

**BOROUGH OF ORWIGSBURG
SCHUYLKILL COUNTY, PENNSYLVANIA
ORDINANCE NO. 432**

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF ORWIGSBURG, SCHUYLKILL COUNTY, PENNSYLVANIA REQUIRING ANNUAL REGISTRATION OF ALL RENTAL PROPERTIES; ESTABLISHING RESPONSIBILITIES OF OWNERS AND OCCUPANTS OF RENTAL PROPERTIES; ESTABLISHING A MINIMUM STANDARD TO ASSURE THAT RESIDENTIAL RENTAL STRUCTURES LOCATED WITHIN THE BOROUGH OF ORWIGSBURG ARE SAFE, SANITARY AND FIT FOR HUMAN OCCUPATION; ESTABLISHING PROCEDURES RELATING TO INSPECTIONS; PROVIDING PENALTIES FOR VIOLATIONS THEREOF; AND PROVIDING FOR REPEALERS, SEVERABILITY AND THE EFFECTIVE DATE.

BE IT ENACTED and ORDAINED by the Borough Council of the Borough of Orwigsburg, Schuylkill County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, as follows:

101. Definitions – Word Usage. As used in this Ordinance, the following terms along with definitions located in the current edition of the International Property Maintenance Code, shall have the meaning indicated:

APPROPRIATE AUTHORITY – that person within the governmental structure of the corporate unit charged with the administration of the appropriate code.

BUILDING – an independent structure having a roof supported by columns or walls resting on its foundations and includes dwelling, garage, barn, stable, shed, greenhouse, mobile home, plant, factory, warehouse, school or similar structure.

BUILDING CODE – the Orwigsburg Construction Code, Borough Ordinance No. 365, adopted April 14, 2004, as may be amended from time to time.

BUILDING INSPECTOR (BUILDING CODE INSPECTOR, INSPECTOR) – the individual or entity (through its designated personnel), appointed by Orwigsburg Borough Council as the Building Code Official for the Borough under and pursuant to the Building Code.

CERTIFICATE OF OCCUPANCY – as defined in section 103.b.2.

DORMITORY – a room in any dwelling used for sleeping purposes by two (2) or more unrelated persons.

DWELLING – any building or structure designed for living quarters for one or more families or housekeeping units, including mobile homes which are supported by a permanent

foundation, but not including tents, cabins, travel trailers, boarding homes, rooming houses, convalescent homes, motels, hotels or other accommodations used for transient occupancy.

DWELLING UNIT – one (1) or more rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, but not including dormitories. A single dwelling unit shall provide complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, kitchen and toilet room/bathroom.

GUEST – any person who shares a dwelling unit in a nonpermanent status for not more than thirty (30) days.

IPMC – the International Property Maintenance Code, 2018 Edition, as adopted by the Borough pursuant to Orwigsburg Borough Ordinance. No. 431, adopted July 11, 2018.

KITCHEN – any room containing any or all of the following equipment or the area of a room within three (3) feet of such equipment: sink and/or other devices for dishwashing, stove or other devices for cooking, refrigerator or other devices for cool storage of food, cabinets and/or shelves for storage of equipment and utensils and counter or table for food preparation. At a minimum a kitchen shall be equipped with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of 30 inches.

OCCUPANT – any person over one (1) year of age living, sleeping, cooking or eating in or actually having possession of a dwelling unit, except that in dwelling units, a guest will not be considered an occupant.

PROPERTY – a piece, parcel, lot or tract of land.

RENTAL PROPERTY – any dwelling or dwelling unit occupied by a tenant or tenants under a lease, written or oral, with the owner who are not the spouse, child, parent or sibling of the owner.

RENTAL PROPERTY CONTACT – as defined in Section 103.A.

RESIDENT – an individual who is domiciled in the Borough of Orwigsburg or, in the case of a non-individual, an entity with its principal place of business and mailing address in the Borough of Orwigsburg.

ROOMING HOUSE – a building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two- family dwelling and for the purposes of this ordinance shall not include Hotels and Motels and shall not be considered a Dwelling Unit.

SAFETY – the condition of being reasonably free from danger and hazard which may cause accidents or disease.

TOILET ROOM/BATHROOM - Every toilet room/bathroom shall contain its own bathtub or shower, lavatory and water closet that shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

UCC APPEALS BOARD – the Board of Appeals established by Borough Council under and pursuant to the Building Code.

102. Annual Registration / Triennial Inspection and Fee.

- A. All rental properties, including but not limited to dwellings and dwelling units, must be registered with the Secretary of the Borough of Orwigsburg each year between January 1 and February 28, and upon any change in the occupancy of the rental property dwelling unit(s).
 1. Registration must be on the form provided by the Borough Secretary and shall include, but not be limited to the following information:
 - a. The building address, owner of record and if other than individual the name of a responsible person(s) from the corporation, LLC, etc., owners phone number(s), e-mail address.
 - b. Rental Property Contact information (name, address, phone number and e-mail address) as identified in Section 103.A.
 - c. Tenant names, phone number(s) and dwelling unit occupied on the rental property.
- B. Every person owning a rental property shall give notice, in writing, to the Secretary of the Borough of Orwigsburg within twenty-four (24) hours after having transferred or otherwise disposed of the legal control of any rental property. Such notice shall include the name and address of the person or persons succeeding to the ownership or control of such rental property.
- C. Every owner shall be responsible for the payment of property taxes, garbage fees, water fees and sewer fees. Proof of said taxes and fees being current (previous year) shall be required to be submitted with the annual registration. Failure to comply shall be deemed owner omission and a violation of this ordinance and cause for closure of the rental unit and occupancy of said rental units.
- D. Any owner who fails or refuses to register shall be subject to fines, penalties and actions as set forth in this Ordinance.

103: Responsibilities of Owners and Occupants.

- A. Every owner who is not a full-time resident of the Borough of Orwigsburg, and/or who does not live within twenty (20) miles of the boundaries of the Borough of Orwigsburg, shall designate a Rental Property Contact, who shall reside in an area that is within ten (10) miles of the Borough of Orwigsburg. If the owner is a corporation, a Rental Property Contact shall be required if an officer of the corporation does not reside within the above referenced area. The officer shall perform the same function as a Rental Property Contact. If the owner is a partnership, a Rental Property Contact shall be required if a partner does not reside within the above referenced area. Said partner shall perform the same function as a Rental Property Contact. The Rental Property Contact shall be the agent of the owner for service of process and receiving of notices and demands, as well as for performing the obligations of the owner under this ordinance and under rental agreements with occupants. The identity, address, e-mail address and telephone number(s) of a person who is designated as the Rental Property Contact hereunder shall be provided by the owner or Rental Property Contact to the Borough and such information shall be kept current and updated as it changes.
- B. The IPMC establishes minimum conditions of buildings in order to be habitable. Orwigsburg Borough shall prepare a checklist of minimum standards for the occupancy of each dwelling unit on or within a rental property based on said IPMC. The checklist shall be used as a guideline for the inspection of each dwelling unit as required by this ordinance. Conformance to items identified by the checklist does not limit the enforcement of the IPMC code referenced above in its entirety for rental properties. Owners, Rental Property Contacts and Occupants should be aware of and are responsible for any and all information found on the checklist and the current edition of the IPMC, as well as the following:
1. Effective with the adoption of this ordinance in the case of rental properties which contain attached or detached garages and/or off street parking spaces, these spaces must be rented with the dwelling unit to insure adequate off-street parking in accordance with the Borough Zoning Ordinance requirement and may not be rented to non-tenants of the property unless adequate off-street parking spaces exist.
 2. No person shall operate a rental property unless he holds a valid Certificate of Occupancy issued by the appropriate authority in the name of the operator and each specific dwelling or dwelling unit. The owner or Rental Property Contact shall apply to the appropriate authority upon compliance by the owner or Rental Property Contact with the applicable provisions of this Ordinance and of any rules and regulations adopted pursuant thereto. The Certificate shall be transferable. Every person holding such a permit shall give notice, in writing, to the appropriate authority within twenty- four (24) hours after having sold, transferred, given away or otherwise disposed of ownership of, interest in or control of any rental property. Such notice shall include the

name and address of the person succeeding to the ownership control of such rental property.

3. Every owner or Rental Property Contact of a rental property shall keep or cause to be kept records of all requests for repairs and complaints by tenants since the previous inspection, which are related to the provisions of this Ordinance and the IPMC to such requests and complaints. Such records shall be made available by the owner or Rental Property Contact to the Building Code Inspector for inspection and copying upon demand. Such records shall be admissible in any administrative or judicial proceedings pursuant to the provisions of this Ordinance as prima facie evidence of the violation or the correction of violations of this Ordinance or applicable rules and regulations pursuant thereto.
4. All owners of rental units shall provide for and designate a location for storage of trash and recycling containers on the rental property to be in the area other than the front of the property.

104: Building Code Inspector.

- A. The Building Code Inspector is hereby authorized and directed to inspect rental property dwelling units and all other rental properties, subject to the provisions of this Ordinance on a triennial basis.
- B. The Building Code Inspector is hereby authorized and directed to make inspections pursuant to this Ordinance, or in response to a complaint that an alleged violation of the provisions of this Ordinance or of applicable rules or regulations pursuant thereto has been committed or when the Building Code Inspector has valid reason to believe that a violation of this ordinance or of any rules and regulations pursuant thereto had been committed.
- C. The Building Code Inspector is authorized and directed to make inspections at any reasonable hour (9 a.m. until 7 p.m.) to determine compliance with this Ordinance. For this purpose, the Building Code Inspector is authorized to enter and examine any rental property , yard or part, or either, and every owner or Rental Property Contact shall give the Building Code Inspector free access to it. Inspection may be postponed and/or rescheduled due to illness or other emergency or unforeseen circumstance. The Building Code Inspector and the owner or occupant or other person in charge of a dwelling, dwelling unit, or rental unit, subject to this Ordinance, may agree to an inspection by appointment at a time other than the hours provided by this Ordinance. The owner, agent or person in charge must be present at all times during the inspection.
 1. The owner or Rental Property Contact of a rental property, upon presentation by the Building Code Inspector of proper identification, shall give the Building Code Inspector entry and free access to every part of the rental

property or to the premises surrounding any of these. Pets of any kind must be secured or removed from the premises in order to provide entry and free access to all areas and parts. Before making inspections within a contiguous area, the Building Code Inspector shall first consult with organizations representative of property owners and other residents of such contiguous area, if any such organization exists.

2. If any owner or Rental Property Contact of a rental property subject to the provisions of this Ordinance, refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to every part of the structure or premises where inspection authorized by this Ordinance is sought, the Building Code Inspector is authorized to seek, in a court of competent jurisdiction, an order that such person in charge cease and desist with such interference. Such person may also be subject to fines, penalties and actions as set forth in this Ordinance.

D. The Building Code Inspector and the Borough shall have the authority to institute any action permitted by law to enforce the provisions of this Ordinance.

105: Inspection of Rental Properties.

- A. Whenever, upon inspection of the rental property or of the records required to be kept by this Ordinance, the Building Code Inspector finds that conditions or practices exist which are in violation of the provisions of this Ordinance or of any applicable rules and regulations pursuant thereto, the Inspector shall serve the owner or Rental Property Contact with notice of such violation in a manner hereinafter provided. Such notice shall state that unless the violations cited are corrected within the time provided, the owner shall be subject to fines, penalties and actions provided by this Ordinance.
- B. As part of the Annual Registration a basic triennial inspection fee shall be paid for each and any rental property, including but not limited to dwelling units. The triennial inspection fee schedule is as follows:
 1. Any existing rental properties a \$140.00 inspection fee for the first unit, \$75.00 for the second unit and \$55.00 for each additional unit per address shall be paid to the Borough. Repeat failures will cost \$75.00 per inspection plus and any additional charges incurred by the Borough from either its Building Code Inspector or legal counsel.
 2. Any rental property or dwelling unit not in possession of a **current** Certificate of Occupancy as of the effective date of this Ordinance shall be considered a new rental property or dwelling unit and shall not be occupied until such time that an annual registration form is received, an approved zoning permit is obtained for the use and an inspection is conducted to verify conformance to the current edition of the IPMC is conducted.

a. The **initial** inspection fee for each new rental property or dwelling unit shall be **\$380.00**.

3. Fees will be amended by resolution of the Borough Council.

C. Triennial Inspections of all rental units shall commence following the annual registration period required by Section 102 and be completed on or prior to the end of the third quarter of the inspection year being the first full calendar year from adoption of this Ordinance (First Full Calendar Year Is 2019).

Example of annual registration and triennial inspection periods are as follows:

Ordinance adoption date is prior to December 31, 2018, then:

Annual registration period January 1, 2019 through February 28, 2019.

Triennial Inspections Required (see exception 1. Below) – March 1, 2019 through September 30, 2019.

Certificate of Occupancy Expiration (Regardless of Inspection Date) – December 31, 2021.

2nd Cycle Triennial Inspection Required – March 1, 2022 through September 30, 2022.

1. Rental unit Certificate of Occupancies issued as a result of prior inspections conducted under Rental Property Ordinance No. 424 shall be valid until December 31, 2021 regardless of Certificate of Occupancy expiration date listed.

D. All fees and charges for inspection, as set forth by resolution of Council, shall be paid in advance at the time application thereof is made to the Borough.

E. All fees and charges for inspection due and unpaid under this Ordinance shall be recovered by the Borough as other debts due the Borough are now by law recovered.

106: Notice of Violation.

A. Whenever the Building Code Inspector determines that any rental property or dwelling unit or the premises surrounding any of these fails to meet the requirements set forth in this Ordinance or in applicable rules and regulations issued pursuant thereto, the Inspector shall issue a notice setting forth the alleged failures and advising the owner or occupant or other person in charge that such failures must be corrected. This notice shall:

1. Be in writing.

2. Set forth the alleged violations of this Ordinance or if applicable rules and regulations issued pursuant thereto.
 3. Describe the dwelling, dwelling unit, or premises where the violations are alleged to exist or to have been committed.
 4. Provide a reasonable time for the correction of any violation alleged. The time for compliance shall take into consideration the seriousness of the violation and the climatic conditions. The Building Code Inspector may, in the Inspector's sole and absolute discretion, give one (1) additional extension of time; provided, the property owner is exercising due diligence and the inability to make the correction is through no fault of the property owner.
 5. Be served upon the owner or Rental Property Contact of the dwelling, dwelling unit or premises personally or by certified mail, return receipt requested, addressed to the last known place of residence of the owner or occupant or other person in charge. If one (1) or more persons to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such persons by posting a notice in or about the dwelling, dwelling unit or premises described in the notice or by causing such notice to be published in a newspaper for three (3) consecutive days.
 6. Include a statement of the right to file a lien in accordance with the IPMC.
- B. At the end of the period of time allowed for the correction of any violation alleged, the Building Code Inspector shall re-inspect the dwelling, dwelling unit or premises described in the notice.
1. Whenever the Building Code Inspector finds that any dwelling, dwelling unit, or premises constitutes a serious hazard to the health and safety of the occupants or the public because it is dilapidated, unsanitary, vermin-infested or lacking in the facilities and equipment required by this Ordinance and any amendments thereto, the Inspector shall designate such property as unfit for human habitation. Such designation shall be posted on the dwelling, dwelling unit, or premises and shall specify the reason or reasons. It shall be unlawful for any person to remove such notice except as provided below.
 2. Any property so designated as unfit for human habitation shall be vacated within twenty-four (24) hours and shall not again be used for human habitation until the conditions have been eliminated and the Building Code Inspector has removed the designation and given written approval for occupancy.
 3. Any person aggrieved by a designation of unfitness for human habitation may appeal to the UCC Appeals Board, as described in this Ordinance.

- C. Any owner or occupant or other person in charge of a rental property who has received notice of a violation of this Ordinance and fails to take the necessary corrective action will be subject to fines, penalties and actions as set for in this Ordinance.

107: Appeals.

- A. Any owner or Rental Property Contact aggrieved by a determination of violation issued by the Building Code Inspector may appeal the determination to the UCC Appeals board on an appeal form that shall be available from the Building Code Inspector or Borough Staff.
- B. The appeal must be filed at the Borough Office no later than ten (10) days after the date of the determination of violation.
- C. An appeal fee which shall be set by Resolution must also be paid by the appellant at the time the appeal is filed. No refund shall be paid if the sole determination of the UCC Appeals Board is an extension of time for compliance.
- D. The UCC Appeals board shall meet to hear the appeal not later than sixty (60) days after the appeal is filed. Notice of the time and date and place of the hearing shall be sent by ordinary mail to the appellant or the appellant's attorney of record not less than ten (10) days prior to the date and time of the hearing.
- E. The burden of proof shall be on the Building Code Inspector to establish a violation of this Ordinance. The determination of the Building Code Inspector shall be affirmed if support by substantial evidence.

108: Conflict with Other Provisions.

In any case where a provision of this Ordinance is found to be in conflict with a provision of any zoning, building, fire safety or health ordinance or code of the Borough or regulations of the Pennsylvania Department of Labor and Industry co-existing on the effective date of this Ordinance, the provision which establishes a higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this Ordinance is found to be in conflict with provision of any other ordinances or codes of the Borough existing on the effective date of this Ordinance which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this Ordinance shall prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this Ordinance.

109: Penalties.

Any person, firm, corporation or other entity who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000, plus costs and, in default of payment of said fine and costs to a term of imprisonment not to

exceed 30 days. Each day that a violation of this Ordinance continues shall constitute a separate offense.

110: Repealer.

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

111: Severability.

If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

112: Effective Date.

This Ordinance shall become effective in accordance with applicable law.

ENACTED and ORDAINED into an ordinance this 11th day of July, 2018, by the Council of the Borough of Orwigsburg, Schuylkill County, Pennsylvania, in lawful session duly assembled.

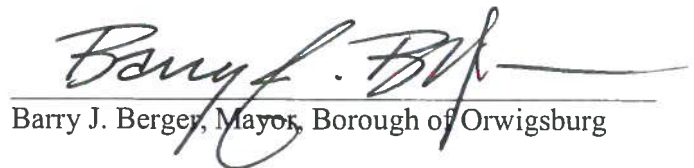
BOROUGH OF ORWIGSBURG
Schuylkill County, Pennsylvania

ATTEST:


Sherry Edwards, Borough Secretary

By: 
Michelle Rudloff, President of Council

EXAMINED and APPROVED this 11th day of July, 2018.


Barry J. Berger, Mayor, Borough of Orwigsburg