

ORDINANCE NO. 246

BOROUGH OF AVONDALE
CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE REQUIRING REGISTRATION AND INSPECTION OF RESIDENTIAL UNITS AND RELATED SPACES AND CERTIFICATIONS THEREFOR, ESTABLISHING FEES AND PENALTIES FOR VIOLATIONS AND REPEALING ORDINANCES 213 AND 196.

The Council of the Borough of Avondale, Chester County, Pennsylvania, hereby ORDAINS as follows:

1. TITLE

This Ordinance shall be known as the "Avondale Residential Registration Ordinance."

2. PURPOSE

The purpose of this Ordinance is to further the health, safety, and general welfare of the people of Avondale by providing for the registration of residential premises and their inspection for compliance with the laws that govern the use, occupancy, construction, and maintenance of those premises. Further, the Council finds that residential premises that are not occupied by their owners are at greater risk of being noncompliant with the applicable laws than premises that are owner-occupied. The Council further finds that multiple residential dwellings pose a greater concern about the health and safety of their residents than single residential dwellings. Therefore, the Council has determined that residential premises that are not owner-occupied or are within buildings with multiple dwelling units shall be inspected on a more frequent schedule than other premises.

3. DEFINITIONS

As used in this Ordinance, the following terms shall have the meanings set forth in this Section.

- a. Application – A written application for issuance of a Certificate of Registration and Inspection for a Residential Unit pursuant to this Ordinance, made on a form specified by the Borough.
- b. Borough – The Borough of Avondale, Chester County, Pennsylvania.
- c. Certificate of Registration and Inspection or Certificate – The certificate issued with respect to a Residential Unit pursuant to §5 hereof.

- d. Code Officer – The Borough’s Code Enforcement Officer, or any authorized representative of that Officer, and/or any other person authorized by the Council to conduct inspections or take any other actions pursuant to this Ordinance.
- e. Effective Date and Expiration Date – With respect to a Certificate, are the dates stated as such on the Certificate.
- f. Long-Term Occupancy Type 1 Unit – A Tenant-Occupied Type 1 Unit which is occupied pursuant to a written lease or other written agreement that provides for an initial term of occupancy by the tenant(s) expressly stated as being six (6) months or longer.
- g. Occupant – A natural person, whether or not an Owner, who regularly occupies a Residential Unit.
- h. Owner – Any natural person or any legal entity which, alone or jointly or in common with others, holds legal or equitable title to real property in the Borough.
- i. Owner-Occupied Unit – A Residential Unit (either Type 1 or Type 2) of which at least one of the Occupants is an Owner of that Residential Unit.
- j. Ordinance – This ordinance.
- k. Premises Regulation – Any law, ordinance, or regulation applicable to a Residential Unit or to the premises on which such Residential Unit is located that regulates the use, occupancy, construction, safety, or maintenance of that unit or premises. Premises Regulation includes, without limitation, any zoning, use, building, construction, property maintenance, health, safety, electrical, plumbing, heating, fire, ventilation, and waste disposal law, ordinance, or regulation imposed by any governmental authority having jurisdiction over the premises.
- l. Related Space – When a premises includes a Residential Unit, the portion of the premises which is not part of a Residential Unit. Related Space includes, without limitation: common areas of a building; the common elements of a condominium, cooperative, or similar form of common ownership; hallways, laundry facilities, lobbies, porches, recreational and storage areas, emergency exit ways and facilities; the portions of the premises used for heating, ventilation, or air conditioning, water heating or treatment, electric generation, or storage for Occupants’ belongings or fuel, trash, or garbage. Related Space also includes any room or group of rooms occupied or intended to be occupied for any non-residential use, including, without limitation, commercial, industrial, office, or institutional use, when a Residential Unit is located on the same premises.
- m. Residential Unit – A Type 1 Unit or a Type 2 Unit, as those terms are defined below.

- n. Tenant-Occupied Type 1 Unit – A Type 1 Unit which is occupied and is not an Owner-Occupied Type 1 Unit.
- o. Type 1 Unit – A single unit providing, within a contiguous enclosed private area, complete independent living facilities, including permanent provisions for living, eating, sleeping, cooking, and sanitation, for persons living as a single housekeeping unit. A unit is not a Type 1 Unit if any of its living, eating, sleeping, cooking, or sanitation facilities are shared with the Occupants of any other unit.
- p. Type 2 Unit – Any room or group of contiguous rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living which is not a Type 1 Unit.

4. CERTIFICATE REQUIRED

No Owner of a Residential Unit shall occupy or shall permit the occupancy of that unit unless a Certificate of Registration and Inspection is currently in effect for that unit.

No Owner of a Related Space shall fail to have at all times an effective Certificate of Registration and Inspection for that Related Space if any Residential Unit on the same premises is occupied.

5. PROVISIONS REGARDING CERTIFICATES

- a. **General.** A Certificate of Registration and Inspection shall be issued upon: (i) the submission by the Owner of the Residential Unit or Related Space of a correct and complete Application; (ii) payment of all applicable fees; and (iii) completion of an inspection by the Code Officer.
- b. **Form of Certificates.** A Certificate for a Residential Unit or Related Space may be issued either as an individual document or as a single document applicable to more than one Residential Unit or Related Space, as the Borough may determine. A Certificate that applies to more than one Residential Unit or Related Space shall be deemed to be a separate Certificate with respect to each Residential Unit or Related Space listed on the Certificate.
- c. **Application.** The Application shall be in writing, on a form provided by the Borough. The Application, without limitation, shall state:
 - i. The street address of the Residential Unit(s) or Related Space and any information (such as apartment number, room number, unit number, or other description) sufficient to distinguish clearly each Residential Unit or Related Space from each other Residential Unit or Related Space in the same structure or on the same parcel.

- ii. Name, street address, and telephone number of each Owner. The Application may include additional contact information, such as a mailing address, email address, fax number.
- iii. At the Owner's option, the name, address, telephone number, and other contact information of one or more agents or alternative contact persons who may be contacted by the Borough in case of emergencies at the Residential Unit or Related Space if the Owner cannot be reached.
- iv. As to each Residential Unit
 - (1) whether it is a single family detached or attached dwelling;
 - (2) the total number of rooms comprising the unit;
 - (3) the number of rooms in the unit intended for sleeping, cooking, living, sanitation;
 - (4) whether the Residential Unit shares with any other Residential Unit or Related Space any area or room for cooking, living, or sanitation, or common area (for example, hallways, entrances, storage areas, laundry areas, parking areas) and, if so, identification of each other Residential Unit or Related Space with which such area or room is shared;
 - (5) number of Occupants or intended Occupants;
 - (6) whether it is an Owner-Occupied Unit (in which case the name of each Owner Occupant shall be stated) or a Long-Term Occupancy Type 1 Unit;
 - (7) for a Long-Term Occupancy Type 1 Unit, the names of all persons who are Occupants of the unit, indication of which of those Occupants are parties to the written lease or other written agreement for occupancy, and the family relationships of the Occupants to each other;
 - (8) number of off-street parking spaces on the premises in the Residential Unit is located and the number of parking spaces reserved for exclusive use by the Residential Unit, or, where off-street parking spaces are not reserved for an individual Residential Unit, the number of space reserved for use by the Residential Units on the premises as a group;

- v. As to each Related Space, description of the portion of the premises that comprises Related Space, the uses of the Related Space and identification of the Owner of the Related Space (this is required whether the Related Space is under the same or different ownership as the Residential Unit(s) identified on the Application).
 - vi. The Application shall be made pursuant to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsifications to authorities.
 - vii. It shall be the duty of the Owner to notify the Borough in writing of any changes to the information on the Application that occur during the effective period of the Certificate. The Borough may require that the Owner complete an amended Application to reflect such changes.
- d. Fees. The fees for Certificates and for all other actions performed by the Borough under this Ordinance shall be as set by the Borough from time to time by Ordinance or Resolution. The fee for each Certificate shall accompany the Application. The Borough is not required to act on any Application which is not accompanied by payment of the full fee.
- e. Required Inspection. For Residential Unit(s), the inspection required by this Ordinance shall be of the Residential Unit(s) listed in the Application and any Related Space, on the premises, that is under the same ownership as all the Residential Units. For Related Space that is not under the same ownership as all the Residential Units, the inspection required by this Ordinance shall be of the Related Space.
- f. Inspection. After an Application is submitted, the Owner is responsible for contacting the Borough and arranging for the required inspection. The Borough will make reasonable efforts to perform such inspection at a date agreeable to the Owner. The Borough is not required to perform an inspection other than on business days during the Borough's usual business hours. The inspection must be requested at least ten (10) business days in advance. The purpose of the inspection is to determine compliance with all applicable Premises Regulations, to record manually and photographically the condition and the physical configuration of the unit(s) or space, including the arrangement and dimensions of rooms and common areas. All Residential Units subject to inspection that are on a single premises and under the same ownership shall be scheduled for inspection at the same time, unless the Borough determines otherwise. Any Related Space that is under the same ownership as a Residential Unit may be inspected at the time of inspection of the Residential Unit. The Owner of a Residential Unit or Related Space is responsible for making the unit(s) or space available for inspection as scheduled.

- g. **Period of Certificate.** A Certificate is effective from 12:01 a.m. on its Effective Date until 12:01 a.m. on its Expiration Date, unless otherwise terminated as set forth in §5(h).
- i. A Certificate for a Type 1 Owner-Occupied Unit shall be issued with an indefinite Expiration Date.
 - ii. A Certificate for any other Residential Unit shall be issued for a period of one (1) year.
 - iii. The Borough may at its discretion adjust the Expiration Date of a Certificate so that it coincides with the Expiration Date(s) of other Residential Unit(s) on the same premises under the same ownership, provided that such adjustment shall not result in an effective period of less than six (6) months.
 - iv. A Certificate for a Related Space shall be issued for a period of one (1) year, unless every Residential Unit on the premises is under the same ownership as the Related Space and is an Owner-Occupied Type 1 Unit, in which case the Certificate for the Related Space shall be issued with an indefinite Expiration Date.
- h. **Termination of Certificate.** Notwithstanding the Expiration Date set forth on the Certificate, a Certificate terminates upon the occurrence of any of the following:
- i. A Certificate for any Residential Unit or Related Space terminates upon the transfer of the interest of any Owner of the unit or space to another person or entity. Termination does not occur if the transfer is: (1) to another Owner of the Residential Unit or Related Space as set forth on the Certificate; (2) to a spouse or former spouse of the Owner, pursuant to a property settlement agreement; (3) by reason of the death of an Owner. The transferee shall give prompt notice to the Borough of any transfer of ownership, whether or not such transfer results in termination of the Certificate.
 - ii. A Certificate for an Owner-Occupied Type 1 Unit terminates when the unit ceases to be Owner-Occupied. The Owner shall give prompt written notice to the Borough of any such change of occupancy.
 - iii. A Certificate for Related Space issued with an indefinite expiration Date expires if any of the Residential Units on the premises ceases to be an Owner-Occupied Type 1 Unit or the Related Space ceases to be in the same ownership as all the Residential Units on the premises.

- iv. The Certificate for a Unit terminates upon the occurrence of any of the events described in §5(h)(i)–(ii), whether or not notice is given.
 - v. Termination of a Certificate shall not entitle the Owner to a refund of any fee or portion thereof paid with respect to such Certificate or abate any fees due.
- i. **Renewal of Certificate.** The Owner of a Residential Unit or Related Space is responsible for submitting to the Borough an Application for renewal of a Certificate no less than twenty (20) business days prior to the Expiration Date of the Certificate, paying the required fee, and scheduling and permitting the required inspection to occur prior to, but not earlier than twenty-five (25) business days before the Expiration Date. A Certificate renewed under this §5(k) shall have an Effective Date that is the later of: (1) the Expiration Date of the previous Certificate; or (2) the day on which all requirements for issuance of the renewal Certificate have been met. The Expiration Date of the renewal Certificate shall be one (1) year from the Expiration Date of the prior Certificate.
- j. **Issuance of Certificate Upon Transfer Ownership of Residential Unit or Related Space.** In the event of a planned transfer of ownership of a Residential Unit or Related Space that would cause the then-effective Certificate to terminate pursuant to §5(h)(i) or that would require the Owner to obtain a Certificate for a Related Space for which a Certificate had not previously been required, the Owner and prospective transferee may make an Application for issuance of a new Certificate to become effective upon the transfer of ownership. Such Application may be made at any time, but no less than twenty (20) business days before the transfer of ownership is to occur. The Application shall set forth the information specified in §5(d) as will apply upon the occurrence of the transfer. The Borough will inspect the Residential Unit, provided that the Borough shall not be required to inspect the unit earlier than twenty-five (25) business days before the planned transfer. After the inspection, the Borough will issue a provisional Certificate, indicating that a regular Certificate will be issued effective as of the date of transfer of ownership, provided that such transfer occurs not later than forty-five (45) business days after the inspection and that the transferee Owner certifies the correctness of the Application as previously submitted or corrects any information, as necessary, and that the classification of the Residential Unit remains the same as that indicated on the Application. The Effective Date of a Certificate issued under this §5(h) shall be the date of transfer of ownership and the Expiration Date shall be one (1) year later.
- k. **Change to Owner-Occupied Status.** If a Type 1 Unit becomes Owner-Occupied, the Certificate will be amended or a new Certificate will be issued with an indefinite Expiration Date for that unit, upon submission of an Application.

6. ENFORCEMENT

- a. **Enforcement Personnel.** The Borough's Code Enforcement Officer, any authorized representative of that Officer, and any other person authorized by the Council to conduct inspections shall have the power and authority to enforce this Ordinance.
- b. **Other Inspections.** In addition to the inspections required for the issuance of a Certificate, every Residential Unit and Related Space is subject to inspection by the Borough when probable cause exists for an administrative search. Such inspections include, without limitation, inspections conducted pursuant to a plan of random, periodic, or area inspection.
- c. **Warrants.** The Code Officer is authorized to obtain from an issuing authority an administrative warrant to enter any premises for the purpose of inspection pursuant to this Ordinance.
- d. **Premises Regulations.** Violations of Premises Regulations that are observed during any inspection shall be enforced in accordance with the enforcement provisions contained in the regulation that has been violated. Violations of Premises Regulations that are not enforced by the Borough may be referred to any agency having appropriate enforcement power.
- e. **Violations of this Ordinance.** Any Owner who violates §4 of this Ordinance shall be cited for a summary offense and upon conviction thereof shall be fined not more than \$1,000.00. Each day of violation of §4 constitutes a separate violation.

In the event that a court of competent jurisdiction shall determine that violations of this Ordinance are not subject to enforcement as summary violations, then any Owner who violates §4 of this Ordinance shall be subject to a civil penalty of \$600.00, which may be recovered by the Borough in any appropriate legal action. Each day of violation of §4 constitutes a separate violation.

- f. **Remedies not Exclusive.** The remedies set forth above are not exclusive. The Borough may institute any appropriate legal action against an Owner, Occupant, or person in possession or control of a Residential Unit or Related Space in order to obtain access thereto for purposes of inspection for compliance with Premises Regulations, for recovery of a civil penalty as set forth above, or for any other relief than may be properly granted under this Ordinance. In any such action, the Borough may recover the costs, including reasonable attorney's fees, incurred by the Borough in such action and costs arising out of the Borough's obtaining physical access to the unit or space. The remedies set forth in this Ordinance shall not bar the Borough from any other remedies available under any other ordinance, Premises Regulation, or law.

7. EFFECT OF CERTIFICATE

A Certificate issued pursuant to this Ordinance certifies only that: (i) the information set forth on the certificate has been provided to the Borough by the owner; (ii) the applicable fees have been paid; and (iii) the inspection required prior to issuance has been performed.

The Certificate is not a representation or warranty by the Borough as to the condition of the premises that have been inspected or the compliance of such premises with any Premises Regulation. The inspections by the Borough and the issuance of a Certificate are performed pursuant to the police powers of the Borough and not for the benefit of any particular person(s), including, without limitation, an Owner or prospective Owner, Occupant, or prospective Occupant.

8. TRANSITION PROVISIONS – EXISTING RESIDENTIAL OCCUPANCY PERMITS

A Residential Occupancy Permit issued pursuant to Borough Ordinances 213 or 196 (“Prior Permit”) that is in effect as of the date of enactment of this Ordinance shall be treated as follows:

- a. If such Prior Permit expires at a stated date or after a specific period, not more than one (1) year from its issuance, such Prior Permit shall be treated as if it were the Certificate issued pursuant to this Ordinance until such expiration.
- b. If such Prior Permit was not issued until a stated date or for a stated period because it was for an “Owner Occupied Dwelling” as defined in Ordinance 213, then, if the Residential Unit for which the Prior Permit was issued is a Type 1 Owner-Occupied Residential Unit (as defined in this Ordinance), such Prior Permit shall be treated as if it were the Certificate issued pursuant to this Ordinance.
- c. If such Prior Permit is not as described in §8(a) or (b), above, the Prior Permit shall be treated as if it were the Certificate issued pursuant to this Ordinance with an Effective Date which is the effective date of this Ordinance and an Expiration Date one (1) year thereafter.
- d. A Prior Permit that is treated as the Certificate issued pursuant to this Ordinance in accordance with this §8 shall expire or terminate in accordance with the provisions of this Ordinance.

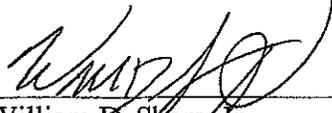
9. EFFECTIVE DATE; REPEAL OF PRIOR ORDINANCES

a. This Ordinance shall be effective November 1, 2014 for all Residential Units and Related Spaces for which: (i) no Prior Permit has been issued; or (ii) for which a new or amended Certificate is required and the Prior Permit is as described in §8(b) or (c).

b. This Ordinance shall be effective December 1, 2014 for all Residential Units and Related Spaces.

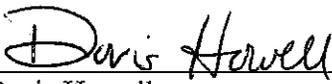
c. Ordinances 213 and 196 are repealed: (i) as of November 1, 2014 with respect to Residential Units and Related Spaces described in §9(a); and (ii) as of December 1, 2014 with respect to Residential Units and Related Spaces described in §9(b). The repeal of Ordinances 213 and 196 shall not apply to violations occurring before the repeal.

Passed by Borough Council, this 19 day of August, 2014.



William D. Shore, Jr.
President, Borough Council

Approved by the Mayor, this 19 day of August, 2014.



Doris Howell
Mayor

Enacted, this 19 day of August, 2014.

BOROUGH OF AVONDALE



Rebecca Brownback
Borough Secretary