

GORDON BOROUGH, SCHUYLKILL COUNTY
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 2017-06

AN ORDINANCE OF GORDON BOROUGH, SCHUYLKILL COUNTY, COMMONWEALTH OF PENNSYLVANIA, REQUIRING AN OWNER OF RENTAL PROPERTY IN THE BOROUGH TO APPLY WITH THE BOROUGH SECRETARY FOR A RENTAL OCCUPANCY PERMIT, ALLOW AN INSPECTION OF THE RENTAL PROPERTY, AND OBTAIN A RENTAL OCCUPANCY PERMIT PRIOR TO RENTING THE PROPERTY; PROHIBITING AN OWNER IN ARREARS ON TAXES OR UTILITY FEES FROM OBTAINING A PERMIT; STATING OBLIGATIONS OF AN OWNER SELLING A RENTAL UNIT; STATING WHO HAS THE AUTHORITY TO ENFORCE THE ORDINANCE ON BEHALF OF THE BOROUGH; ALLOWING FOR SIMULTANEOUS ENFORCEMENT WITH OTHER ORDINANCES; STATING THAT THE BOROUGH IS NOT ISSUING A WARRANTY WITH RESPECT TO RENTAL PROPERTY; AND ESTABLISHING PENALTIES FOR VIOLATIONS.

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

Section 1. Definitions.

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

“Code Enforcement Officer” - the person or other legal entity appointed by Gordon 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.

“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 is to last 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.

“Borough” - Gordon Borough, Schuylkill County, Commonwealth of Pennsylvania.

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, on a form approved by the Borough from time to time by Resolution, 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 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 Borough Secretary within thirty (30) days following 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 in order for the Application to be considered complete.

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 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, and the purpose of the inspection shall be to insure compliance with the building and property maintenance codes of the Borough and the Commonwealth of Pennsylvania.

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 two (2) years from the date of issuance. The Rental Occupancy Permit shall be on a form established by the Borough from time to time by Resolution.

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, 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 to 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 two (2) 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 not only to the inspection pursuant to Section 3A, but also to any follow-up inspection pursuant to Section 3D, and also to any inspection(s) pursuant to Section 3E. Non-payment of the required fee can result in the denial of the requested Rental Occupancy Permit.

Section 4. Application and Rental Occupancy Permit Required.

A. No Owner shall lease or rent a Rental Unit to a tenant without having filed an Application with the Borough pursuant to Section 2 of this Ordinance.

B. Except as provided in Section 4C, 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. An Owner who is already leasing a Rental Unit to a tenant at the time of the effective date of this Ordinance is still required to comply with application procedures of Section 2 of this Ordinance and the inspection requirements of Section 3 of this Ordinance, but is not in violation of this Ordinance for allowing the tenant already renting the Rental Unit at the time of the effective date of this Ordinance to remain in possession of the Rental Unit through the term of that tenancy even though a Rental Occupancy Permit has not been issued.

Section 5. Disqualifying Factors.

A. No Owner of any Rental Unit shall be granted a Rental Occupancy Permit if at the time of the application said Owner is in arrears on any real estate taxes, or is in arrears on any garbage, water or sewer fees, payable to the Borough or any other municipality, authority (as created under the Pennsylvania Municipality Authorities Act or similar legislation of another State) or other political subdivision, or to any private garbage or sanitation company awarded a contract by the Borough.

B. The Rental Occupancy Permit of an Owner who falls into arrears on any real estate taxes, or falls into arrears on any garbage, water or sewer fees, to the Borough or any other municipality, authority (as created under the Pennsylvania Municipality Authorities Act or similar legislation of another State) or other political subdivision, or to any private garbage or sanitation company awarded a contract by the Borough, can be rescinded or invalidated by the Borough in writing.

C. An Owner of a Rental Unit shall reasonably cooperate with the Borough to provide proof of current accounts under this Section.

D. Each Owner of a Rental Unit, during the application process and as a condition of being granted a Rental Occupancy Permit, must establish to the satisfaction of the Borough that said Owner will provide, either directly or by ensuring that a prospective tenant will provide, for the provision of water, sewer and garbage collection services to the Rental Unit. If water, sewer or garbage collection services ceases to occur at the Rental Unit after a Rental Occupancy Permit has been granted, the Rental Occupancy Permit may be rescinded or invalidated by the Borough in writing.

Section 6. Change in Ownership.

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.

Section 7. Enforcement.

This Ordinance may be enforced by, and citations for violations of this Ordinance may be filed by any police officer employed or contracted for by the Borough, by the Mayor, or by the person or legal entity appointed by the Borough as its Code Enforcement Officer or its Assistant 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 complying with the requirements of 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 or property maintenance codes 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 or 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.

A. 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 \$100.00 nor more than \$1,000.00, plus court costs, 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.

B. A separate offense shall arise for each day or portion thereof in which a violation of any provision of this Ordinance exists.

C. 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 occurs first.

ENACTED and ORDAINED, this 14th day of November, 2017.

BOROUGH OF GORDON
Schuylkill County, Pennsylvania

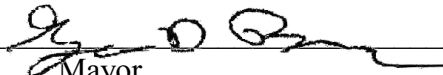
BY: 
Council

ATTEST:





APPROVED:


_____ Mayor