

**BOROUGH OF PORT CARBON**  
**COUNTY OF SCHUYLKILL IN THE**  
**COMMONWEALTH OF PENNSYLVANIA**

Ordinance No. \_\_\_\_\_

AN ORDINANCE OF PORT CARBON BOROUGH, SCHUYLKILL COUNTY, COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING REGULATIONS, LICENSING, AND INSPECTIONS FOR RENTAL PROPERTY IN THE BOROUGH; REQUIRING AN OWNER OF RENTAL PROPERTY IN THE BOROUGH TO APPLY FOR A RENTAL OCCUPANCY PERMIT; RESTRICTING THE TRANSFER OF RENTAL OCCUPANCY PERMITS; PROVIDING FOR THE ENFORCEMENT OF THE ORDINANCE; RESERVING THE RIGHTS AND ENFORCEABILITY OF ALL OTHER ORDINANCES AND REGULATIONS; CONFIRMING THAT THE BOROUGH IS NOT ISSUING A WARRANTY WITH RESPECT TO RENTAL PROPERTY; AND ESTABLISHING PENALTIES FOR VIOLATIONS.

WHEREAS Borough of Port Carbon previously enacted Chapter 189 entitled "RENTAL PROPERTY", and Borough council determined that said Chapter 189 required repeal due to administrative and efficiency; and

WHEREAS Chapter 189 shall be repealed in its entirety, and replaced by the foregoing Ordinance of Amendment

WHEREAS the purpose of this Regulation and the policy of the Borough of shall be to protect and promote the public health, safety and welfare of its citizens, to establish rights and obligations of Owners relating to Residential Rental Units in the Borough and to encourage Owners to maintain and improve the quality of rental housing within the Borough. This Regulation provides for a systematic inspection program, registration and licensing of Residential Rental Units, and penalties.

AND NOW, pursuant to the power conferred on Port Carbon Borough by Sections 1202 and 1203 of the Borough Code, 8 Pa. C.S. §§1202(15), 1203, the Borough Council of Port Carbon hereby ordains the following:

Section I. Definitions.

The following terms shall have the following meanings in this Ordinance unless the context clearly indicates otherwise.

"Agent" - a natural person retained by the Owner to be responsible for one or more Rental Units within the Borough.

"Borough" - the Borough of Port Carbon, Schuylkill County, Pennsylvania.

"Codes"- any state, federal, county, or local statute, regulation or ordinance adopted, enacted or in effect in and for the Borough including but not limited to, the Property Maintenance Code, the Building Code, and the Zoning Ordinance for Port Carbon Borough.

"Code Enforcement Officer" - the person or other legal entity appointed by Port Carbon Borough Council as its code enforcement officer or as its assistant code enforcement officer.

"Owner" - any person or other legal entity having a legal or equitable interest in a parcel of real property; or any person or other legal entity holding title to a parcel of real property as recorded in the official records of the Commonwealth of Pennsylvania or Schuylkill County; or any person or legal entity having control over a parcel of real property, including the guardian of the estate of a person, or the executor or administrator of the estate of a person. If more than one person or other legal entity owns the Rental Unit as joint tenants, tenants in common, tenants by the entirety, or tenants in partnership, each such person or legal entity shall be considered an Owner and shall have all the duties and responsibility of an Owner under this Regulation.

"Natural Person" - a person that is an individual human being, as opposed to a legal person, which may be a private or public organization or entity such as but not limited to an association, partnership, limited liability company, fictitious name, or corporation.

"Rental Occupancy Permit" - a document issued by the Borough to the Owner of a Residential Rental Unit.

"Residential Rental Unit" - each Structure or separately secured portion thereof offered by the Owner of the real property on which such Structure stands to a person or persons who is/are not the Owner thereof for residential purposes in return for the payment of rent or some other consideration. The term does not include a tenancy which lasts for less than thirty (30) days.

"Structure" - the building located on a parcel of real property in which a tenant will reside, or in which a tenant will reside in a separately secured portion thereof.

## Section 2. Application

- A. The Owner of each Rental Unit in the Borough, within thirty (30) days after the effective date of this Ordinance, or, in case of a Rental Unit thereafter acquired or determined, within thirty (30) days after the acquisition or availability for rental thereof, shall apply to the Borough Secretary for a Rental Occupancy Permit. On the Application form, in addition to all other information requested, the Owner shall list the names of all prospective tenants at the time of such Application. This Application shall be supplemented with the names of tenants within ten (10) days of the signing of the lease if such names were not available at the time of the Application but become available thereafter.
- B. The Owner of each Rental Unit in the Borough having obtained a Rental Occupancy Permit following application pursuant to Section 2A, shall submit a new Application with the Borough Secretary within a minimum of thirty (30) days prior to the expiration of the Rental Occupancy Permit.
- C. Any change in the occupancy (such as a previously rented Rental Unit becoming vacant) of the Rental Unit, or in the identity of the tenants thereof from that stated on the Application required by Section 2A or Section 2B, shall be reported by the Owner of the Rental Unit to the Borough Secretary, in writing, within ten (10) days after such change.

- D. Any Owner of a Rental Unit who is not a natural person shall name an Agent, who shall be a natural person, with an address and phone number, on the application required by Section 2A or 2B, who may be contacted by the Borough to deal with issues pertaining to the Rental Unit, and who may be subject to being cited for any violations of this Ordinance. Any such Agent shall sign the Application form and thereby acknowledge his/her legal obligations under this Ordinance.
- E. The Borough may charge an Application fee, which shall be determined from time to time by Resolution, which must be paid for the Application to be considered complete.
- F. No Rental Occupancy Permit will be issued if there are any delinquent property taxes or assessments, water & sewer utilities on the Residential Rental Unit or any other Residential Rental Unit in which the same Owner has an interest. Proof of compliance with Section shall be submitted at the time of application for Rental Occupancy Permit.
- G. Each Owner who is not an Owner-occupant, or who does not reside in the Borough of Port Carbon or within a twenty (20) mile air radius of the Borough limits, shall appoint an Agent, who shall reside in the Borough or within a twenty (20) mile air radius of the Borough limits. No Rental Occupancy Permit shall be issued to any Owner residing more than twenty (20) miles from the municipal limits of the Borough unless the Owner provides the Borough Secretary with the name, mailing address and twenty-four-hour telephone number of the Agent residing within the twenty-mile radius, authorized to accept service of process on behalf of the Owner. For the purposes of this subsection, a post office box is not acceptable for the Agent's address.
- H. If the Owner has appointed an Agent, the Agent shall be jointly responsible to fulfill all the obligations set forth in this Ordinance. No Owner may relieve himself of the responsibility to perform the duties set forth in this Ordinance by appointing an Agent.
- I. 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 along with the duties and responsibilities of both the tenant and owner for the maintenance and condition of the residential rental unit and structure.
- J. No owner or agent may offer for rent or assist in offering for rent, by advertising or otherwise, and residential rental unit without first ascertaining that a valid Rental Occupancy Permit exists for such residential rental unit.

### Section 3. Inspections and Permit.

- A. The Owner of each Rental Unit shall allow an inspection of the Rental Unit and the Structure in which it is located to occur within thirty (30) days of the date of the Owner either applied for a Rental Occupancy Permit under Section 2 of this Ordinance or should have applied under Section 2 of this Ordinance. The inspection shall be conducted by the Code Enforcement Officer or other designee of the Borough at least once every **three (3) years**, and the purpose of the inspection shall be to ensure compliance with the building and properly maintenance codes of the Borough any state, federal, county, or local statute, regulation or ordinance adopted. The property owner or their agent shall be present during the inspection. Failure of the owner to permit such inspection shall constitute a violation of this article.

- B. If the Code Enforcement Officer or other designee of the Borough determines that the Rental Unit and the Structure in which it is located are in compliance with all applicable codes, the Officer/designee shall issue a Rental Occupancy Permit to the Owner. The Rental Occupancy Permit will be valid for a period of **three (3) years** from the date of issuance. The Rental Occupancy Permit shall be on a form determined by the Officer/designee. Rental Occupancy Permits shall be posted within the common area of the structure and clearly visible to all occupants and visitors of the structure. In the event that the structure lacks a common area, the Rental Occupancy Permit shall be clearly displayed within each unit.
- C. If the Code Enforcement Officer or other designee of the Borough determines that the Rental Unit or the Structure in which it is located is not in compliance with all applicable codes and/or this Ordinance, the Officer/designee shall issue a Certificate of Non-Compliance to the Owner. The Certificate of Non-Compliance can be on a form determined by the Officer/designee, but shall be in writing, contain the words Certificate of Non-Compliance and a reference to this Ordinance, state the condition or conditions which are in violation of an applicable code, state the code which is being violated, and give the Owner a reasonable number of days to cure the condition(s). The Code Enforcement Officer or other designee of the Borough may declare any violations to constitute an emergency condition and require immediate action to mitigate the danger if the violations are of a serious enough character to constitute a danger to the public health.
- D. If a Certificate of Non-Compliance has been issued, the Owner shall make the Rental Unit and the Structure in which it is located available for an inspection within thirty (30) days of a request by the Code Enforcement Officer or other designee of the Borough after the expiration of the days given the Owner to cure the condition(s) on any Certificate of Non-Compliance issued pursuant to Section 3C. After the inspection mandated by this subsection, the Officer/designee shall either issue a Rental Occupancy Permit pursuant Section 3B or a Certificate of Non-Compliance pursuant to Section 3C. If the latter, the procedure of this subsection repeats itself until the violations are cured or the Owner removes the Rental Unit from consideration for lease.
- E. Following the expiration of the Rental Occupancy Permit after **three (3) years**, the Owner shall follow the procedures of Section 2B of this Ordinance and allow an inspection of the Rental Unit and the Structure in which it is located to occur within thirty (30) days of a request by the Code Enforcement Officer or other designee of the Borough. The procedures of Section 3A through 3D are thereafter repeated.
- F. A fee schedule for charges due to the Borough by the Owner for the inspections required by this Section can be adopted from time to time by Resolution. Any fee charged for an inspection shall apply only to the inspection pursuant to Section 3A, any follow-up inspections pursuant to Section 3D shall be subject to a re-inspection fee. Inspections pursuant to Section 3E shall be charged at a rate consistent with inspections required under Section 3A.
- G. The Code Enforcement Officer shall deny and may revoke any Rental Occupancy Permit if the Owner fails to comply with this Ordinance or fails to cure any conditions of non-compliance. A revocation of a Rental Occupancy Permit will require all tenants of the Rental Unit to vacate the unit.

#### Section 4. Application and Rental Occupancy Permit Required.

- A. No Owner shall lease or rental Unit to a tenant without having filed an Application with the Borough pursuant to Section 2 of this Ordinance and having received a valid, current Rental Occupancy Permit.

- B. No Owner shall lease or rent a Rental Unit to a tenant without allowing an inspection of the Rental Unit and the Structure in which it is located and obtaining a valid Rental Occupancy Permit issued pursuant to Section 3 of this Ordinance.
- C. To protect the health, safety, and welfare of the residents of the Borough, it is hereby declared that the Borough shall require hazard and general liability insurance for all property owners renting properly for residential occupancy in the Borough.
  - a. Minimum coverage; use of insurance proceeds. All Owners shall be required to obtain a minimum of one hundred thousand (\$100,000.00) dollars in general liability insurance, and hazard and casualty insurance in an amount sufficient to either restore or remove the building in the event of a fire or other casualty. Further, in the event of any fire or loss covered by such insurance, it shall be the obligation of the Owner to use such insurance proceeds to cause the restoration or demolition or other repair of the property in adherence to the Borough Code and all applicable ordinances.
  - b. Property owners to provide Borough with insurance information. Owners shall be required to place their insurance company name, policy number and policy expiration date on their Rental Property Registration form, to provide the Office with a copy of a certificate of insurance listing the Borough as a certificate holder. A Rental Occupancy Permit shall not be issued to any Owner or agent unless the aforementioned information has been provided to the Office. The Office shall be informed of any change in policies for a particular rental property and Rental Unit within thirty (30) days of said change or cancellation.

#### Section 5. Change in Ownership

- A. A Rental Occupancy Permit shall not be transferred. In the case of Rental Units that are sold or transferred, the new Owner shall secure a Rental Occupancy Permit for each Rental Unit consistent with Section 2. Failure to a Rental Occupancy Permit within thirty (30) days of the date of sale of transfer of ownership shall result in the revocation of the Rental Occupancy Permit. If the Owner of any Rental Unit who holds a Rental Occupancy Permit from the Borough transfers legal title of the Rental Unit to another person or legal entity prior to the expiration of the Rental Occupancy Permit, said Owner/transferor shall notify the Borough Secretary, in writing, of the transfer within five (5) business days following the transfer. Said notice shall include the name and contact information of the transferee.
- 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 are subject to registration and inspection requirements of the Codified Ordinances of the Borough of Port Carbon."

#### Section 6. Occupancy prohibited without Rental Occupancy Certificate

No residential rental unit shall be occupied by other than the owner thereof unless a Rental Occupancy Certificate has been obtained, as required by the provisions of this article, and displayed in accordance with Section 3.B

#### Section 7. Enforcement

This Ordinance may be enforced by, and citations for violations of this Ordinance may be filed by any police officer employed by the Borough, or by the person or legal entity appointed by the Borough as its Code Enforcement Officer.

#### Section 8. Simultaneous Enforcement

Nothing in this Section shall preclude a Code Enforcement Officer or other designee of the Borough from, simultaneously with enforcing this Ordinance, issuing against the Owner a notice of violation, citation, or any other document to enforce an applicable building or property maintenance code of the Borough or the Commonwealth of Pennsylvania.

#### Section 9. Non-warranty

The issuance of a Rental Occupancy Permit is not a representation by the Borough that the Rental Unit and/or the Structure in which it is located is in compliance with all building, property maintenance codes, or zoning regulations of the Borough or the Commonwealth of Pennsylvania. No tenant, prospective tenant or any other person should view this Ordinance, or any Rental Occupancy Permit issued pursuant to this Ordinance, as a warranty or representation by the Borough that the Rental Unit or the Structure in which it is located is free from any and all dangers, whether known, unknown, obvious, or hidden. Borough is not making any warranty or representation to any person that the Rental Unit or the Structure in which it is located is safe or habitable. By this Ordinance, the Borough is not assuming any liability not otherwise imposed upon it by law.

#### Section 10. Penalties

Any person violating any provision of this Ordinance is subject to prosecution 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 found in violation of any provision of this Ordinance shall pay a fine of not less than \$300.00 nor more than \$1,000.00, plus court costs and cost of prosecution, and/or may be imprisoned either for a violation of any provision of this Ordinance or for failure to pay a fine or costs for a term not to exceed ninety (90) days.

A separate offense shall arise for each day or portion thereof in which a violation of any provision of this Ordinance exists. The Borough may enforce this Ordinance through an action in equity

#### Section 11. Severability

If any section, part, sentence, clause, or portion of this Ordinance is found by a court of competent jurisdiction to be illegal or unenforceable, the rest and remainder of this Ordinance shall be given full force and effect as if adopted by the Borough without the section, part, sentence, clause or portion found illegal or unenforceable.

#### Section 12. Repealer

All prior Borough Ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give effect to this Ordinance.

Section 13. Effective Date

This Ordinance shall be effective immediately upon enactment or on the first day allowed by law thereafter, whichever comes first.

Section 14. Rental Districts

Borough of Port Carbon Borough Council shall possess right of dividing the Borough limits into rental districts by resolution, and, further possess right to establish staggered inspection and compliance deadlines via resolution, as the Borough of Port Carbon Borough Council deems advisable in the administration and enforcement of this Ordinance.

Sections 15. Incorporation

The recitals an Ordinance caption are hereby incorporated in this Ordinance as though set forth at length.

ENACTED and ORDAINED, this 21<sup>st</sup> day of December, 2021

BOROUGH OF PORT CARBON  
Schuylkill County, Pennsylvania

BY: [Signature]  
Vice President

ATTEST:

[Signature]

APPROVED:

[Signature]  
Mayor