

BOROUGH OF ORWIGSBURG
SCHUYLKILL COUNTY, PENNSYLVANIA
ORDINANCE NO. 395

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF ORWIGSBURG, SCHUYLKILL COUNTY, PENNSYLVANIA TO REQUIRE YEARLY REGISTRATION OF ALL RENTAL PROPERTIES, ESTABLISH RESPONSIBILITIES OF OWNERS AND OCCUPANTS OF RENTAL PROPERTIES, ESTABLISH A MINIMUM STANDARD TO ASSURE THAT RESIDENTIAL RENTAL STRUCTURES LOCATED WITHIN THE BOROUGH OF ORWIGSBURG ARE SAFE, SANITARY AND FIT FOR HUMAN OCCUPATION, ESTABLISH PROCEDURES RELATING TO INSPECTIONS AND PROVIDE PENALTIES FOR VIOLATIONS THEREOF.

BE IT ENACTED AND ORDAINED by the Council of the Borough of Orwigsburg, Schuylkill County, Pennsylvania, 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 INSPECTOR (BUILDING CODE INSPECTOR, INSPECTOR) – the individual or entity authorized by Orwigsburg Borough Council to inspect properties and any other duties set forth in this Ordinance

CENTRAL HEATING SYSTEM – a single system supplying heat to one (1) or more dwelling unit(s) or more than one (1) rooming unit.

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

DWELLING – any enclosed space which is wholly or partly used, or to be used, for living or sleeping by human occupants; provided, that “temporary housing,” as hereinafter defined, shall not be regarded as a dwelling.

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

HABITABLE ROOM – a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding laundries, furnace rooms, pantries and utility rooms of less than fifty (50) square feet, foyers or communicating corridors, stairways, storage spaces and workshops, hobby and recreation areas in unsealed or uninsulated parts of structure below ground level or in attics.

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.

MULTIPLE DWELLING – any dwelling containing more than two (2) dwelling units and/or rooming units.

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

PERMISSIBLE OCCUPANCY – the maximum number of persons permitted to reside in a dwelling unit or rooming unit.

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

RENTAL PROPERTY – any building or dwelling unit unoccupied or occupied by a tenant or tenants under a lease, written or oral, with the owner who are not husband or wife, son or daughter, mother or father, sister or brother, or those standing in such relationship of the owner.

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 shall include Hotels and Motels.

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

SUPPLIED – paid for, furnished by, provided by or under the control of the owner or operator.

102. Annual Registration / Triennial Inspection and Fee

- A. All rental properties, including but not limited to dwelling, dwelling units, rooming houses, rooming units, or dormitory rooms, 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 dwellings
- B. Every person owning a rental property dwelling, a rooming house or other rental property shall give notice, in writing, to the Building Code Inspector within twenty-four (24) hours after having transferred or otherwise disposed of the legal control of any licensed rooming house or rental property. Such notice shall include the name and address of the person or persons succeeding to the ownership or control of such rooming house or rental property.
- C. As part of the Annual Registration a basic triennial inspection fee shall be paid for each and any rental property dwelling, including but not limited to dwelling units, rooming houses, rooming units, dormitory rooms. The triennial inspection fee schedule is as follows:
 1. At the initial registration for any existing or new rental properties a \$90.00 inspection fee for the first unit, \$35.00 for the second unit and \$17.50 for each additional unit per address shall be paid to the Borough. Repeat failures will cost \$35.00 per inspection plus and any additional charges incurred by the Borough from either its building code inspector or legal counsel.
 2. Fees will be amended by resolution of the Borough Council.
- 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 Part shall be recovered by the Borough as other debts due the Borough are now by law recovered.
- F. Any owner who fails or refuses to register 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 manager who shall reside in an area that is within ten (10) miles of the Borough of Orwigsburg. If

the owner is a corporation, a manager 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 manager. If the owner is a partnership, a manager shall be required if a partner does not within the above referenced area. Said partner shall perform the same function as a manager. The manager 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 and telephone number(s) of a person who is designated as manager hereunder shall be provided by the owner or manager to the Borough and such information shall be kept current and updated as it changes.

- B. In July of 2006, Orwigsburg Borough adopted the International Property Maintenance Code, which is available to the public for examination during regular business hours at the Borough Office. This code defines the minimum condition of a building in order to be habitable. Owners and Occupants should be aware of and are responsible for any and all information found in the current edition of the International Property Code, 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 parking spaces exist.
 2. No person shall operate a rental property rooming house unless he holds a valid Certificate of Occupancy issued by the appropriate authority in the name of the operator and for the specific dwelling or dwelling unit. The operator shall apply to the appropriate authority upon compliance by the operator with the applicable provisions of this Part 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 rooming house. Such notice shall include the name and address of the person succeeding to the ownership control of such rooming house.
 3. At least one (1) flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the Building Inspector and in good working condition, shall be supplied for each four (4) rooming units or fraction thereof within a rooming house, including members of the operator's family wherever they share the use of said facilities.
 4. Basements, cellars and crawlspaces are to be free of moisture resulting from seepage, and cross ventilation shall be required when necessary to prevent accumulation of moisture.
 5. Every owner or other person in charge of a rental property or rooming house 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 other person in charge 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.

104: Building Code Inspector

- A. The Building Code Inspector is hereby authorized and directed to inspect rental property dwellings and rooming houses 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 or rooming house, yard or part, or either and every owner, operator, occupant or agent 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, rooming house, rooming unit, or dormitory, 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 occupant or other person in charge of a rental property dwelling, dwelling unit, rooming house or dormitory room, 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 dwelling, dwelling unit, rooming house, dormitory room 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, occupant or other person in charge of a rental property dwelling, dwelling unit, rooming unit, dormitory room or a multiple dwelling or rooming house, 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.
- B. 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 and Rooming Houses.

- A. Whenever, upon inspection of the rental property or rooming house 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 other person in charge 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. On April 1, 2009 the Borough will start inspecting residential rental properties for compliance. The following items need to be brought into compliance by December 31, 2009 in order to continue to occupy the residence:
 1. Smoke detectors must be mounted in each bedroom and in the common area outside a bedroom, with a minimum of one per floor.
 2. Stairs, Ramps and Railings will be inspected for stability, ballasted spacing, grip size and general egress path size.
 3. Electrical Panels will be inspected for correct installation, grounded / bonded, and circuits not overloaded. Main disconnect readily accessible to tenants without entering another tenant's residence. GFCI circuits in kitchen, baths, and unfinished basements.
 4. Plumbing will be inspected for leaks with all attached fixtures in good working order.
 5. Exterior doors must be in good working order with locking capability as required by the International Residential Code.
 6. Windows must be in good working order, able to be opened for ventilation and emergency egress. Windows within six foot of grade must have locking capability.

7. Residence clearly identified with street numbered in compliance with Borough Ordinance.
- C. Inspections conducted after 1/1/10 will require FULL compliance to the current edition of the International Property Maintenance Code.

106: Notice of Violation

- A. Whenever the Building Code Inspector determines that any rental dwelling, dwelling unit, rooming house, rooming units, dormitory rooms 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 Part or if applicable rules and regulations issued pursuant thereto.
 3. Described the dwelling, dwelling unit, rooming house, rooming unit dormitory room 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 occupant or other person in charge of the dwelling, dwelling unit, rooming house, rooming unit, dormitory room 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, rooming house, rooming unit, dormitory room 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 International Property Maintenance Code.
- 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, rooming house, rooming unit, dormitory room or premises described in the notice.
1. Whenever the Building Code Inspector finds that any dwelling, dwelling unit, rooming house, rooming unit, dormitory room 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 Part 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, rooming house, rooming unit, dormitory room 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 of 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 person 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 Housing Appeals Board is an extension of time for compliance.
- D. The Housing 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: Housing Appeals Board

- A. The UCC Appeals Board will be established and members appointed by separate Resolution adopted by the Orwigsburg Borough Council.

109: 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.

110: Penalties:

A. 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 Part continues shall constitute a separate offense

111: Severability:

A. If any provision, sentence, clause, section, or any 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 council, that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid provision, sentence, clause, section. Or a part thereof not have been included herein.

THIS ORDINANCE shall become effective SEPTEMBER 9, 2009

DULY ENACTED AND ORDAINED THIS 9TH DAY OF SEPTEMBER 2009

Attest:

Cheryl Edwards Skjottum
(Secretary)

(President)

Gerten Scandibe
(Mayor)