

## Chapter 124

### RESIDENTIAL RENTAL UNIT OCCUPANCY

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**[HISTORY: Adopted by the BOROUGH COUNCIL 1-19-66 as Ord. No. 426. Section 124.3 amended at time of adoption of CODE; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable. Amended and Restated 2-7-18 by Ord. No. 1105]**

- § 124.1. Title.

This Chapter shall be known as the Borough of Whitehall, Allegheny County, Pennsylvania "Residential Rental Unit Occupancy Ordinance."

- § 124.2. Definitions.

*Borough* – the Borough of Whitehall, Allegheny County, Pennsylvania.

*Codes* – any code or ordinance adopted, enacted, and/or in effect in and for the Borough concerning fitness for habitation or the construction, maintenance, operation, occupancy, use or appearance of any premises or residential rental unit. Included within, but not limited by, this definition are the following which are in effect as of the date of the enactment of this Chapter: the Uniform Construction Code (hereinafter “UCC”), the BOCA National Property Maintenance Code, the International Property Maintenance Code, the International Plumbing Code, the International Fire Prevention Code, the International Electrical Code, the Floodplain Management Ordinance, the International Building Code and any duly enacted amendment or supplement to any of the above and any new enactment falling within this definition.

*Code Enforcement Officer* – the duly appointment Code Enforcement Officer(s) having charge of the Office of Code Enforcement of the Borough and any assistants or agents.

*Common area* – any open area within a structure shared by occupants or that the occupants have the right to share including, but not limited to, kitchens, bathrooms, living rooms, dining rooms, attics, basements and any room used for parties, social events or the congregation of people, excepting bedrooms.

*Dwelling unit* – one or more rooms used for living and sleeping purposes and having a kitchen with fixed cooking facilities arranged for occupancy by one family.

*Exterior area* – the outside façade of a building, including, but not limited to, any porch, yard, lawn, landscaping, sidewalks, setbacks, curbs, and all open area contiguous to a building owned by the same person or persons or part of the same real estate parcel.

*Family* – an individual, or an individual with children, or a couple and their children, or a group of no more than three unrelated persons living together in a dwelling unit.

*Landlord* – one or more persons, jointly or severally, in whom is vested all or part of the legal title to the premises or part of the beneficial ownership and a right to the present use and enjoyment of the premises, including a mortgage holder in possession of a residential rental unit (same as “Owner”).

*Local agent* – an adult individual designated by the owner of a residential rental unit who shall be the agent of the owner for service of process and receiving of notices and demands for the owner under this Chapter.

*Occupant* – an individual who resides in a rental unit, whether or not he or she is the owner thereof, with whom a legal relationship with the owner/landlord is established by a lease or by the laws of the Commonwealth of Pennsylvania. (same as “Tenant”).

*Owner* – any person, agent, operator, firm, corporation, partnership, association, property management group, or fiduciary having legal, equitable or other interest in any real property; or recorded in the official records of the State, County or Borough 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 Chapter 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.

*Owner-occupied rental unit* – a rental unit in which the owner resides on a regular, permanent basis.

*Person* – a natural person, partnership, corporation, unincorporated association, limited partnership, trust or any other entity.

*Premises* – any parcel of real property in the Borough, including the land and all buildings and appurtenant structures or appurtenant elements, on which one or more residential rental units are located.

*Qualified residential rental unit* – a residential rental unit which has met the inspection requirements of this Chapter and for which the annual fee has been paid.

*Rental occupancy license* – the license issued to the owner of residential rental units under this Chapter, which is required for the lawful rental and occupancy of residential rental units.

*Residential rental unit* – any structure within the Borough that is occupied by someone other than the owner of the real estate as determined by the most current deed for the property or that owner's spouse, child or parent. Each apartment within a building is a separate dwelling unit requiring inspection and a license.

*Rooming unit* – includes each and every bedroom within a structure such as a boarding house, a fraternity, a sorority, a motel, a hotel, a hospital, a nursing home, a dormitory, a tourist house, seasonal labor housing, or other similar buildings.

*Structure* – any human-made object, the use of which requires an ascertainable station location on land, whether or not it is affixed to the land. Each apartment within a building is a separate structure.

*Tenant* – an individual who resides in a rental unit, whether or not he or she is the owner thereof, with whom a legal relationship with the owner/landlord is established by a lease or by the laws of the Commonwealth of Pennsylvania. (same as "Occupant").

### **§ 124.3. Purpose.**

It is the purpose of this Chapter, and the policy of the Borough, to protect and promote the public health, safety and welfare of its citizens, to establish rights and obligations of owners relating to the rental of certain residential rental units in the Borough and to encourage owners to maintain and improve the quality of rental housing within the community. It is also the policy of the Borough that owners of residential rental properties are responsible to obey the various codes adopted to protect and promote public health, safety and welfare. As a means to those ends, this Chapter provides for a system of inspections, issuance and renewal of rental occupancy licenses and sets penalties for violations. This Chapter shall be liberally construed and applied to promote its purposes and policies.

**§ 124.4. Standard to Resolve Inconsistent Provisions of Other Ordinances.**

In the event any provision of this Chapter is inconsistent with the provisions of any other code or ordinance in effect in the Borough, the ordinance provision applying the more strict standard shall apply.

**§ 124.5. Owner's Duties.**

It shall be the duty of every owner to keep and maintain all residential rental units in compliance with all applicable State laws and regulations and local ordinances and to keep such property in good and safe condition. The owner/landlord shall be responsible for regularly performing all maintenance, including lawn mowing and ice and snow removal, and for making any and all repairs in and around the premises. As provided for in this Chapter, every owner/landlord shall be responsible for regulation the proper and lawful use and maintenance of every dwelling which he, she or it owns.

**§ 124.6. Registration.**

1. Every owner of a residential rental unit shall register the unit, on a registration application form issued by the Borough, in accordance with the following schedule:
  - a. All owners of residential rental units shall register the units with the Code Enforcement Officer within 30 days after the effective date of this Chapter.
  - b. The designation of a local agent, where required, shall occur on or before February 1 of each year or within 30 days after the effective date of this Chapter, whichever occurs last.
  - c. Any person who converts any structure to a residential rental unit or units shall register the residential rental unit or units with the Borough's Code Enforcement Officer within 30 days of the completion of the conversion of the unit or units or within 30 days of the date within which a tenant occupies the unit or units, whichever time period is sooner.
  - d. In the event of a transfer of ownership, legal or equitable, of a residential rental unit covered by this Chapter, the resignation and license shall become invalid. It shall be the responsibility of both the transferring owner(s) and the new owner(s) to notify the Borough of said transfer not more than 5 days from the date of said transfer of ownership. If the property continues as a residential rental unit following the transfer, the new owner(s) shall register and license the residential rental unit within 10 days of the date of transfer of ownership, either legal or equitable. In the event that notification is not given within the times set forth above, any rental occupancy license previously issued shall become void and the new owner(s) shall be subject to the requirement for inspections as set forth in this Chapter.
  - e. The owner of a residential rental unit shall update the registration information on record with the Code Enforcement Officer within 10 days of any change in the information set forth below.

- f. Registration information shall be provided by all owners of residential rental units and shall include the following:
- i. The names, addresses, and telephone numbers of all owner(s) of the residential rental unit.
  - ii. The name, address and telephone number of the local agent if a local agent is required. If the local agent is a business, both the name of the business and the name of the designated individual responsible for the rental unit shall be provided.
  - iii. The property address and number of units.
  - iv. The type of residential rental unit.
  - v. The number of dwelling units in each residential unit.
  - vi. Maximum occupancy per unit.
  - vii. Actual number of occupants.
  - viii. Names and addresses of current adult tenants and the number of minor children who reside in each unit.
- g. Any owner of a residential rental unit shall notify the Borough within 10 days of a new tenant occupying, renting or residing in the owner's residential rental unit.
- h. Notwithstanding any other provisions of this Chapter, the names and addresses of a tenant shall not be disclosed by any Borough personnel in the event that the tenant is the subject of a court order requiring that this information be kept confidential.

**§ 124.7. Designation of Local Agent.**

Every owner of a residential rental unit who is not a full-time resident of the Borough and/or who does not live within 20 miles of the boundaries of the Borough, shall designate a local agent who shall reside in an area that is within 20 miles of the boundaries of the Borough. If the owner is a corporation, a local agent 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 local agent. If the owner is a partnership, a local agent shall be required if a partner does not reside within the above referenced area. Said partner shall perform the same function as a local agent. The local agent shall be the agent of the owner for service of process and for receipt of notices and demands, as well as for performance of the obligations of the owner under this Chapter. The identity, address and telephone number(s) of a person who is designated as local agent hereunder shall be provided by the owner to the Borough and such information shall be kept current and updated as it changes.

**§ 124.8. Maintenance and Inspections.**

1. The owner of a residential rental unit shall maintain the premises in compliance with the applicable codes of the Borough and shall ensure the performance of all routine maintenance, including lawn mowing and ice and snow removal, and shall promptly make any and all repairs necessary to fulfill this obligation.
2. Except as otherwise provided in this Section, it shall be unlawful to occupy, or let to others for occupancy, any residential rental unit which has not been currently inspected and licensed as provided by this Chapter. The foregoing notwithstanding, during the initial phase-in period of the inspection program contemplated hereby, no residential rental unit shall be considered out of compliance with the inspection requirements of this Chapter until after the initial property inspection hereunder. This notwithstanding, payment of the annual inspection fee shall be required if the property is to be rented for residential purposes. The requirements for periodic inspections shall be as follows:
  - a. Each residential rental unit shall be inspected by the Code Enforcement Officer or other designee of the Borough at least one time in every 24-month period. This inspection shall include the exterior and interior of the premises being inspected and shall be conducted in compliance with this Chapter. The owner shall permit inspections of any residential rental unit by the Code Enforcement Officer at reasonable times upon reasonable notice. For such purpose, and for any re-inspection required hereunder, the owner shall provide access to the property to Borough representatives. A unit where inspection access is denied will not be issued a rental occupancy license until inspection access is provided. In the event that a dwelling unit fails to pass the initial inspection the owner shall schedule a follow-up inspection within 60 calendar days at no additional charge. If the residential rental unit fails to pass on the first re-inspection, a fee will be charged for subsequent re-inspections.
  - b. If the inspection of a residential rental unit discloses code deficiencies, the Code Enforcement Officer or other Borough designee shall issue a notice of violation. The notice of code violation shall set forth the following:
    - i. The street address or appropriate description of the subject property.
    - ii. The date of the inspection.
    - iii. The identity of the inspector.
    - iv. A list of the code deficiencies.
    - v. The number of days in which the owner is to accomplish repairs and/or otherwise eliminate the code deficiencies.
    - vi. Notice that, if the conditions are not repaired or the premises are not otherwise brought into compliance with the applicable code within the time specified the owner may be prosecuted and/or the residential rental unit may be placarded as unfit for human occupancy in accordance with

this Chapter. Only the Borough shall have authority to institute prosecution proceedings under the terms of this Chapter.

- c. Upon receiving notice of any code violation(s) from the Code Enforcement Officer, the owner shall promptly take action, or cause the necessary action to be taken, to abate the offending condition and eliminate the violation.
- d. Upon the expiration of the time specified to accomplish repairs or otherwise bring the premises into code compliance, or upon notice to the Borough from the owner that the repairs have been accomplished or code deficiencies otherwise eliminated, whichever occurs first, the Code Enforcement Officer or other Borough designee shall re-inspect the subject residential rental unit.
  - i. In the event such re-inspection discloses that the owner accomplished the repairs or the code deficiencies have otherwise been eliminated, the Code Enforcement Officer or other Borough designee shall issue a rental occupancy license to the owner or local agent in accordance with this Chapter.
  - ii. In the event such re-inspection discloses that the owner failed to accomplish the repairs or otherwise eliminate the code deficiencies, the Code Enforcement Officer may schedule additional re-inspections or may pursue prosecution as otherwise provided in the Borough's Code of Ordinances.
- e. The refusal to allow the Code Enforcement Offices access to inspect a residential rental unit shall not limit the Borough's remedy to determining that the property is not a qualified residential rental unit. In the event that the Code Enforcement Officer is refused entry to inspect a residential rental unit by an owner of said unit, an agent of the owner or a tenant, the Code Enforcement Officer, or other representative of the Borough shall obtain an administrative warrant from the Magisterial District Judge where the premises to be inspected is located. Continuing refusal to allow the Code Enforcement Officer access to inspect the residential rental unit after an administrative warrant is obtained shall be a violation of this Chapter.
- f. Notwithstanding any other provision to the contrary, a rental occupancy license shall not be required for any property that is owned and offered for rent as a residential dwelling unit by a governmental entity, including all agencies, departments, boards, commissions, and instrumentalities of the Federal Government of the United States of America and the Commonwealth of Pennsylvania.
- g. The owner, tenant, or any other person with the approval of the owner or owner's designated agent, may request an inspection of the dwelling unit at any time. Application for a requested inspection shall be made on the appropriate form issued by the Borough and the fee for the inspection shall be paid for in full at the time of the request. The owner shall schedule an inspection to be conducted within 15 days of the receipt of the inspection fee. A written inspection report of

the requested inspection will be delivered to the person making the request and to the owner within 10 days of completion of the inspection. Any defects or violations discovered during a requested inspection will be subject to the correction process outlined above.

**§ 124.9. Rental Occupancy License.**

1. The Borough shall issue a rental occupancy license upon the occurrence of all of the following:
  - a. Upon receipt of the fully completed registration form and the payment of the appropriate license fee to the Borough.
  - b. After verification of all information submitted in the application process.
  - c. Upon inspection of the residential rental unit during which the inspecting officer does not note any violations of the codes referenced in the definition of “codes” above.
  - d. Upon re-inspection of the residential rental unit, violations that were noted in previous inspections have been satisfactorily resolved.
2. Issuance of a rental occupancy license shall represent compliance with the registration and inspection requirements of this Chapter but shall not denote compliance with any other applicable code nor any standard of safety.
3. If after a license has been issued, it is determined that false information was supplied on an application for registration of a rental unit the license shall immediately become null and void and the owner shall be considered in violation of this Chapter.

**§ 124.10. Fees.**

The fees for registration, inspection, re-inspection, follow-up inspection, inspections requested by owners or tenants, missed inspection appointment fees, appeal fees and any other fee required in the administration of this Chapter shall be established by resolution of Borough Council and such fees may be reviewed and changed from time to time by resolution.

**§ 124.11. Non-Liability of Borough.**

The issuance of a rental occupancy license is not a representation by the Borough that the residential rental unit inspected and/or the building in which it is located does not contain any violation of any of the codes referenced in the definition of codes above. Rather, the issuance of a rental occupancy license represents that on the date of inspection, no material violation of any of said codes was noted by the inspector. Neither the enactment of this Chapter nor the issuance of a rental occupancy license is a guarantee to any person that no code violations exist in the premises inspected, nor shall there be imposed any liability upon the Borough for any errors or omissions which resulted in the issuances of such certificate, nor shall the Borough bear any liability not otherwise imposed by law.

**§ 124.12. Violations, Enforcement and Penalties.**

1. **Violations.** It shall be a violation of this Chapter to commit any of the following acts:
  - a. To fail or refuse to register a residential rental unit as required by this Chapter.
  - b. To lease, let or allow the occupancy of a residential rental unit without first obtaining a rental occupancy license where required by this Chapter.
  - c. To refuse to permit inspection of residential rental units as required by this Chapter where an appropriate warrant compelling access to the residential rental unit for an inspection has been obtained.
  - d. To place false information on, or to omit material information from, the registration application form.
  - e. To fail and/or refuse to make the necessary repairs or provisions required to bring the residential rental unit into compliance with the applicable code(s).
  - f. To fail to perform the Owner's duties established under Section 124.5 hereof or to designate a Local Agent pursuant to Section 124.7 hereof, if required.
2. **Enforcement.** Enforcement of violations of this Chapter shall be by action brought before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Civil Procedure as authorized by law. In addition, the Borough may enforce this Ordinance through an action in equity brought in the Allegheny County Court of Common Pleas. Failure to make necessary repairs or to otherwise bring a residential rental unit into compliance with the applicable code(s) shall be considered a violation of this Chapter and the enforcement procedures and penalties prescribed herein shall be applicable. The enforcement of this Chapter shall in no way preclude or limit the Borough's enforcement of any other Borough Ordinance or codes, including but not limited to, the Uniform Construction Code, the International Building Code or the International Property Maintenance Code.
3. **Penalties.**
  - a. Any person, firm or corporation who commits a violation of this Chapter as enumerated in Section 124.12 hereof shall be sentenced to a fine of not less than \$300, but not to exceed \$1,000, per violation and/or imprisonment to the extent allowed by law for the punishment of summary offenses.
  - b. Each day or portion of a day in which a violation is found to exist, or for each Section of this Chapter which has been found to be violated, shall constitute a separate offense.
  - c. Any person, firm or corporation found guilty of violating this Chapter may be assessed court costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings.

- d. The provisions of this Chapter governing revocation, suspension and/or non-renewal of rental occupancy licenses shall be independent, non-mutually exclusive, separate remedies, all of which shall be available to the Borough as may be deemed appropriate.

**§ 124.13. Appeals.**

Any person who considers himself/herself aggrieved by a decision of the Code Enforcement Officer, such as a refusal to issue a rental occupancy license and/or a decision to suspend or revoke a rental occupancy license, may file an appeal of such decision in writing with the Borough Secretary within ten (10) days after such decision was communicated to the party allegedly aggrieved by such decision. The appeal shall be verified by an affidavit and shall state the grounds for such appeal. The appeal shall be accompanied by the appeal fee which shall be established from time to time by resolution of Borough council. A hearing on the appeal shall be conducted before a three-person panel which panel shall be comprised of persons who have been appointed to the planning commission and/or zoning hearing board. The hearing on the appeal shall be scheduled as soon as reasonably practicable. The hearing on the appeal shall be conducted in accordance in with the provisions of the Local Agency Law. The decision of the panel shall constitute an adjunction for purposes of the Local Agency Law and party who is dissatisfied with the decision of the panel may appeal the decision to the Allegheny County Court of Common Pleas as provided by the Local Agency Law.

**§ 124.14. Savings Clause.**

If any of the provisions or terms of this Chapter shall be held invalid for any reason whatsoever, then, unless such provision or term is material to this Chapter as to render this Chapter impracticable to perform, such provision or term shall be deemed severable from the remaining provisions or terms of this Chapter and shall in no way affect the validity or enforceability of any other provisions hereof.