

**BOROUGH OF ST. CLAIR
SCHUYLKILL COUNTY, PENNSYLVANIA**

ORDINANCE NO. 398

**AN ORDINANCE AMENDING ORDINANCE NO. 392 AND
CHAPTER 133 OF THE CODE OF THE BOROUGH OF ST.
CLAIR, PENNSYLVANIA, CONCERNING
REGISTRATION OF RENTAL PROPERTIES TO
INCLUDE ADDITIONAL REGISTRATION AND
REPORTING REQUIREMENTS AND INSPECTION FEES;
ESTABLISHING AN ANNUAL OCCUPANCY REPORT,
ANNUAL REGISTRATION OF UNITS, SETTING
INSPECTION FEES AND REGISTRATION FEES.**

The Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania (the "Borough"), hereby enacts and ordains as follows:

WHEREAS, the Borough Council of the Borough of St. Clair recently enacted and ordained an ordinance adopting the Uniform Construction Code, pursuant to the Pennsylvania Construction Code Act, as its municipal building code; and

WHEREAS, the Borough Council of the Borough of St. Clair had previously adopted what is known as the BOCA Code for purposes of property maintenance; and

WHEREAS, the Borough Council of the Borough of St. Clair recently adopted the International Property Maintenance Code of 2006, along with amendments as made, as its maintenance code; and

WHEREAS, the Borough Council of the Borough of St. Clair adopted Ordinance No. 392 to require certain landlord reports and residential unit registration and inspections; and

WHEREAS, the Borough Council of the Borough of St. Clair met with interested parties and has agreed to amend Ordinance No. 392 as it relates to Chapter 133 of the Borough Code; and

WHEREAS, the Borough Council of the Borough of St. Clair intends to adopt an ordinance dealing with nuisance properties; and

WHEREAS, Section 46202 of the Borough Code, 53 P.S. 46202 entitled "Specific Powers", authorizes any borough council to make and adopt ordinances concerning building, housing, property maintenance, plumbing and other regulations.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania, in accordance with the specific powers permitted by the Borough Code (53 P.S. §46202) that Chapter 133 of the Code of the Borough of St Clair is amended to read as follows:

ARTICLE 1

LANDLORD REPORTS

Section 133-1. Duty of lessor or owner.

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 has the use of real estate of a landlord and is responsible for the giving of any type of consideration therefore, but excluding those who are tenants for a period of less than thirty (30) days.

Section 133-2. Information required.

All landlords, within thirty (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 thirty (30) days after the acquisition, rental or availability for rental thereof, as the case may be, shall report to the 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.

Section 133-3. Changes in lessees.

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 as required in Section 133-2 hereof shall be reported by the landlords to the Borough Secretary within ten (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.

Section 133-4. Landlord's Annual Report of Occupancy and Tenant.

Notwithstanding Section 133-3 noted above, landlords shall prepare an occupancy report annually as a prerequisite to the annual registration noted under Section 133-8, in writing, during regular business hours, stating the number of parcels or units of real estate presently hereafter rented or available for rental together with the names of its tenants at the time of such report,

along with a designation as to which unit or parcel is occupied by each tenant. This report shall be issued regardless of whether there have been changes in the occupancy of said real estate or leased property or in the identity of the tenants from the report shown previously.

Section 133-5. Forms.

The Borough Secretary may prepare a form report entitled "Status of Occupancy Report," which form report may require that information set forth above and such other pertinent information that the Borough Council by resolution may direct the 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.

ARTICLE II

RESIDENTIAL RENTAL UNIT REGISTRATION AND INSPECTION

Section 133-6. Title.

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

Section 133-7. 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 assigned by the Borough of St. Clair 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 Officer to a residential rental unit.

Section 133-8. 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 by the Borough of St. Clair 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 complies 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 Officer or its designee.

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 Officer within five (5) business days after having transferred ownership of or operational control over such building and/or residential rental 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 the time of application, pay an initial registration fee as may be determined by resolution of Borough Council (whether or not the residential rental unit is occupied at the time) and annually thereafter a renewal registration fee as may be determined by resolution of Borough Council (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 that calendar year. The renewal registration fee shall be due and payable on or before the thirty-first day of January of each year.

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.

H. Failure to register the residential rental units with the Code Enforcement Officer within ninety (90) days of the effective date of this article or within thirty (30) days following the purchase or conversion of a structure to a rental property shall constitute a violation of this article.

Section 133-9. 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 kept on file with the owner or agent for the residential rental unit.

Section 133-10. Inspections.

A. Each residential rental unit shall be inspected by the Code Enforcement Officer or designee at least one (1) time in every three (3) year period, and, 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 hereof, a certificate of compliance shall be issued and kept on file by owner or agent 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 kept on file by owner or agent 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) When a certificate of compliance has been issued prior to a residential rental unit being occupied other than 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. If there is a change of tenant within twelve (12) months of the last inspection under Section 133-10(a), the owner or agent shall file a "self-prepared compliance return", which will be on a form to be supplied by the Borough. This "self-prepared compliance return" shall indicate to the Borough that the owner or agent certifies, under penalty of law, that said rental unit conforms to the codes noted herein. If more than twelve (12) months have elapsed since the last inspection and a tenant of record changes, said unit must be reinspected in accordance with Section 133-10(c).

C. This inspection shall be for the purpose of determining compliance with the provisions of the codes as in effect in the Borough on the date of the inspection.

D. Failure of the owner to permit access to conduct such inspection shall be deemed a violation of this article.

E. 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.

Section 133-11. 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 fourteen (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 kept on file by owner or agent of said residential rental unit or structure.

Section 133-12. 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 fourteen (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 the 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 owners showing of good faith compliance to the satisfaction of the Code Enforcement Officer; and

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 133-20C of these Borough Ordinances.

Section 133-13. 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 such reinspection discloses that the owner accomplished the repairs, the Code Enforcement Officer or designee shall issue a certificate of compliance to the owner in accordance with Section 133-11 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 Section 133-12 of this article. Further, the owner shall pay a

reinspection fee in an amount equal to the initial application fee as set forth in Section 133-14 of this article.

133-14. Certificate application and fee.

A. Inspections. Upon application for a certificate of compliance and the payment to the Borough of a fee of \$30.00 per residential rental unit for each residential rental unit, the Code Enforcement Officer or designee shall review the pertinent Borough records and inspect the subject premises in accordance with Section 133-10 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 Section 133-20. A reinspection fee due to a unit being found non-complaint shall be \$30.00.

B. Registration. When an apartment unit is initially registered with the Borough, the registration fee shall be \$10.00 per residential unit. The Code Enforcement Officer or designee shall review the pertinent Borough records and inspect the subject premises in accordance with Section 133-10 of this article. Subsequent registration fees after a unit has already been registered with the Borough shall be \$5.00. Any additional registration fee due to a tenant change shall be \$5.00.

C. Revisions to Fee Schedule. Inspection and Registration fees may be subsequently revised as determined by Resolution of Borough Council.

Section 133-15. Nonliability of Borough.

The issuance of a certificate of compliance is not a representation by the Borough that the residential rental unit and/or the building in which it is located is in compliance with the various Borough codes including, but not limited to, any Property Maintenance Code or Building 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 the inspection. 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.

Section 133-16. Appeals.

The owner of a residential rental unit aggrieved by a decision of the Code Enforcement Officer or designee may, within thirty (30) days or the time fixed for repair, whichever is shorter, appeal the decision to the Borough Board of Building Code Appeals in accordance with the Borough Ordinances.

Section 133-17. Codes violations.

Nothing in this article shall preclude or prohibit the Code Enforcement Officer or designee from identifying any violations of the Borough Building Code or Borough Property Maintenance Code which exist and noting the same on any inspection report.

Section 133-18. Notice requirements.

A. Newspaper advertisement. The Borough shall, at its sole discretion, each year cause notice to be published two (2) times in a newspaper of general circulation within the Borough or the Borough newsletter. The initial notice shall be published during the first six (6) 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 July 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 ordinance may be obtained.

Section 133-19. Delegation of authority.

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

Section 133-20. 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 \$300.00, or thirty (30) days imprisonment, or both.

(2) Second violation: costs of prosecution and either a fine of \$600.00 or sixty (60) days imprisonment, or both.

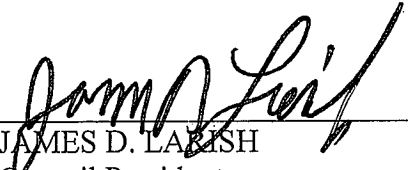
(3) Third and each subsequent violation: costs of prosecution and either a fine of \$1,000.00, or ninety (90) days imprisonment, or both.

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.

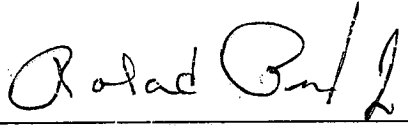
DULY ENACTED AND ORDAINED by Borough Council of the Borough of St. Clair,
Schuylkill County, Pennsylvania, this 7th day of October, 2008, in lawful
session duly assembled.

ST. CLAIR BOROUGH



JAMES D. LARISH
Council President

ATTEST:



ROLAND PRICE, JR.
Borough Secretary

Approved by me this 8th day of October, 2008.



STEPHEN BOBELLA
Mayor