

BOROUGH OF PORT VUE

ORDINANCE NO. 2018-620

AN ORDINANCE OF THE BOROUGH OF PORT VUE, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA, TO BE KNOWN AS THE TENANT OCCUPANCY SAFETY INSPECTION ORDINANCE, REQUIRING OWNERS, LANDLORDS, MANAGERS AND AGENTS OF RESIDENTIAL UNITS AND COMMERCIAL PROPERTIES TO OBTAIN A RENTAL SAFETY OCCUPANCY PERMIT; ESTABLISHING REGULATIONS FOR THE ISSUANCE OF A RENTAL SAFETY OCCUPANCY PERMIT; SETTING FORTH AN APPLICATION PROCEDURE; REQUIRING THE OCCUPANCY SAFETY INSPECTOR TO OBTAIN AN ADMINISTRATIVE SEARCH WARRANT IF CONSENT TO CONDUCT AN OCCUPANCY SAFETY INSPECTION IS REFUSED OR IF REASON TO BELIEVE A VIOLATION EXISTS BASED UPON A COMPLAINT RECEIVED; PROVIDING PENALTIES; REPEALING ALL OTHER INCONSISTENT ORDINANCES AND SPECIFICALLY REPEALING ARTICLE I, CHAPTER 239; SECTION 239-11, 239-12, 239-13, 239-14, OF THE PORT VUE CODE OF ORDINANCES.

WHEREAS, the Council of the Borough of Port Vue deems it in the best interest of the health, safety and welfare of the Borough and its residents to establish and enforce strict guidelines with regard to occupancy and safety inspections relating to rental units in the Borough; and

WHEREAS, this Ordinance seeks to set forth the requirements for obtaining a rental safety occupancy permit and the regulation related thereto;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Borough of Port Vue, County of Allegheny, and Commonwealth of Pennsylvania, and it is hereby ORDAINED and ENACTED by authority of the same, that:

Section 1. Title and Enforcement

1.1 This Ordinance shall be known as the Borough of Port Vue Tenant Occupancy Safety Inspection Ordinance.

1.2 This Ordinance shall be administered by the Borough Manger's office and all tenant occupancy safety inspections shall be done by the building inspector or code enforcement officer designated by Borough Council for that purpose.

Section 2. Purpose

2.1 To promote, protect and facilitate the public health, safety and the general welfare of the community and to protect and to promote the safety of residential Tenants and other inhabitants in the Borough from fire and the hazards of fire.

2.2 To prevent one or more of the following: loss of health, life or property from fire, explosions, noxious gases and other dangers or hazards of fire.

2.3 To provide protection against fire, explosion and other fire hazards in the interest of the public health, safety and general welfare.

2.4 To define and limit the powers and duties of those officers and bodies that are assigned responsibilities under this ordinance.

2.5 To require prompt Occupancy Safety Inspections even without a warrant if an emergency condition exists.

Section 3. Conflict with Other Ordinances or Regulations

3.1 All prior Ordinances of the Borough of Port Vue or parts of Ordinances conflicting herewith are hereby repealed; however, such repeal shall not affect any act done or any liability or violation accrued under any such prior ordinance herein repealed or superseded and all such liabilities or violations shall continue and may be enforced in the same manner as if such repeal or supersession had not been made; and any offense or violation committed and any penalty or forfeiture incurred under such Ordinance herein repealed or superseded may be prosecuted in the same manner as if this Ordinance had not been approved.

Section 4. Rules of Construction

4.1 In the construction of this Ordinance, the rules and definitions contained in this Section shall be observed and applied, except when the context clearly indicates otherwise:

- A. Words used in the singular shall include the plural, and the plural the singular.
- B. Words used in the present tense shall include the future tense.
- C. Words used in the masculine gender shall include the feminine and neuter.
- D. The word “person” includes corporations, associations, partnerships and other similar entities.
- E. The word “shall” is always mandatory and not discretionary.
- F. The word “may” is permissive.
- G. This Ordinance shall be liberally construed to accomplish its purpose to protect the public’s health, safety and welfare.
- H. That the Borough intends to favor the public interest as against any private interest.

4.2 DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein:

Agent for an Owner – Any person who provides written proof that he is authorized to act on behalf of a Property Owner.

Apartment – A part of a House, Apartment House or other Dwelling occupied by a Tenant, while the rest is occupied by another or others.

Apartment – A building arranged in several suites of connecting rooms, each suite designed for independent housekeeping, but with certain mechanical conveniences such as heat, light or elevator services in common to all Tenants occupying the building.

Borough - The Borough of Port Vue.

Borough Manager – The Manager of the Borough of Port Vue.

Code – The Uniform Construction Code and the International Property Maintenance Code of 2009 and all referenced Codes that are included, as subsequently amended and/or revised.

Commercial Property – A property, whether owned or rented, consisting of a space or storeroom, which is occupied by a business.

Dwelling, Multi-Family, Including Garden Apartments – A building or portion thereof containing or designed to contain two (2) or more separate Dwelling Units with or without common access facilities.

Dwelling Unit – A single unit providing complete, independent living facilities for one or more Tenants including permanent provisions for living, sleeping, eating, cooking and sanitation. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit.

Emergency – A serious, unexpected and potentially dangerous event, circumstance or conditions to persons and/or property event or situation requiring immediate action.

Landlord – A Person who receives rent and leases a Dwelling Unit or a Rooming Unit in a boarding, lodging or apartment to a Tenant for a period of time.

Lease – Any agreement which gives rise to the relationship of Landlord and Tenant.

Manager – A Person who has charge of an apartment, Dwelling Unit or a Rooming Unit in a boarding, lodging or apartment building.

Occupancy Safety Inspection – An inspection conducted by an Occupancy Safety Inspector to determine a Residential Rental Unit's or Commercial Property's compliance with the Code.

Occupancy Safety Inspector – The duly appointed individual or agent of the Borough of Port Vue having the duty to enforce the provisions of this Ordinance. The Occupancy Safety Inspector may be appointed by resolution of the Borough Council. Borough Council may change the duly appointed Occupancy Safety Inspector from time to time by resolution and may be an independent contractor who provides these services to the Borough based on a contract.

Owner – Every Person who has a property right in a Multi-Family Dwelling, Apartment House, Rooming House and Commercial Property and every person who owns, has, keeps, rents, leases or maintains a Multi-Family Dwelling, Rooming House and Commercial Property, including a boarding, lodging or tourist home charging rent to Tenants.

Permit – a Rental Safety Occupancy Permit

Person – Shall mean an individual, proprietorship, partnership, corporation, association or other legal entity.

Rent – Consideration paid for use or occupation of Property. A stated return or payment for the temporary possession or use of an Apartment, Dwelling Unit or Commercial Property. To obtain temporary possession and use of an Apartment, Dwelling Unit or Commercial Property in return for a stated payment, usually at fixed intervals.

Rental Safety Occupancy Permit – A certificate or document issued by the Occupancy Safety Inspector which is required for the lawful rental and occupancy of any Residential Rental Unit or occupancy and/or rental of a Commercial Property.

Residential Rental Unit – A rooming or Dwelling Unit let for rent under a rental agreement and/or Lease with a Tenant. Residential Rental Units include, but are not limited to, a dwelling unit, a rental unit, a rooming unit, a rooming house, boarding, lodging or tourist home, an

apartment, apartment house, garden apartments, a single-family dwelling, a duplex, a bed and breakfast establishment, a multiple dwelling, a townhouse or a row house.

Rooming House, Including a Boarding, Lodging or Tourist Home – A building other than a multi-family dwelling containing not more than one Dwelling Unit occupied by a Tenant and providing, for compensation or other consideration, rooming units for lodging in addition to the Owner.

Rooming Unit – A room or rooms constituting a separate, independent housekeeping unit that is physically separate from any other room dwelling unit or rooming unit in the same structure. The rooming unit shall contain living and sleeping facilities, but not cooking or eating facilities, and shall be occupied by no more than one family.

Tenant – A person who pays rent and leases a Dwelling Unit, Commercial Property or a rooming unit in a boarding, lodging or tourist home from a Landlord for a period of time.

Townhouse or Row House – Dwelling Units attached to each other by party or common walls, with each unit having individual access and rear common or private garden orientation.

Section 5. Rental Safety Occupancy Permit Required for All Rentals

5.1 No person shall rent or lease a Residential Rental Unit or Commercial Property in the Borough of Port Vue to any Tenant unless he obtains and holds a current, unrevoked Rental Safety Occupancy Permit issued by the Occupancy Safety Inspector in his name for the specified Residential Rental Unit or Property. It is the specific intent of council in adopting this Ordinance that Commercial Property, as defined herein, shall be subject to the requirements of this Ordinance

if a Commercial Property is leased, owner occupied or otherwise occupied. Beginning in January, 2019, all residential or commercial properties occupied or to be occupied by a tenant who is not the owner of the property, shall be required to have a rental safety occupancy inspection. All property owners shall make application for a rental safety occupancy permit as described in Section 6 below no later than January 15, 2019. Thereafter, a tenant safety occupancy inspection shall only be required when a leasehold interest terminates and a new one shall begin. In the event that a unit subject to this ordinance is already occupied as of January 1, 2019, an inspection shall be required pursuant to the terms defined herein. In the event that such an inspection reveals safety issues as described by the inspector in a written report, the property owner shall remediate said issues within 10 days of receipt of the written report and be subject to a follow up inspection, which shall be made at the expense of the property owner pursuant to Section 7. Below.

Section 6. Application for Rental Safety Occupancy Permit and Agreement to Comply

6.1 Every Owner, Landlord, Manager or Agent for an Owner, who rents or leases any Residential Rental Unit or Commercial Property in the Borough to any Tenant for a period of time in excess of thirty (30) days, shall apply for an annual Rental Safety Occupancy Permit and shall agree to comply with all provisions of this Ordinance and the Code as herein described.

6.2 The application form shall be made available at the Borough Office. The application form shall not be deemed complete until all required information is provided and all fees, if any, are paid. Any fees assessed related to the application and/or the Occupancy Safety Inspection shall accompany the application form, made payable to the Borough or its designated representative.

Section 7. Requirement of Occupancy Safety Inspection and Compliance with the Borough's Codes Prior to Issuance of Rental Safety Occupancy Permit

7.1 All Residential Rental Units and Commercial Properties shall be inspected upon change of any occupancy by the Occupancy Safety Inspector for compliance with the provisions of this Ordinance and the Code, as applicable.

7.2 Within thirty (30) days of receipt of the complete application and payment of the fee for said inspection necessary for issuance of a Rental Safety Occupancy Permit or upon receipt of a written notice of the change in occupancy of a Residential Rental Unit or Commercial Property, the Occupancy Safety Inspector or his/her designee shall conduct an Occupancy Safety Inspection of the Residential Rental Unit or Commercial Property for compliance with this Ordinance and the Code, as may be applicable.

7.3 Upon completion of a satisfactory Occupancy Safety Inspection, the Occupancy Safety Inspector or his/her designee shall issue a Rental Safety Occupancy Permit to the Owner, or at the written request of the Owner, to the Owner's local Agent or Manager. Upon issuance of the Rental Safety Occupancy Permit, the Residential Rental Unit or Commercial Property may thereafter be occupied as a Residential Rental Unit or Commercial Property.

7.4 The Occupancy Safety Inspector shall perform an Occupancy Safety Inspection of Residential Rental Units or Commercial Property for compliance with this Ordinance and the Code upon change of occupancy of the Residential Rental Unit or Commercial Property, , or upon receipt of a complaint determined by the safety inspector to be reasonably necessary to insure the safety of tenants or the safety of the public... Except for inspection requests submitted by the Borough's Fire Department or any other governmental or regulatory agency, the party requesting the Occupancy Safety Inspection must pay the required fees, if any, for the application and Occupancy

Safety Inspection of the Residential Rental Unit or Commercial property. In the event that a violation is detected after receipt of a complaint, the Owner of the Property inspected shall be responsible for the costs of inspection.

7.5 Upon completion of an unsatisfactory Occupancy Safety Inspection, the Occupancy Safety Inspector shall issue a written notice, by regular mail and another by certified mail, return receipt requested, to the Owner or his/her/its designated Agent at such addresses of record with the Borough, or of public record as the designated address for "Change of Owner Mailing" in the Allegheny County Office of Department of Real Estate and, if appropriate, commence enforcement actions for violation of this Ordinance. In a non-emergency situation, a Ten (10) Day Notice shall be issued to the Owner of the Residential Rental Unit or Commercial Property or the Manager or local Agent specifying each violation. Notice provided to a Manager or Local Agent shall be deemed to be notice to the Owner. All notices shall be sent by regular mail and another by certified mail, return receipt requested, to the Owner or his/her/its designated Local Agent or Manager at such addresses of record with the Borough or of public record as the designated address for "Change of Owner Mailing" in the Allegheny County Office of Department of Real Estate.

7.6 If after ten (10) days from the date of the Ten (10) Day Notice of Violation, a re-inspection reveals that the violations are not corrected and arrangements satisfactory to the Occupancy Safety Inspector have not been made, the Rental Safety Occupancy Permit shall be revoked. If the Residential Rental Unit or Commercial Property is occupied, the owner shall make arrangements to relocate the Tenant within ten (10) days and the property shall remain vacant until a new Rental Safety Occupancy Permit is issued.

7.7 The Occupancy Safety Inspector shall maintain a list of all Residential Rental Units and Commercial Properties and their ownership.

Section 8. Issuance of a Rental Safety Occupancy Permit

8.1 Prior to issuance of a Rental Safety Occupancy Permit, or if the Occupancy Safety Inspector denies renewal of a Permit, the applicant, Owner, Landlord, Manager or Agent for an Owner shall not be issued a Rental Safety Occupancy Permit until all violations noted on the notice of violation are corrected, as required. Every Rental Safety Occupancy Permit shall be issued for a period of twelve (12) months, unless sooner revoked.

Section 9. Sale or Transfer of Rental Safety Occupancy Permit

9.1 A Rental Safety Occupancy Permit shall not be transferred. In the case of a Permit for a Residential Rental Unit or Commercial Property that is sold or transferred, the new owner shall seek a Rental Safety Occupancy Permit for each Residential Rental Unit and Commercial Property and have each Residential Rental Unit and Commercial Property inspected. before entering into any new leases for same. .

Section 10. Adoption of Regulations Relating to Occupancy Inspections

10.1 The following regulations are hereby adopted for the issuance of the Rental Safety Occupancy Permit:

A. Pennsylvania Law Govern – The International Fire Code of 2009, as subsequently amended and/or revised and the International Property Maintenance Code of 2009, as subsequently amended and/or revised or any other law of the Commonwealth of Pennsylvania or by regulations, departments or agencies of the Commonwealth.

B. Occupancy Safety Inspection Mandatory – The Borough Occupancy Safety Inspector shall not issue a Rental Occupancy Permit until he/she/it has first performed an Occupancy Safety Inspection of the Residential Rental Unit or Commercial Property for the purposes of ensuring compliance with this Ordinance and the Code.

C. Inspections to be Conducted at Reasonable Times with Prior Notice to Residents: Display of Proper Credentials Required – All Occupancy Safety Inspections under this Ordinance shall be conducted at reasonable times with prior notice to the applicant, Owner, Landlord, Manager, Tenant or Agent for the Owner and subject to constitutional restrictions on unreasonable searches and seizures. Prior to seeking entry to conduct an Occupancy Safety Inspection, the Borough Occupancy Safety Inspector shall display proper credentials which shall have been approved by Borough Council.

D. Procedure if Entry to Permit Lawful Occupancy Inspection is Refused – If entry is not obtained or upon the refusal of an applicant, Owner, Landlord, Manager, Tenant or Agent for an Owner applying for a Rental Safety Occupancy Permit to permit entry to conduct the Occupancy Safety Inspection mandated under this Ordinance, the Safety Inspection shall not be conducted and the Occupancy Safety Inspector is hereby authorized to pursue recourse as provided by law.

E. Non-resident Applicants – No Permit shall be issued or renewed to a non-resident applicant unless such applicant designates in writing to the Occupancy Safety Inspector, the name of his Agent for receipt of service of any notice of violation and for service of process.

Section 11. Administrative Search Warrant Required to Conduct Occupancy Safety Rental Inspections if Entry Refused Unless an Emergency Situation Exists

11.1 If entry to conduct an Occupancy Safety Inspection under this Ordinance is refused, the Borough Occupancy Safety Inspector is hereby authorized and directed to apply to an Issuing Authority having jurisdiction over such Residential Rental Unit or Commercial Property for an Administrative Search Warrant to enter and to conduct an Occupancy Safety Inspection unless an emergency situation exists which requires immediate entry.

11.2 If an emergency situation exists, requiring immediate access to the Residential Rental Unit or Commercial Property, the Borough Occupancy Safety Inspector may conduct a prompt Occupancy Safety Inspection even if entry is refused or even if an Administrative Search Warrant has not been obtained in the interest of public health and/or safety.

11.3 An Administrative Search Warrant to enter and conduct an Occupancy Safety Inspection may be issued upon probable cause supported by affidavit if the Occupancy Safety Inspector has reason to believe, based upon a complaint, that a violation exists within the premises to be searched or, where an inspection is sought due to the lapse of time since the last inspection, the nature of the building (e.g., a multi-family apartment house) or because of conditions in the entire area within which the premises is located.

11.4 An Administrative Search Warrant shall be served by the Occupancy Safety Inspector between the hours of 6:00a.m. and 9:00p.m., and the entry and inspection shall be conducted within a specified period of time not to exceed two (2) days from the date of issuance.

11.5 An Occupancy Safety Inspector executing the Administrative Search Warrant shall make reasonable effort to give notice of his or her identity, authority and purpose to any occupant of the premises specified in the warrant and shall not make forcible entry to inspect unless an emergency situation exists.

Section 12. Fees/Cost of Permit and Application Fees

12.1 The fee for the application for Rental Safety Occupancy Permit shall be set by Borough Council and may be modified, from time to time, by resolution.

12.2 The annual fees for both inspection and a Permit are set forth on “Exhibit A”, attached hereto and incorporated herein. The fees set forth on “Exhibit A” shall remain in full force and effect and may be modified from time to time by Resolution of Borough Council.

Section 13. Violations and Penalties

13.1 The following shall be violations of this Ordinance:

A. Occupancy of any Residential Rental Unit without first obtaining a Rental Safety Occupancy Permit in accordance with this Ordinance.

B. Permitting the continued occupancy of a Residential Rental Unit or Commercial Property in the absence of a Permit, or where the safety inspector has revoked is a violation of this ordinance and shall cause the property owner to be subject to such fines and penalties provided for herein.

C. Any violation of the Code shall be a violation of this Ordinance where such code violation occurs in a Residential Rental Unit or Commercial Property, or in any building or on any premises on which a Residential Rental Unit or Commercial Property is located.

D. Failure to permit the Occupancy Safety Inspector or his or her designee to inspect a Residential Rental Unit, Commercial Property or the building or property on which it is located in accordance with this Ordinance. A Person, Partnership or Corporation commits a summary offense if he refuses to permit a Borough Occupancy Safety Inspector to have access or to gain entry to any premises specified in an Administrative Search Warrant to conduct an

Occupancy Safety Inspection and, upon conviction in a summary proceeding, shall be fined not less than Six Hundred (\$600.00) Dollars and, in default of the payment of the fines and costs, shall be committed to the Allegheny County Jail for a period not to exceed thirty (30) days.

E. Failure to submit a complete application in a timely manner for an initial Permit, renewal Permit or updated Permit upon change of occupancy.

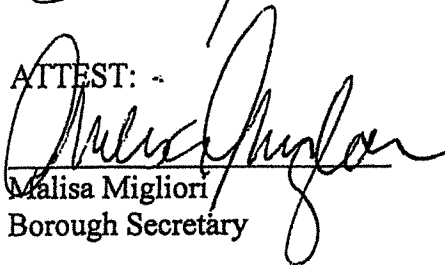
13.2 Whoever violates or fails to comply with any of the provisions of this Ordinance or Code, or fails to correct, within the time set by this Ordinance, the defects for which a Dwelling has been cited, shall be subject to the provisions of this Ordinance. Any Person, Partnership or Corporation who violates any of the provisions of this Ordinance shall, upon conviction in a summary proceeding, be fined not less than Six Hundred (\$600.00) Dollars and, in default of the payment of the fine and costs, shall be committed to the Allegheny County Jail for a period not to exceed thirty (30) days.

Section 14. Effective Date

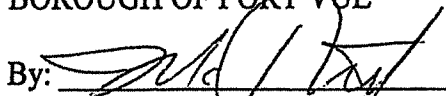
14.1 This Ordinance shall be effective upon adoption.

ORDAINED and ENACTED by the Council of the Borough of Port Vue, County of Allegheny and Commonwealth of Pennsylvania, meeting in regular and public session, this 5th day of Sept, 2018.

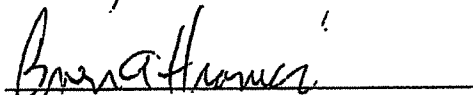
ATTEST: -


Malisa Migliori
Borough Secretary

BOROUGH OF PORT VUE

By: 
Mark Tortorise
Council President

EXAMINED AND APPROVED by me this 5th day of Sept, 2018.


Brien Hranics, Mayor