

## **CHAPTER 11**

### **HOUSING**

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## Part 1

### Tenancy Reports

§101. Owners and Rental Agents Responsible for Reports. Every owner and or rental agent of any and all apartment buildings, mobile home parks, or any and all rental and leased residential properties, situate within the Borough, are required, on or before April 1, 1993, to submit to the Borough of Pottstown, on forms provided by the Borough, the number of parcels or units, including location, then being leased or available for lease, the name or names and mailing address of all renters or leasees over the age of eighteen (18) years occupying the said rental units or parcels. (Ord. 1713, 12/14/1992, §2)

§102. Annual Report of Tenancy Changes. The property owner and/or rental agent is further required to file, annually, on forms provided by the Borough, beginning on or before February 1, 1994, any change in the occupancy of parcels or units of real property providing the name or mailing address of any and all new residents over the age of eighteen (18) years. (Ord. 1713, 12/14/1992, §3)

§103. Exceptions to Annual Report Requirement. After the initial report of occupancy pursuant to §101, hereof, is made, the property owner and/or rental agent need only submit a report for the years involved in the event there has been a change in occupancy of the rental unit or parcel; that is, if new occupants have not moved in or if prior occupants have not vacated the rental unit or parcel, the property owner/rental agent need not submit an annual report. (Ord. 1713, 12/14/1992, §4)

§104. Penalty for Violation. Any person (which shall include any individual, partnership, association or corporation) convicted for violation of any provisions or requirements of this Part shall be sentenced to a fine or penalty not exceeding one thousand dollars (\$1,000.00) plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. For the purpose of this Section, the failure to submit the required report for each apartment building, mobile home park or other rental or leased residential property, shall be a separate offense. (Ord. 1713, 12/14/1992, §5; as amended by Ord. 1735, 4/12/1993)



## Part 2

### Registration and Licensing of Residential Rental Units

#### §201. Purpose.

1. The purpose of this Part and the policy of the Borough of Pottstown shall be to protect and promote the public health, safety and welfare of its citizens, to establish rights and obligations of owners and occupants relating to residential rental units in the Borough and to encourage owners and occupants to maintain and improve the quality of life and quality of rental housing within the community. As a means to these ends, this Part provides for a systematic inspection program, registration and licensing of residential rental units and penalties.
2. In considering the adoption of this Part, the Borough makes the following findings:
  - A. There is a growing concern in the community with the appearance and physical condition of many residential rental units.
  - B. There is a perception and appearance of greater incidence of problems with the maintenance and upkeep of residential properties which are not owner occupied as compared to those that are owner occupied.
  - C. There are a significant number of disturbances at residential rental units.
  - D. Violations of the various maintenance codes are generally less severe and more quickly corrected at owner-occupied units as compared to residential rental units.

(Ord. 1944, 8/12/2002, §1)

#### §202. Definitions.

AGENT – any person designated by the owner who has charge, care or control of a residential rental property.

CODE – any State or local code or ordinance adopted, enacted or in effect in and for the Borough of Pottstown including, but not limited to, the BOCA National Building Code, the BOCA Plumbing Code, the BOCA Mechanical Code, the National Electrical Code, the BOCA Fire Prevention Code, the BOCA Property Maintenance Code, and the Pottstown Borough Zoning Ordinance [Chapter 27], and/or other future national or international codes and/or zoning ordinance amendments that may be subsequently adopted.

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**DISRUPTIVE CONDUCT** – any form of conduct, action, incident or behavior perpetrated, caused or permitted by any occupant or visitor of a residential rental unit that is so loud, untimely (as to hour of the day), offensive, riotous or that otherwise disturbs other persons of reasonable sensibility in their peaceful enjoyment of their premises or causes damage to said premises such that a report is made to the Borough Authorities, a police officer and/or a Borough Code Enforcement Officer complaining of such conduct, action, incident or behavior. It is not necessary that such conduct, action, incident or behavior constitute a criminal offense, nor that criminal charges be filed against any person in order for said person to have perpetrated, caused or permitted the commission of disruptive conduct, as defined herein. Provided, however, that no disruptive conduct shall be deemed to have occurred unless a Code Enforcement Officer and/or a police officer shall investigate, and a Code Enforcement Officer makes a determination that such did occur, and keep written records, including a disruptive conduct report, of such occurrences.

**DISRUPTIVE CONDUCT REPORT** – a written report of disruptive conduct on a form to be prescribed therefore, to be completed by the Code Enforcement Officer and which shall be maintained by the Code Enforcement Office. The tenant and the owner, operator, responsible agent or manager shall be notified of any such occurrences, in writing. The tenant and the owner, operator, responsible agent or manager shall receive a copy of the disruptive conduct report or written notice that disruptive conduct has occurred.

**HOTEL UNIT** – any room or group or rooms located within a hotel or motel forming a single habitable unit used or intended to be used for living and sleeping only on a transient basis for a period of less than thirty (30) days.

**RESIDENTIAL RENTAL LICENSE** – a document issued by the Code Enforcement Office to the owner, operator, responsible agent or manager of a residential rental unit upon compliance with all applicable codes granting permission to operate a residential rental unit in the Borough of Pottstown. Such license is required for lawful rental to third parties and occupancy by third parties of any rental units under this Part, unless a Code Enforcement Officer has not inspected the unit or violations of the applicable codes are being corrected and the unit operates under a residential rental registration, or the residential rental unit is exempt from the license provisions of the Part.

**RESIDENTIAL RENTAL PROPERTY** – any parcel of real estate identified by a tax parcel number containing at least one (1) residential rental unit.

**RESIDENTIAL RENTAL REGISTRATION** – the document issued by the Code Enforcement Department of the Borough of Pottstown to the owner of a parcel of land containing at least one (1) residential rental property evidencing the existence of said residential rental unit(s). This registration shall be required until the Code Enforcement Officer inspects the unit and issues a residential rental license for each residential rental unit. A residential rental registration shall continue to be required for lawful rental and occupancy of residential rental units under this Part, unless a Code Enforcement Officer has inspected the building

containing at least one (1) residential rental property and has issued a residential rental license(s) or the residential rental unit is exempt from the registration provisions of this Part. This registration does not warrant the proper zoning, habitability, safety or condition of the residential rental unit in any way.

RESIDENTIAL RENTAL UNIT – a rooming unit or dwelling unit let for rent, or another-than-owner-occupied residential unit, which qualifies as a dwelling unit under all applicable Borough ordinances. A residential rental unit shall not include a hotel or hospital unit. A residential rental unit includes dwelling units under lease-purchase agreements or long-term (greater than six (6) months) agreements of sale.

(Ord. 1944, 8/12/2002, §2)

§203. Owner and Occupant Duties.

1. Owner's Duties.

- A. It shall be the duty of every owner, operator, responsible agent or manager to keep and maintain all residential rental units in compliance with all applicable codes and provisions of all applicable State laws and regulations and local ordinances and to keep such property in good and safe condition and to be aware of, and to act to eliminate, disruptive conduct in such residential rental units.
- B. It shall be unlawful for any person, as owner, operator, responsible agent or manager to conduct or operate or cause to rent any residential rental unit within the Borough of Pottstown without having a residential rental registration.
- C. Every owner, operator, responsible agent or manager shall include the amendment attached hereto as the addendum<sup>1</sup> to residential rental agreement in each lease of a residential rental unit taking effect on or after January 1, 2003. Said amendment is hereby considered to be a part of every lease of a residential rental unit in the Borough of Pottstown executed on or after January 1, 2003, and said amendment shall be posted conspicuously in each residential rental unit.
- D. Every owner, operator, responsible agent or manager shall display the residential rental registration or residential rental license in each residential rental unit. The residential rental registration or residential rental license shall include the following information:
  - (1) The name, mailing address and telephone number of the owner, operator, responsible agent or manager.

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<sup>1</sup> Editor's Note: Addendum is on file at the Borough office.

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- (2) The evenings and hours on which garbage and recycling are to be placed curbside for collection.
  - (3) The telephone number to call to register complaints regarding the physical condition of the residential rental unit.
  - (4) The telephone number for emergency police, fire and medical services.
  - (5) The date of expiration of the residential rental license.
  - (6) A summary of the owner's and occupant's duties under this Part.
- E. It shall be the responsibility of every owner, operator, responsible agent or manager to employ policies and to manage the residential rental units under his/her control in compliance with the provisions of this part, Borough codes and applicable State laws.
- F. No residential rental registration or residential rental license shall be issued to any residential rental unit owned or operated by a person residing outside the County of Montgomery (hereinafter referred to as absentee owner/operator) unless there is provided to the Code Enforcement Office the name, mailing address, actual street address and telephone number of a designated responsible agent residing or working within the County of Montgomery authorized to accept service of process on behalf of the legal owner of said residential rental unit. For the purpose of this Section, a post office box is not acceptable for the responsible agent's address.
- (1) The designation for responsible agent shall not be valid unless signed by the absentee owner/operator and the responsible agent designated to act on behalf of the absentee owner/operator. The absentee owner/operator shall be required to notify the Code Enforcement Office within thirty (30) days of any change in responsible agent.
  - (2) Absentee owner/operators residing outside the County of Montgomery but within a ten (10) mile radius of Pottstown Borough and meeting the following criteria shall be exempt from naming a designated responsible agent:
    - (a) No cases of three (3) disruptive conduct complaints within a twelve (12) month period regarding the same occupants of a particular residential rental unit, as documented by upheld or unappealed disruptive conduct reports.
    - (b) All taxes, water, sewer and trash fees relating to the property paid in full by December 31 of the preceding year.

- (c) The residential units shall pass inspection at the first reinspection, both interior and exterior of the property must be in compliance with all codes (there will be an allowance for exterior repairs for the time of the year).
- (d) The owner, operator or manager must have corrected any code violations cited within thirty (30) days.

2. Occupant Duties.

- A. The occupant(s) shall comply with all obligations imposed by this Part and all applicable codes and ordinances of the Borough of Pottstown, as well as all State laws and regulations.
- B. The occupant(s) shall conduct themselves and require other persons including, but not limited to, guests on the premises and within their residential rental unit with their consent, to conduct themselves in a manner that will not disturb the peaceful enjoyment of the premises by others and that will not disturb the peaceful enjoyment of adjacent or nearby dwellings by people occupying the same.
- C. The occupant (s) shall not engage in, nor tolerate nor permit others on the premises to cause damage to the residential rental unit or engage in disruptive conduct, or other violations of this Part, Borough codes or applicable State laws.

3. Disruptive Conduct Procedure.

- A. Police officers and/or Code Enforcement Officers shall investigate alleged incidents of disruptive conduct. The Code Enforcement Officer shall complete a disruptive conduct report upon a reasonable finding that the reported incident constitutes disruptive conduct as defined herein. The information filed in said report shall include, if possible, the residential rental unit, the residential rental property, a description of the alleged disruptive conduct, the identity of the alleged perpetrator(s) of the disruptive conduct and all other obtainable information, including the factual basis for the disruptive conduct described on the prescribed form. A copy of the disruptive conduct report shall be given or mailed to the occupant and mailed to the owner, operator, responsible agent or manager within twenty (20) working days of the occurrence of the alleged disruptive conduct.
- B. The occupant or the owner, operator, responsible agent or manager shall have thirty (30) working days from the date of the alleged disruptive conduct to appeal the contents of said disruptive conduct report. The appeal shall be made in writing and submitted to the Code Enforcement Office. An appeal of the third disruptive conduct report within a twelve (12) month period shall stay the eviction proceedings against the occupants until the ap-

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peal is resolved, only if the eviction proceedings were a direct result of the third disruptive conduct report.

- C. After three (3) unappealed or unsuccessfully appealed disruptive conduct incidents (or any combination thereof) in any twelve (12) month period by an occupant documented by disruptive conduct reports, the owner, operator, responsible agent or manager shall have ten (10) working days from the date of his/her receiving the notice to begin eviction proceedings against the occupants. Failure to take such action will result in the immediate revocation of the residential rental license. The residential rental unit involved shall not have its residential rental license reinstated until the reinstatement fee is paid and the disruptive occupants have been evicted, the district justice has ruled in the occupant's favor, or the district justice has ruled in the owner's favor but has not ordered the eviction of the occupant (s), or the occupants have filed an appeal to a higher court thereby preventing their eviction. The disruptive occupants, upon eviction, shall not reoccupy any residential rental unit on the same residential rental property involved for a period of at least one (1) year from date of eviction. This subsection is not intended to limit or inhibit the owner, operator, responsible agent or manager's right to initiate eviction actions prior to the third disruptive conduct incident or otherwise as permitted by law.
- D. The content of the disruptive conduct report shall count against all occupants of the residential rental unit. More than one (1) disruptive conduct report filed against any occupant of a residential rental unit in a twenty-four (24) hour period shall count as a single disruptive conduct report for the purpose of the preceding subsection. The Code Enforcement Office shall maintain a list of the names of all occupants evicted as a result of the preceding subsection. The names shall remain on the list for a period of five (5) years and shall be considered a public record under the Pennsylvania Right-to-Know Law.

(Ord. 1944, 8/12/2002, §3)

### §204. Exempt Units.

- 1. The registration and licensing provisions of this Part shall not apply to hospitals, nursing homes, group homes or other rental units used for human habitation which offer or provide licensed medical or nursing services and wherein all operations of such facilities are subject to County, State or Federal licensing or regulations concerning the health and safety of the users, patients or tenants. The registration and licensing provisions of this Part also shall not apply to hotel units, as defined previously, or dormitories, fraternity houses and sorority houses, as defined in the Borough's Zoning Ordinance [Chapter 27].
- 2. If, in response to a complaint, an exempt unit is found to be in violation of a Borough code, the owner operator, responsible agent or manager shall correct the vio-

lacion(s) within the time frame cited by the Code Enforcement Officer. If the violation(s) is/are not corrected, the unit shall lose its exemption until the violation(s) is/are corrected. If three (3) verified complaints are received in any twelve (12) month period, the unit shall lose its exemption for a period of five (5) years.

3. This exemption does not apply to the disruptive conduct provisions of this Part as describe above.

(Ord. 1944, 8/12/2002, §4)