

Chapter 189

RENTAL PROPERTY

[HISTORY: Adopted by the Borough Council of the Borough of Port Carbon 12-12-2006 by Ord. No. 2006-8. Amendments noted where applicable.]

GENERAL REFERENCES

Code enforcement — See Ch. 102.

Uniform construction codes — See Ch. 106.

ARTICLE I
Landlord Reports

§ 189-1. Definitions.

The following words, when used in this article, shall have the meanings ascribed to them in this section except where the context clearly indicates or requires a different meaning:

LANDLORD — Any person who grants a lease or otherwise permits the use of his real estate or portion thereof for a consideration, monetary or otherwise.

PERSON — Any natural person, partnership, association, firm or corporation.

TENANT — That person or persons who have the use of real estate of a landlord and are responsible for the giving of any type of consideration therefor, but excluding those who are tenants for a period of less than 30 days.

§ 189-2. Landlord's report required.

All landlords, within 30 days after the effective date of this article, or, in case of real estate thereafter acquired or thereafter rented or becoming available for rental, within 30 days after the acquisition, rental or availability for rental thereof, as the case may be, shall report to the Tax Collector or Borough Secretary, in writing, during regular business hours the number of parcels or units of real estate presently or hereafter rented or available for rental, a description (by address, unit or apartment number and/or some other meaningful method) of said parcels or units and the names of its tenants at the time of such report, together with a designation as to which unit or parcel is occupied by each.

§ 189-3. Landlords to report changes.

Any change in the occupancy of real estate or leased property or in the identity of the tenants from that shown in the report of the landlord is required in § 189-2 hereof shall be reported by the landlord to the Tax Collector or Borough Secretary within 10 days after such change. It is intended hereby that landlords shall report a new tenant or a tenant who rents or leases a different unit or parcel of real estate and when a unit or parcel of their real estate becomes vacant.

§ 189-4. Forms.

The Tax Collector or Borough Secretary may prepare a form report entitled "Status of Occupancy Report," which form report may require information set forth above and such other pertinent information that the Borough Council by resolution may direct the Tax Collector or Borough Secretary to incorporate into said report form. The failure to have such report forms, however, shall not excuse the obligation of landlords to provide the information required herein.

§ 189-5. Violations and penalties. [Amended 4-8-2008 by Ord. No. 1-2008]

Any landlord violating any of the provisions of this article or who furnishes false information to the Borough or who uses a false name or address in any report by this article shall, upon conviction, be punishable as set forth in Chapter 1, General Provisions, Article I, General Penalty, of this Code.

ARTICLE II
Residential Rental Unit Registration and Inspection

§ 189-6. Title.

This article shall be known as the "Residential Rental Unit Registration and Inspection Law."

§ 189-7. Definitions.

As used in this article, the following words shall have the following meanings, unless the context clearly indicates otherwise:

AGENT — Any person, corporation, copartnership, association or fiduciary who or which, for monetary consideration, aids in the rental of property as defined herein. When used in this article in a clause proscribing any activity or imposing a penalty, the term, as applied to partnerships and associations, shall mean each partner and, as applied to corporations, the officers thereof.

CODES — The Fire Prevention, Building, Housing, Mechanical, Property Maintenance, Electrical and Plumbing Codes, as adopted by the Borough from time to time, and any rules and regulations promulgated thereunder.

OWNER — Any person, agent, operator, firm, corporation, partnership, association, property management group, housing authority or fiduciary having legal, equitable or other interest in any real property; or recorded in the official records of the state, county or municipality 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 such person's estate. When used in this article in a clause proscribing any activity or imposing a penalty, the term, as applied to partnerships and associations, shall mean each partner and, as applied to corporations, the officers thereof.

REGISTRATION LICENSE — The annual business privilege license issued to the owner/landlord of a real property rental unit.

RESIDENTIAL RENTAL UNIT — Any dwelling unit or structurally enclosed area including or intended to be used as the living quarters for one or more individuals and not occupied by the owner thereof.

RESIDENTIAL RENTAL UNIT REGISTRATION NUMBER — The distinct registration number assigned by the Code Enforcement Office to a residential rental unit.

§ 189-8. Registration required; specifications.

- A. No owner or agent shall own or operate a residential rental unit unless and until a current registration license, for each specific unit and use thereof, has been issued to the owner or agent pursuant to this article.
- B. The registration license required by Subsection A shall be valid for the calendar year for which it is issued, or, if issued during the calendar year, for the remainder of such calendar year. The license shall be renewable for successive calendar years when the licensed premises comply with the codes and all other applicable regulations. The license shall not be transferable and may be revoked at any time for noncompliance with the codes or any other applicable regulations.

- C. Every owner or agent owning or operating any building requiring a license under Subsection A shall, on or before January 31 of each year, register such building and all such residential rental units with the Borough on forms provided by the Code Enforcement Office of the Borough.
- D. Any owner or agent who transfers legal title to and/or operational control over any building and/or residential rental unit requiring a license under Subsection A shall give notice of such transfer, in writing, to the Code Enforcement Office within five business days after having transferred ownership of or operational control over such building and/or residential unit.
- E. Every owner, agent and/or operator of a licensed building or residential rental unit shall advise each occupant thereof, in writing, either in the lease between the parties or otherwise, of the maximum number of occupants permitted in the leased premises.
- F. Each applicant for a registration license required by Subsection A shall, at time of application, pay an initial registration fee as may be determined by further ordinance (whether or not the residential rental unit is occupied at the time) and annually thereafter a renewal registration fee as may be determined by further ordinance (whether or not the residential rental unit is occupied at the time). A fee is not required for an owner-occupied dwelling unit or one that is not rented or for rent at any time during the calendar year. The renewal registration fee shall be due and payable on or before the 31st day of January of each year. No registration fee is currently anticipated.
- G. No owner or agent may offer for rent or assist in offering for rent, by advertising or otherwise, any residential rental unit without first ascertaining that a valid registration license exists for such residential rental unit. Any advertisement for rent of a residential rental unit, including but not limited to newspaper, radio or television advertisement, placard advertisement or real estate listing, shall include the residential rental unit registration number assigned by the Borough.
- H. Failure to register the residential rental unit with the Code Enforcement Office within 90 days of the effective date of this article or within 30 days following the purchase or conversion of structure to rental property shall constitute a violation of this article.

§ 189-9. Occupancy prohibited without certificate.

No residential rental unit shall be occupied by other than the owner thereof unless a registration license has been obtained and a certificate of compliance, as required by the provisions of this article, is displayed at the structure in which the residential rental unit is located.

§ 189-10. Inspections.

- A. Each residential rental unit shall be inspected by the Code Enforcement Officer or designee at least one time in every thirty-six-month period. For such purpose and for any reinspection required hereunder the owner shall provide access to Borough representatives.

- (1) As for any residential rental unit unoccupied or occupied by the owner on or after the effective date thereof, a certificate of compliance shall be issued and displayed prior to occupancy of such residential rental unit by anyone other than the owner and subsequent inspections shall occur as set forth in Subsection A(2).
 - (2) As for any residential rental unit occupied by other than the owner as of the effective date hereof and for all subsequent inspections, inspections required by this article shall be completed and the certificate of compliance issued and displayed not later than December 31 of the year for which inspection is required. In no event shall such an inspection be conducted prior to January 1 of the year for which inspection is required.
 - (3) Districts.
 - (a) The Borough shall be divided into districts as follows:
 - [1] District I.
 - [2] District II.
 - [3] District III.
 - (b) The district boundaries shall be as determined from time to time by resolution of Borough Council.
 - (c) Residential rental units subject to the inspection requirements of this article and located in District I shall be inspected during the first calendar year after the year in which this article shall become effective and every third year thereafter. Residential rental units subject to the inspection requirements of this article and located in District II shall be inspected during the second calendar year subsequent to the calendar year in which this article shall become effective and every third year thereafter. Residential rental units subject to the inspection requirements and located in District III shall be inspected during the third calendar year subsequent to the calendar year in which this article shall become effective and every third year thereafter.
 - (4) No residential rental unit which would otherwise be subject to the inspection requirements of this article shall be required to be inspected under this article within three calendar years subsequent to the year in which any certificate of occupancy required before occupancy of new construction is issued.
 - (5) When a certificate of compliance has been issued prior to a residential rental unit being occupied other than by the owner, said residential rental unit shall not be subject to reinspection under the terms of this article prior to the first applicable calendar year occurring after the calendar year subsequent to issuance of the initial certificate of compliance.
- B. This inspection shall be for the purpose of determining compliance with the provisions of the codes in effect in the Borough on the date of inspection.
- C. Failure of the owner to permit access to conduct such an inspection shall be deemed

a violation of this article.

- D. For the purpose of enforcing this article, the Code Enforcement Officer or designee may seek to obtain a search warrant issued by a competent authority for the purpose of compelling an inspection of a residential rental unit.

§ 189-11. Certificate of compliance.

If the inspection of the residential rental unit discloses no Codes violations, the Code Enforcement Officer or designee shall issue a certificate of compliance to the owner within 14 days of the inspection. Issuance of a certificate of compliance shall not denote compliance with any applicable Code. The certificate of compliance shall be in such form as approved from time to time by the Code Enforcement Officer. The certificate of compliance shall be displayed in plain view within the residential rental unit or structure.

§ 189-12. Certificate of noncompliance.

If the inspection of a residential rental unit discloses codes violations, the Code Enforcement Officer or designee shall issue a certificate of noncompliance within 14 days of said inspection. The certificate of noncompliance shall set forth the following:

- A. The street address or appropriate description of the subject property.
- B. The date of inspection.
- C. The identity of the inspector.
- D. A statement of the zoning district applicable to the subject property, together with an extract of the applicable ordinance(s) showing the uses permitted within that district.
- E. A statement of any variances and use permits granted to the subject property, together with the conditions and restrictions of such permits.
- F. A statement as to whether there appears to be any nonconformity in the structures on the property or the uses being made thereof. This statement shall also indicate whether the property has been approved or designated as a nonconforming use.
- G. A list of codes' violations.
- H. The number of days in which the owner is to accomplish repairs, including a provision allowing for a reasonable time extension upon the owner's showing of good faith compliance to the satisfaction of the Code Enforcement Officer.
- I. Notice that, if the conditions are not repaired within the time specified, the residential rental unit may be placarded as unfit for human occupancy or subject to rent withholding in accordance with § 189-18C of this chapter.

§ 189-13. Reinspection.

- A. Upon the expiration of the time specified to accomplish repairs or upon notice from the owner that the repairs have been accomplished, whichever occurs first, the Code Enforcement Officer or designee shall reinspect the subject residential rental unit.

- B. In the event that the owner accomplished the repairs, the Code Enforcement Officer or designee shall issue a certificate of compliance to the owner in accordance with § 189-11 of this article.
- C. In the event that such reinspection discloses that the owner failed to accomplish the repairs, the Code Enforcement Officer or designee shall issue a new certificate of noncompliance, in accordance with § 189-12 of this article. Further, the owner shall pay a reinspection fee in an amount equal to the initial application fee as set forth in § 189-14 of this article.

§ 189-14. Certificate application and fee.

- A. Upon application for a certificate of compliance and the payment to the Borough of a fee per residential rental unit for up to three residential rental units plus a fee per residential rental unit for each residential rental unit exceeding three, the Code Enforcement Officer or designee shall review the pertinent Borough records and inspect the subject premises in accordance with § 189-10 of this article. All inspection fees shall be paid prior to the inspection regardless of the number of units. Failure to pay inspection fees shall be deemed a failure and/or refusal to comply with the provisions contained herein and will be subject to the penalty contained in § 189-18.
- B. Upon application and the payment to the Borough of a fee per residential rental unit for up to three residential rental units plus a fee for each residential unit exceeding three, the Code Enforcement Officer or designee shall review the pertinent Borough records and inspect the subject premises in accordance with § 189-8 of this article.
- C. Owners of multiple properties containing more than one residential rental unit are hereby entitled to aggregate all such units owned within the corporate limits of the Borough for the purposes of the calculation set forth in Subsection B above. For purposes of this aggregation, ownership shall be determined by the official records in the Office of the Recorder of Deeds of Schuylkill County.
- D. Fees charged shall be as set from time to time by resolution of the Borough Council. **[Added 4-8-2008 by Ord. No. 1-2008]**

§ 189-15. Nonliability of Borough.

The issuance of a certificate of compliance is not a representation by the Borough that the residential rental unit and/or building in which it is located is in compliance with the Fire Prevention, Building, Mechanical, Property Maintenance, Electrical or Plumbing code. The issuance of a certificate of compliance indicates that the residential rental unit did not have any dangerous conditions as of the date of inception. However, neither the enactment of this article nor the issuance of a certificate of compliance shall impose any liability upon the Borough for any errors or omissions which resulted in the issuance of such certificate, nor shall the Borough bear any liability not otherwise imposed by law.

§ 189-16. Appeals.

- A. Newspaper advertisement. The Code Enforcement Office shall each year cause notice to be published two times in a newspaper of general circulation within the

Borough. The initial notice shall be published during the first six months of the calendar year this article shall become effective. Thereafter, a notice shall be published during January of each calendar year and a second notice published during October of each calendar year. The notice shall set forth the district for which inspection of residential rental units occupied other than by the owner is required during the year of publication; that inspection may be required before a residential rental unit is occupied by other than the owner; that all residential rental units are required to be registered; and where a copy of the article may be obtained.

- B. Deeds and agreements of sale. Every deed and agreement of sale executed and delivered on or after the effective date of this article with respect to any premises within the Borough which includes one or more residential rental units shall include therein a notice substantially in the form which follows:

"Residential rental units within the Borough of Port Carbon which are occupied other than by the owner thereof are subject to registration and inspection requirements of the Codified Ordinances of the Borough of Port Carbon."

§ 189-17. Delegation of authority.

Appropriate Borough officials are authorized and directed to take such actions as are necessary to effectuate this article.

§ 189-18. Violation and penalties.

- A. Any owner or agent who has violated or permitted the violation of this article shall be subject to the following penalties:
- (1) First violation: costs of prosecution and either a fine of \$300 or 30 days' imprisonment, or both.
 - (2) Second violation: costs of prosecution and either a fine of \$600 or 60 days' imprisonment, or both.
 - (3) Third and each subsequent violation: costs of prosecution and either a fine of \$1,000 or 90 days' imprisonment, or both.
- B. Each violation of this article and each day the same is continued shall be deemed a separate offense. A separate violation shall exist for each unregistered or uncertificated residential rental unit and be deemed a separate offense.
- C. In addition to the placarding of the premises, rent withholding and other civil remedies available to the Borough, the Borough may seek the enforcement of any order for corrections from the Court of Common Pleas of Schuylkill County.