

ORDINANCE NO. 2078

AN ORDINANCE OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN AMENDING PART 1, TENANCY REPORTS, AND PART 2, REGISTRATION AND LICENSING OF RESIDENTIAL RENTAL UNITS OF CHAPTER 11, HOUSING, AND AMENDING PART 8, RESIDENTIAL RENTAL LICENSING, OF CHAPTER 5, CODE ENFORCEMENT, OF THE POTTSTOWN BOROUGH CODE OF ORDINANCES, AS AMENDED, TO MODIFY CERTAIN REQUIREMENTS FOR RESIDENTIAL RENTAL LICENSES.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Burgess and Town Council of the Borough of Pottstown, Montgomery County, Pennsylvania, and **IT IS HEREBY ENACTED AND ORDAINED** by the authority of same as follows:

SECTION 1. Part 1, Tenancy Reports, of Chapter 11, Housing, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby repealed.

SECTION 2. A new Part 1, Tenancy Reports, of Chapter 11, Housing, of the Code of Ordinances of the Borough of Pottstown, as amended, shall read as follows:

§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, and other information the Borough deems necessary. The forms described in this section are collectively referred to as "Tenancy Reports".

§102. Submission of Annual Tenancy Report.

The property owner and/or rental agent is further required to file, annually, a completed Tenancy Report on or before January 31st of each year.

§103. 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 less than Two Hundred Fifty Dollars (\$250.00), 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 Tenancy Report for each apartment building, mobile home park or other rental or leased residential property, shall be a separate offense. Enforcement of this Part shall not begin until December 1, 2010.

SECTION 3. Section 202, Definitions, of Part 2, Registration and Licensing of Residential Rental Units, of Chapter 11, Housing, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to revise the definition of the term "Residential Rental License" to read as follows:

"RESIDENTIAL RENTAL LICENSE - A document issued by the Code Enforcement Office, on an annual basis, 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 the residential rental unit is exempt from the license provisions of this Part.

SECTION 4. Section 202, Definitions, of Part 2, Registration and Licensing of Residential Rental Units, of Chapter 11, Housing, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to add new terms to be defined as follows:

CLEAN AND LIEN CHARGES - Charges imposed against the residential rental property related to health and safety services performed by the municipality, including, but not limited to, grass and weed cutting, snow and ice removal, trash and debris removal, and the securing of structures.

DESIGNATED RESPONSIBLE AGENT - An adult individual residing within the Borough designated by the Owner of a residential rental unit pursuant to Section 203, herein. The Designated Responsible Agent shall be the agent of the Owner for service of process and receiving notices or demand to perform the obligations of the Owner under this part and under rental agreements with the occupant.

RENTAL AGREEMENT(S) - A written Agreement between Owner/Landlord and Occupant/Tenant supplemented by the Addendum or some other document determined, in writing, to be reasonably acceptable to the Borough as required under Section 203 of this Part, embodying terms and conditions concerning the use and occupancy of a specified regulated rental unit or premises.

SECTION 5. Subparagraph (C) of Section 203(1), Owner and Occupant Duties, of Part 2, Registration and Licensing of Residential Rental Units, of Chapter 11, Housing, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to read as follows:

C. Every owner, operator, or designated responsible agent shall include the amendment attached hereto as an Addendum to the Rental Agreement in each Lease of the residential rental unit taking affect on or after January 1, 2003. Said amendment is hereby considered to be a part of every written rental agreement 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. In addition, every owner, operator, or designated responsible agent, shall comply with the requirements set forth in Subsection G below, as it relates to the written Rental Agreement.

SECTION 6. Subparagraph F of Section 203(1), Owner and Occupant Duties, of Part 2, Registration and Licensing of Residential Rental Units, of Chapter 11, Housing, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to read as follows:

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 Borough of Pottstown (hereinafter referred to as "absentee owner/operator"), unless there is provided to the Code Enforcement Office the name, mailing address, actual street address, telephone number, fax number and e-mail address of a Designated Responsible Agent residing or working within the Borough of Pottstown authorized to accept service of process on behalf of the legal owner of said residential rental unit. For the purposes of this section, a post office box is not acceptable for the Designated Responsible Agent's address.

- (1) The designation of the Designated Responsible Agent shall not be valid unless signed by the absentee owner/operator and the Designated Responsible Agent to act on behalf of the absentee owner/operator. The absentee owner/operator shall be required to notify the Code Enforcement Office within

fifteen (15) days of any change in the identity of the Designated Responsible Agent.

- (2) Absentee owner/operators residing outside the Borough of Pottstown but within a five (5) 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 real estate taxes, water, sewer, trash fees, and clean and lien charges relating to the rental property paid in full by December 31st 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 Designated Responsible Agent must have corrected any code violations cited within thirty (30) days.

SECTION 7. New subparagraphs G, H, I and J shall be added to Section 203(1), Owner and Occupant Duties, of Part 2, Registration and Licensing of Residential Rental Units, of Chapter 11, Housing, of the Code of Ordinances of the Borough of Pottstown, as amended,

and shall read as follows:

G. Every owner, operator, or designated responsible agent shall comply with the following requirements relating to written rental agreements:

- (1) All rental agreements for residential rental unit(s) shall be in writing and shall be supplemented with the addendum attached hereto as "Appendix A" or by some other document determined, in writing, to be reasonably acceptable to the Borough. No oral leases and no oral modifications thereof are permitted. All disclosures and information required to be given to the occupant(s) by the owner shall be furnished before the signing of the rental agreement. The owner shall provide the occupant(s) with copies of the rental agreement and addendum (or other document approved by the Borough) upon execution.
- (2) Terms and Conditions. The owner and the occupant(s) may include in a rental agreement terms and conditions not prohibited by this Part or other applicable ordinances, regulations and laws, including rent, term of the agreement, and other provisions governing the rights and obligations of the parties.
- (3) Prohibited Provisions. Except as otherwise provided by this Part, rental agreements may provide that the occupant(s) or the owner(s) agree to waive or to forego rights or remedies under this Part. A provision prohibited by this subsection included in a rental agreement is unenforceable.
- (4) Attachment of Summary of Part to Rental Agreement. Following the effective date of this Part, and unless otherwise approved in writing by the Borough, at the time of licensing, shall be attached to each rental agreement delivered by or on behalf of an owner when such agreement is presented for signing by an occupant. If a summary has been provided when the rental agreement was first executed, a summary does not have to be

provided upon renewal. Where a rental agreement has been entered into prior to the effective date of this Part, the owner shall provide the occupant(s) with a copy of the summary within sixty (60) days after enactment of this Part.

- (5) Written Acknowledgment. Unless otherwise approved in writing by the Borough, the owner shall secure a written acknowledgment from the occupant(s) that the occupant(s) have received the disclosure and information required by this Part.
- (6) Provide Acknowledgment. Unless otherwise approved in writing by the Borough, upon oral or written request by the Borough of Pottstown, the owner, within ten (10) days of the request, shall furnish the Borough, copies of the acknowledgment that the occupant(s) received the disclosures and information required by this Part.
- (7) Provide Rental Agreement(s). Upon oral or written request by the Borough of Pottstown, the owner, within ten (10) days of the request, shall furnish to the Borough for inspection purposes only, copies of the rental agreement(s) the owner has entered into for the residential rental unit(s).

H. Enforcement Procedures by Owner.

- (1) Within ten (10) days after receipt of written notice from the Code Enforcement Office that an occupant of a residential rental unit has violated a provision of this Part, the owner shall take immediate steps to remedy the violation and take steps to assure that there is not a reoccurrence of the violation.
- (2) Within twenty (20) days after receipt of a notice of violation, the owner shall file with the Code Enforcement Officer a report (on a form provided by the Borough) setting forth what action the owner has taken to remedy the violation and what steps he or she has taken

to prevent the reoccurrence of the violation. The report shall also set forth a plan as to steps the owner will take in the future if the violation reoccurs.

- (3) The Code Enforcement Officer shall review the report and, if adequate steps have been taken, and the plan is adequate to address future violations, shall approve the plan. If the Code Enforcement Officer does not approve the plan, the Code Enforcement Officer shall provide to the owner, in writing, the reason why the plan is not acceptable. The owner shall, on his or her initiative, enforce the plan and failure to do so shall be a violation of this Part.
- (4) In the event that a second violation occurs within the license year involving the same occupant(s), the Code Enforcement Officer may direct the owner to evict the occupant(s) who violated this Part and to not permit the evicted occupant(s) to occupy the premises during the subsequent licensing period.

I. Enforcement Regulations of Borough. In addition to any fines that can be imposed under Section 809, of Chapter 5, Code Enforcement, the Borough shall be permitted to take the following action to ensure enforcement of this Part:

- (1) Code Violations. Upon receiving notice of any code violations 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.
- (2) Borough Can Make Repairs. In the case where the owner of the premises shall neglect, fail or refuse to comply with any notice from the Borough or its Code Enforcement Officer to correct a health or safety violation relating to maintenance and repair of the premises under any code(s) within the period of time stated in such notice, the Borough may cause the violation to be corrected. There shall be

imposed upon the owner a charge of the actual costs involved, plus ten percent (10%) of said costs for each time the Borough shall cause a violation to be corrected and the owner of the premises shall be billed after same has been completed (clean and lien charge). Any such bill remaining unpaid and outstanding after the time specified therein for payment shall be grounds for the imposition of a municipal lien upon the premises as provided by law. Such a lien may be reduced to judgment and enforced and collected as provided by law, together with interest at the legal rate and court costs. The remedies provided by this paragraph are not exclusive and the Borough and its Code Enforcement Officer may invoke such other remedies available under this Part or other applicable codes, ordinances or statutes, including, where appropriate, condemnation proceedings or declaration of premises as unfit for habitation or suspension, revocation or nonrenewal of the license issued hereunder.

- (3) Inspection of Premises. The owner shall permit inspections of the premises by the Code Enforcement Officer at reasonable times upon reasonable notice. If the owner does not permit such inspection of the premises by the Code Enforcement Officer, the Code Enforcement Officer may apply a administrative warrant to inspect the premises.

J. Duties of Occupants.

General. The occupant(s) shall comply with all obligations imposed upon the occupant(s) by this section, all applicable codes and ordinances of the Borough and all applicable provisions of State Law.

- (1) The maximum number of persons permitted in any residential rental unit at any time shall not exceed one (1) person per each 40 square feet of habitable floor space in said residential rental unit. The maximum number of persons permitted in the common area of any multiple unit dwelling at any time shall not exceed one

- (1) person for each 15 square feet of common areas on the premises.
- (2) The occupant(s) shall dispose from their residential rental unit, all rubbish, garbage and other waste in a covered trash container, and separate and place for collection, all recyclable materials in compliance with the trash and recycling ordinances of the Borough.
- (3) The occupant(s) shall unless otherwise permitted by applicable law or ordinance, occupy or use the residential rental unit for no other purpose than as a residence.
- (4) The occupant(s) shall not engage in nor tolerate, nor permit others on the premises to engage in any conduct declared illegal under the Pennsylvania Crimes Code (18 Pa.C.S.A. §101, et seq.), the Liquor Code (47 P.S. §1-101, et seq.), or the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §780-101 et seq.).

SECTION 8. Section 801, Residential Rental License Required for Residential Rental Units, of Part 8, Residential Rental Licensing, of Chapter 5, Code Enforcement, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to read as follows:

§801. Residential Rental License Required for Residential Rental Units.

A residential rental license shall be required for each residential rental unit annually, unless the residential rental unit is exempt as defined in Chapter 11, Section 204. A license shall also be required to be obtained upon a change in occupancy of the residential rental unit.

- A. For licensing purposes, the Code Enforcement Officer shall fully inspect each residential

rental unit upon any change of occupancy, upon a property transfer, upon a complaint that a violation has occurred, or where the Code Enforcement Office has reasonable cause to believe that a violation is occurring. All other residential rental units that have not been inspected for the reasons set forth above, shall still be required to obtain an annual residential rental license. Those residential rental units that have not been inspected shall be inspected at least once every five (5) years on a rotating basis to be established by the Pottstown Borough Code Enforcement Office.

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SECTION 9. Section 803, Issuance of Residential Rental License, of Part 8, Residential Rental Licensing, of Chapter 5, Code Enforcement, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to read as follows:

§803. Issuance of Residential Rental License.

A residential rental license shall be issued if the residential rental unit meets the following conditions:

- A. The Code Enforcement Officer finds that the residential rental unit is in compliance with the applicable codes.
- B. The owner, operator or manager provides the name of a designated responsible agent (if applicable).
- C. The owner, operator, designated responsible agent or manager pays the license inspection and reinspection (if applicable) fee(s).
- D. The owner, operator, designated responsible agent or manager is current on water, sewer and trash fees, real estate taxes, and any and all clean and lien charges for the residential

rental unit.

- E. The uses of the property are in compliance with the Zoning Ordinance [Chapter 27] of the Borough of Pottstown.
- F. The owner, operator, designated responsible agent or manager has submitted a complete and accurate Tenancy Report for each residential rental unit.
- G. The owner, operator, designated responsible agent or manager has submitted proof of a written rental agreement and proof of general liability insurance for the residential rental unit.
- H. The owner, operator, designated responsible agent or manager has paid in full any fines and costs arising from enforcement of this Part, or any of the ordinances of the Borough of Pottstown relating to land use and/or code enforcement.

A Residential Rental License shall be reissued if the Residential Rental Unit satisfies the conditions (B) through (H) above, and has no open Code violations.

SECTION 10. Section 804, Revocation of Residential Rental License, of Part 8, Residential Rental Licensing, of Chapter 5, Code Enforcement, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to read as follows:

§804. Revocation of Residential Rental License.

A residential rental license shall be revoked if the owner or operator of a residential rental unit does not provide the name of the designated responsible agent (if applicable); does not correct code violations found in response to a complaint within the time frame cited by the Code Enforcement Officer, is not current on water, sewer and trash fees, real estate taxes, and/or clean and lien charges for the residential rental unit, changes the

uses of the property so as to no longer be in compliance with the Zoning Ordinance [Chapter 27] of the Borough of Pottstown, does not submit a complete and accurate occupant listing by residential rental unit by January 31st of each year, whenever appropriate and/or has not complied with the disruptive conduct provision of this Part, as described in Chapter 11, Section 203(3). If the residential rental license is revoked and the residential rental unit is vacant, it shall remain vacant.

SECTION 11. Section 805, Reinstatement of Residential License, of Part 8, Residential Rental Licensing, of Chapter 5, Code Enforcement, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to read as follows:

§805. Reinstatement of Residential License.

A residential rental license shall be reinstated if the owner or operator of a residential rental unit corrects all the reasons for the revocation of the residential rental license, has paid the license reinstatement fee, and has provided to the Borough a security deposit in the amount of Five Hundred Dollars (\$500.00) to be held by the Borough, for the following 12 month period, to ensure compliance with all Borough ordinances and to further ensure timely payment of all water, sewer and trash fees, real estate taxes and clean and lien charges. At the conclusion of the 12 month period, if the owner or operator of the residential rental unit is in compliance with all Borough ordinances and has paid timely all water, sewer, trash fees, real estate taxes, and clean and lien charges, the Security Deposit shall be refunded to the owner.

SECTION 12. Repealer & Reenactment. In all other respects, the remaining provisions of Chapter 5, Code Enforcement, and Chapter 11, Housing, of the Code of Ordinances of the Borough of Pottstown, as amended, to the extent not inconsistent herewith are

hereby reenacted and reordained.

SECTION 13. Severability. If any sentence, clause, section or other part of this ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not effect or impair any remaining provisions, sentences, clauses, sections or other parts of this ordinance. It is hereby declared as the intent of the Burgess and Town Council of the Borough of Pottstown that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 14. Effective Date. This ordinance shall become effective immediately upon enactment but the regulations set forth herein shall become enforceable on December 1, 2010.

ENACTED and **ORDAINED** this 12th day of OCTOBER, A.D., 2010.

**THE BURGESS AND TOWN COUNCIL
OF THE BOROUGH OF POTTSTOWN**

BY: Stephen M. Torony
President

ATTEST: Virginia Lotakach
Secretary

Approved this 12th day
of OCTOBER, A.D., 2010.

Bonnie Neath
Mayor