

## Chapter 134

### TRANSIENT DWELLING USE OF SINGLE-FAMILY DWELLINGS

#### § 134-1. Short title.

This chapter shall be known as "The Transient Dwelling Use of Single-Family Dwellings Ordinance of Adams Township, Butler County, Pennsylvania (the "Township")."

#### § 134-2. Scope.

- A. The provisions of this chapter shall apply to all residential dwelling units, conversion of nonresidential structures to residential dwellings, and all existing premises within only the Commercial District and the 228 Overlay District established by Chapter 172, the Township's Zoning Code. The owner of the subject property shall be responsible for compliance with the provisions of this chapter and the failure of an owner, person in charge, or renting occupants to comply with the provisions of this chapter shall be deemed noncompliance by the owner.
- B. This chapter shall not apply to a hotel/motel/inn, bed-and-breakfast, boarding house, or group home, when the property owner or a representative, is present on-site at the property on a twenty-four-hour-per-day basis.

#### § 134-3. Interpretation.

This chapter is not intended to, and does not, excuse any landowner from compliance with the Township Zoning Ordinance, as amended from time to time. Whenever possible, this chapter and the Zoning Ordinance should be construed and interpreted as being consistent, and not in conflict.

#### § 134-4. Definitions.

For the purpose of this chapter, certain terms, phrases and words are defined as follows:

- A. Tense, gender and number. Words used in the present tense include the future; words in the masculine gender include the feminine and the neuter; the singular number includes the plural and the plural singular.
- B. General terms. The words "shall," "will" or "must" are always mandatory; the words "should" or "may" are permissive. The words "used for" includes "designed for," "arranged for," "intended for," "maintained for" or "occupied for." The word "building" includes "structure" and shall be construed as if followed by the phrase "or part thereof." The word "person" includes "individual," "profit or nonprofit organization," "partnership," "company," "incorporated association" or other similar entities.

- C. Terms, phrases and words not defined. When terms, phrases or words are not defined, they shall have their ordinarily accepted meaning or such as the context may imply.
- D. Specific terms. Terms or words used herein, unless otherwise expressly stated, shall have the following meanings:

**BEDROOM** — Any room or space designed to be used or intended to be used for sleeping purposes. Spaces used for eating, cooking, bathrooms, toilet rooms, closets, halls, storage or utility room and similar uses are not considered bedrooms.

**CODE OFFICIAL** — The official who is charged with the administration and enforcement of this chapter, or any duly authorized representative.

**DWELLING UNIT** — A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**OCCUPANCY** — The purpose for which a building or portion thereof is utilized or occupied.

**OWNER** — Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or Township 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 the estate of such person if ordered to take possession of real property by a court.

**PERSON** — An individual, corporation, partnership or any other group acting as a unit.

**PERSON IN CHARGE** — A person or agent with actual authority to represent the owner for purposes of contact and communication regarding the owner's TDUs.

**TDU ANNUAL TERM** — November 1 to October 31 of the following year.

**TDU LICENSE** — The written grant of the right to operate a TDU pursuant to the specific terms of the license granted to a specific owner.

**TENANT** — For purposes of this chapter the term "tenant" shall refer to the primary individual (transient tenant) who signed an agreement with the owner or owner's agent for the temporary use of a TDU for 30 consecutive calendar days or less. Such individual must be at least 21 years of age.

**TRANSIENT DWELLING USE OF SINGLE-FAMILY DWELLING (TDU)** — Any dwelling unit owned or managed by a person which is rented or leased for a period of less than 30 days.

#### **§ 134-5. Code Official.**

The Township Board of Supervisors will appoint one or more Code Officials,

who may be the Township Zoning Officer or Code Enforcement Officer, or a contracted individual, firm or agency, to conduct inspections, make reports, administer and enforce this chapter. The Code Official may inspect any TDU property at the time an application has been submitted for the purpose of determining its qualification for a license or if it receives a complaint substantiated by the Zoning Officer or Code Official that the TDU is in violation of the license or this chapter.

#### **§ 134-6. Licensing.**

Effective upon enactment of this chapter, all owners must obtain a TDU license for all dwelling units intended for use as TDU prior to renting out a dwelling unit as a TDU. Operating a TDU without a TDU license is a violation of this chapter and is subject to the criminal prosecution and the penalties set forth below. Owners or their agents must complete the TDU license application and submit it to the Township Zoning Officer for processing. No property may be used as a TDU until a TDU license has been granted by the Township Zoning Officer. The Township will prescribe the forms and procedures for processing of TDU license applications under this chapter. The owners must provide all requested information concerning the dwelling unit and must agree, in writing, to comply with all the requirements of this chapter. TDU licenses are nontransferrable. If ownership of a TDU changes, the new owner(s) must complete a new TDU license application form before renting out any part of the dwelling unit for a short-term rental and must pay the annual fee. Upon the submission of a complete TDU license application to operate a TDU, the Township will have 15 business days to inspect the property and either grant or deny the request for a TDU license. If after 15 business days the Township has not acted on the TDU license application, the TDU license application shall be deemed denied. If the TDU license application is denied due to the lack of information, applicant will be given the opportunity to provide the requisite information and resubmit the TDU license application.

##### **A. TDU license requirements.**

- (1) The TDU license shall only be issued in the name of the owner of the TDU.
- (2) A separate TDU license is required for each TDU.
- (3) Each owner shall maintain at least \$500,000 in liability insurance on the TDU for the full duration of their TDU license annual term and provide proof of the same to the Township.
- (4) Each owner shall provide a copy of the current Butler County Hotel Room Excise Tax Certificate and current Pennsylvania Sales Tax License, if such Certificate is required by the applicable regulations.
- (5) A copy of their TDU form agreement which states that the tenant(s)' acknowledge that violation of the TDU agreement or this

chapter may result in termination of the owner's TDU license.

- (6) All TDUs must be either owner-occupied, or if not owner-occupied must designate a local person in charge. A person in charge, who may or may not be an/the owner, must reside in or have an office within 15 miles of the TDU and be able to act as the legal agent for the owner(s). The Township must be notified, in writing, within 14 days of the change if there is a change of ownership or in the identity of the person in charge.
- (7) The owner or person in charge shall respond to the Code Official within one hour after being notified by the Code Official of the existence of a violation of this chapter or any disturbance requiring immediate remedy or abatement. If the person in charge is not the owner, they shall immediately advise the owner of any notification of a violation. Owners and persons in charge must maintain all TDU dwelling units under their ownership and/or control in compliance with all applicable Township ordinances and regulations as established by the Township. Owners, persons in charge, and tenants shall be liable for violations of laws and/or ordinances, including, but not limited to, occupancy violations, at TDU dwelling units under their ownership, control, or occupancy.
- (8) The condition of any TDU must fully comply with the health safety welfare standards as adopted by resolution of the Township.
- (9) The owner shall limit overnight occupancy of the TDU to the specific number of tenants designated in their TDU license.
- (10) Overnight occupancy of a TDU shall be limited to no more than two persons per bedroom plus four additional persons per TDU. The maximum number of day guests allowed at any one time, in addition to the overnight occupants, shall not exceed to 75% of the maximum overnight occupancy of the TDU.
- (11) No on street or yard parking will be permitted at any time. No tents are permitted. No recreational vehicles, campers, buses or other large vehicles may be parked on the TDU property at any time. Outdoor overnight sleeping of tenants or guests is prohibited on a TDU property.
- (12) Owner is responsible for any trash or noise disturbance that is created or caused by any tenant. Failure to have adequate trash storage and weekly collection service or to stop a noise disturbance caused by tenant will result in a Notice of Violation.
- (13) The number of bedrooms permitted for a TDU shall not exceed the number of bedrooms approved for the dwelling unit on the sewage permit issued for such property. Where there is no sewage permit on record, the TDU shall be limited to three bedrooms unless proof

is provided to the Sewage Enforcement Officer that the septic system is adequate to handle additional flows. Any TDU advertising more than by having the system approved by the Sewage Enforcement Officer, or by providing a septic permit previously issued by a Sewage Enforcement Officer. If a sewage system malfunction occurs, TDU of the dwelling unit shall be discontinued until the malfunction is corrected in accordance with the Township and Pennsylvania Department of Environmental Protection requirements.

(14) A TDU shall not have any outside appearance indicating a change of use from the surrounding residential uses.

(15) Fireworks and floating lanterns are prohibited.

(16) Subleasing all or a portion of the dwelling unit is prohibited.

B. TDU license posting requirements. Each TDU license granted will include a public notice placard. It is the owner's responsibility to post the notice on the front door of the TDU. This notice shall remain on the front door at all times and it is the owner's responsibility to ensure that it remains legible."

#### **§ 134-7. License fee.**

The TDU license annual term for all TDUs runs from November 1 to October 31 of the following year. The initial TDU licenses granted hereunder shall run until October 31 of 2019 regardless of when they were actually issued. The TDU license fee is per TDU regardless of the point in a calendar year that a TDU license is obtained. License fees are set forth in the Township Fee Schedule which may change from time to time. License fee(s) must be paid at the time the TDU license application is submitted for approval. If the TDU license application is denied the fee(s) shall be refunded, minus an inspection fee. Otherwise, no license fee(s) are to be prorated or refunded.

#### **§ 134-8. License renewal.**

Each TDU license shall be renewed annually. Failure to pay the renewal license fee will immediately terminate the TDU license. Annual TDU license renewal will not be approved unless all required licensing conditions are met, including but not limited to, verification that all owed hotel and sales taxes have been paid.

#### **§ 134-9. Inspections.**

A. All TDUs shall be subject to inspection by the Zoning Officer and the Code Official to verify application information, license, license renewal and/or operating requirements are being complied with.

- B. The issuance of a TDU license or inspection is not a warranty that the dwelling unit is lawful, safe, habitable, or in compliance with this chapter or any other applicable ordinances. Rather, the TDU license indicates that the dwelling unit is either set to be inspected on a routine basis or, if inspected, the dwelling unit met this chapter or other applicable ordinance requirements on the day and at the time of the inspection.
- C. If there is reasonable cause to believe that any provision of this chapter is being violated, the Board of Supervisors of the Township may or may not cause, through an authorized representative of the Township, entry onto dwelling unit for the purpose of inspection of any and all premises, properties, buildings and/or structures located within the Township for ascertaining the existence of violations. In those matters where the nature of an alleged violation is such that an inspection of the interior of a dwelling unit is necessitated, prior arrangements must be made with the owner or the person in charge to secure access thereof. Upon such request, the owner or person in charge shall provide access.

#### **§ 134-10. Marketing.**

The marketing of a TDU in which the advertised occupancy exceeds the maximum occupancy requirements permitted by the owner's TDU license, or which promotes any other activity which is prohibited by this chapter, shall be a violation of this chapter.

#### **§ 134-11. Notice of violation.**

If it appears to a Code Official that a violation of this chapter or an issued TDU license exists or has occurred, the Code Official shall provide a written notice of violation to the owner, delivered personally, or by both United States first-class and certified mail. The enforcement notice shall identify the TDU which is the subject of the violation, enumerate the conditions which constitute the violation, cite the specific sections of this chapter or regulations which are violated, indicate the action required to correct the violation, and provide a time frame (established by the Code Official based upon the nature of the violation) to correct the violation. The time frame may be immediate; however, in no event shall the time within which to correct the violation exceed seven days.

#### **§ 134-12. Nuisance.**

In the interest of promoting the public health, safety and welfare, and minimizing the burden on Township and community services and impacts on neighborhoods posed by TDUs, a violation of any of the provisions of this chapter is declared to be a public nuisance.

#### **§ 134-13. Violations and penalties.**

- A. Any violation of this chapter which has not been corrected within the time frame set forth in the notice of violation shall be enforced by action

brought before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person, partnership, corporation or other entity who or which violates or permits a violation of the provisions of this chapter shall, upon conviction in a summary proceeding, pay a fine of not less than \$500 nor more than \$1,000 per violation, plus all court costs and reasonable attorney's fees incurred by the Township in the enforcement proceedings, and/or be imprisoned to the extent allowed by law for the punishment of summary offenses. Each day or portion thereof that a violation exists or continues shall constitute a separate violation. Further, the appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance with this chapter. All fines, penalties, costs and reasonable attorneys' fees collected for the violation of this chapter shall be paid to the Township for its general use.

- B. In addition to, but not in limitation of, the provisions of this section, the Zoning Officer or Code Official may either revoke, or deny an application to renew, a TDU license, for failure to comply with the TDU license, the provisions of this chapter or to provide accurate information on the TDU license application. The TDU license will be revoked for a period of one year after the owner has been convicted of their second violation. A revoked TDU license may not be renewed for a period of one year. The Zoning Officer or Code Official shall issue, in writing, a notice of revocation to the owner.

**§ 134-14. Owners severally responsible.**

If the premises are owned by more than one owner, each owner shall jointly and severally be subject to prosecution for a violation of this chapter.

**§ 134-15. Appeals.**

- A. Appeals of a determination of the Zoning Officer or Code Official under this chapter to deny any application for, or to renew, a TDU license, or to revoke a TDU license, shall be filed with the Board of Supervisors at the Township's business office within 30 days of the date of the determination appealed from. Appeals shall be processed as follows:
  - (1) All appeals shall be in writing and signed by the appellant on forms prescribed by the Township, and shall be accompanied by a fee, the amount of which shall be established by the Township Supervisors, which may include notice and advertising costs, and necessary administrative overhead in relation to the hearing.
  - (2) Each appeal shall fully set forth the determination appealed from, a detailed reason or basis for the appeal, and the relief sought. Every appeal shall refer to the specific provision of circumstances of the case.
- B. The Board of Supervisors of the Township shall conduct hearings and make

decisions pursuant to the Act of December 2, 1968 (P.L. 1133, § No. 353), known as the "Local Agency Law," and in accordance with the following requirements:

- (1) Written notice shall be given, and written notice shall be given to the appellant, the Zoning Officer or Code Official and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Board of Supervisors of the Township, but not less than 15 days prior to the hearing.
- (2) The hearing shall be held within 60 days from the date of the appeal is filed, unless the appellant has agreed in writing to an extension of time.
- (3) The hearings shall be conducted by the Board of Supervisors of the Township. The decision or, where no decision is called for, the findings, shall be in writing by the Board of Supervisors of the Township within 45 days after the conclusion of the hearing, unless the appellant has agreed in writing to an extension of time, and shall be communicated to the appellant and any other parties who have entered their written appearance and requested a copy of the decisions, at the addresses provided by them either by personal delivery or by United States first-class mail, postage prepaid.
- (4) The President or Vice President of the Board of Supervisors of the Township presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- (5) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- (6) Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- (7) The Board of Supervisors of the township may but is not required to make a stenographic record of the proceedings. In the event a stenographic record of the proceedings is not provided by the Board of Supervisors of the Township, a stenographic record shall be made and kept at the request of any party agreeing to pay the costs thereof. Any party or other person desiring a copy of the stenographic record shall order the copy directly from the stenographer who prepared the same and shall pay the cost imposed by the stenographer for the copy directly to the stenographer.
- (8) The Board of Supervisors of the Township shall not communicate, directly or indirectly, with any party or any party's representatives in



connection with any issue involved except upon notice and opportunity for all parties to participate; shall not take notice of any communication, reports, staff memoranda or other materials, except advice from their Solicitor, unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings after the commencement of hearings with any party or any party's representative unless all parties are given an opportunity to be present.

§ 134-16 Zoning Definition.

Chapter 192, Section 6 is amended to include the following Definition:

**TRANSIENT DWELLING USE OF SINGLE-FAMILY DWELLING (TDU)**  
— Any dwelling unit owned or managed by a person which is rented or leased for a period of less than 30 days.

§ 134-17 Zoning Allowed Districts

Transient Dwelling Use of Single-Family Dwelling (TDU) is added as a permitted use in the following zoning districts: Commercial (C), Business (B), Industrial (I), 228 Overlay, and Personal Services Overlay. It is not permitted in any other Zoning District. TDU is added as a conditional use in all other zoning districts.