally responsible to fulfill all of the obligations set forth in this Part. No Owner may relieve himself of the responsibility to perform the duties set forth in this Part by appointing a Manager.

- c. It shall be unlawful for any person to conduct, operate, or cause to be rented (either as an Owner or Manager) any Residential Rental Unit within the Borough without having a Residential Rental License as required by applicable Borough Codes.
- d. It shall be the responsibility of every Owner and Manager to keep each Residential Rental License either in each respective Residential Rental Unit or in the main office on-site with the Residential Rental Unit.
- e. If the Owner has appointed a Manager, the Owner shall provide the Borough with the name, address, and normal and 24-hour-per-day emergency phone numbers of the Manager; and shall notify the Borough within fifteen (15) days of any change of the Manager.

§ 203. Duties of Occupants of Residential Rental Units. Each Occupant of a residential unit shall have the following duties:

- a. Comply with all applicable obligations of this Part and all applicable Codes.
- b. Conduct himself/herself and require other persons including, but not limited to, guests on the premises and within their Residential Rental Unit with their consent, to conduct themselves in a manner that will not disturb the peaceful enjoyment of adjacent or nearby dwellings by people occupying the same.
- c. Not engage in nor tolerate (nor permit others on the premises to) damage to the Residential Rental Unit, or engage in Disruptive Conduct or other violations of this Part, Codes, Borough ordinances, or applicable state or Federal laws.
- d. Use the Residential Rental Unit for no purpose other than as a residence.
- e. Maintain the Residential Rental Unit in a manner meeting all requirements for Occupants of structures set forth in the Maintenance Code.
- f. Not allow persons other than those identified on the lease to reside in the Residential Rental Unit.
- g. Not allow the Residential Rental Unit to be occupied by more than one family.

§ 204. Disruptive Conduct.

- a. Police officers shall investigate alleged incidents of Disruptive Conduct. The police officer conducting the investigation shall complete an Incident Report upon a finding that the reported incident constitutes Disruptive Conduct. The information filed in the Incident Report shall include, if possible, the identity of the alleged perpetrator(s) of the Disruptive

255 Conduct, and the factual basis for the Disruptive Conduct described in the
256 Incident Report. A copy of the Incident Report shall be hand delivered upon
257 or mailed by ordinary United States First Class mail to the Occupant, all
258 other Occupants of the same Residential Rental Unit, the Owner, and the
259 Manager (if any) within twenty (20) working days of the occurrence of the
260 Disruptive Conduct.

- 261
- 262 b. After three Disruptive Conduct incidents in any twelve (12) month period
263 involving an Occupant documented by Incident Reports, the acting Chief
264 of Police or his designee shall (a) effect service of a Notice of Violation by
265 hand delivery or any form of mail or delivery service providing a receipt for
266 delivery, upon the Owner, or Manager (if any), within thirty (30) days of
267 the end of the twelve (12) month period; (b) shall inform the Owner, or
268 Manager (if any), of the availability of the police to assist as may be
269 applicable with documentation or testimony necessary for the Owner or
270 manager to evict the Disruptive Violator from a Residential Rental Unit;
271 and (c) advise Borough Council of the foregoing action.
- 272
- 273 c. If the Owner, or Manager (if any), does not begin eviction action against a
274 Disruptive Violator within thirty (30) days of receiving the written notice,
275 the acting Police Chief or his designee shall advise Borough Council of
276 such conduct, and Council may, on it its own motion, or with or without
277 such notice, direct the Borough Solicitor to take legal or other action to
278 enforce this Part utilizing the police, the courts, or otherwise as determined
279 by the Solicitor in the absence of specific directions from the Borough
280 Council.
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- 282 d. Within thirty (30) days of receiving a Notice of Violation, an Owner or
283 Manager shall be caused to be delivered to the acting Chief of Police, or his
284 designee, documents evidencing that the required eviction of a Disruptive
285 Violator has begun. Failure to timely take such action may result in the
286 immediate revocation of the Residential Rental License by the Borough.
287 The Residential Rental Unit involved shall not have its Residential Rental
288 License reinstated until the reinstatement fee is paid and the Disruptive
289 Violators have been evicted; a justice or judge of a court of competent
290 jurisdiction has ruled in the Disruptive Violator's favor, or ruled in the
291 Owner's favor but has not ordered the eviction of the Disruptive Violator;
292 or the Disruptive Violator has filed an appeal to higher court or declared
293 bankruptcy, thereby preventing their eviction. A Disruptive Violator, upon
294 eviction, shall not reoccupy the Residential Rental Unit from which they
295 were evicted, or any other Residential Rental Unit on the same real
296 property or in the same Residential Rental Unit development, for a period
297 of at least one year from the date of eviction. This subsection is not
298 intended to limit or inhibit the Owner's and, if applicable, the Manager's
299 right to initiate eviction actions prior to the issuance of the third Incident
300 Report in a twelve (12) month period.
- 301
- 302 e. Each incident report shall count against all Occupants of a Residential
303 Rental Unit. More than one Incident Report filed against the Occupants of
304 a Residential Rental Unit in a twenty-four (24) hour period shall count as
305 a single Incident Report for the purposes of this ordinance.
- 306

307 § 205. Rule-making authority. Borough Council shall have all powers as may be

necessary in the interest of public safety, health, and general welfare to adopt and promulgate rules and regulations to interpret and implement the provisions of this code to secure the intent thereof; but such rules shall not have the effect of waiving working stresses or fire protection requirements specifically provided in any Code or violating approved practice involving public safety.

§ 206. Violations, penalties, and liens.

- a. **Violations.** It shall be a violation of this Part to commit, or to permit any other person to commit, any one or more of the following acts:
 - i. To lease, let, or allow the occupancy of a Residential Rental Unit without obtaining a Residential Rental License.
 - ii. To refuse to permit inspections required by applicable Codes for a Residential Rental Unit.
 - iii. To fail to perform the duties established by this ordinance if such person is an owner or a Manager of a Residential Rental Unit.
 - iv. To fail to perform the duties established by this ordinance if such person is an Occupant of a Residential Rental Unit.
 - v. To place false information on to or omit relevant information from an application for a Residential Rental License.
- b. **Penalty.** Whoever violates any other provision of this Part shall upon a first offense be fined not more than \$1000, imprisoned not more than 30 days, or both; and shall pay all costs, expenses, and attorney fees incurred by the Borough to enforce this Part. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.
- c. **Additional Remedies.** In addition to prosecution of persons violating this Part, the Rental Officer or any duly authorized agent of the Borough may take such criminal, civil, or equitable remedies in any court of record of the Commonwealth of Pennsylvania, against any person or property, real or personal, to effect the provisions of this Part.
- d. **Independent Remedies.** The provisions of this section and the provisions of this Part governing revocation, suspension, or nonrenewal of Residential Rental Licenses shall be independent, non-mutually exclusive, separate remedies, all of which shall be available to the Borough as may be deemed appropriate. The remedies and procedures in this Part are not intended to supplant or replace to any degree the remedies provided in the Maintenance Code, Zoning Ordinance, or any other Code.
- e. **Liens.** Should any Owner, operator, or Manager fail to perform actions required on a property under this Part and should the Borough perform any of such actions, the Borough shall be entitled to lien the property for its costs, expenses, and attorney fees in accordance with the Municipal Claims Act of the Commonwealth of Pennsylvania, applicable Pennsylvania law, and the ordinances and Codes of the Borough of New Holland.

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362 **Section 2. Severability.** In the event any provision, section, sentence, clause, or part of this
363 ordinance shall be held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction,
364 such invalidity, illegality, or unconstitutionality shall not affect or impair the remaining provisions,
365 sections, sentences, clauses, or parts of this ordinance, it being the intent of the Borough Council of
366 New Holland Borough that the remainder of this ordinance shall be and shall remain in full force and
367 effect.
368

369 **Section 3. Repealer.** All statutes, ordinances, rules, regulations, or policies (or parts of any of the
370 foregoing) that are inconsistent herewith are hereby repealed.
371

372 **Section 4. Continuing Validity.** Except as specifically described herein, all relevant Codes,
373 ordinances, regulations, and policies of the Borough shall remain in full force and effect as
374 previously enacted and amended.
375

376 **Section 5. Effective Date.** This ordinance shall become effective and enforceable upon enactment.
377

378 **DULY ORDAINED AND ENACTED** this 3rd day of January 2012, by the Borough Council
379 of the Borough of New Holland, Lancaster County, Pennsylvania, in lawful session duly assembled.
380

381 **ATTEST:**

NEW HOLLAND BOROUGH,
Lancaster County, Pennsylvania

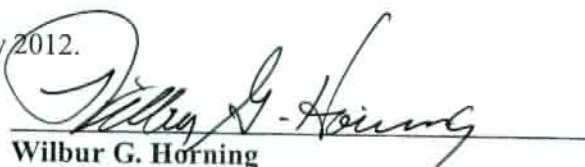
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386 **J. Richard Fulcher**
387 *Borough Secretary*
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By: 

Donald J. Herrington
Borough Council President

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395 APPROVED this 3rd day of January 2012.

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399 [Borough Seal]


Wilbur G. Horning
New Holland Borough Mayor