

**BOROUGH OF CALIFORNIA
COUNTY OF WASHINGTON
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO. 563

AN ORDINANCE OF THE BOROUGH OF CALIFORNIA, WASHINGTON COUNTY, COMMONWEALTH OF PENNSYLVANIA, REQUIRING THE OBTAINING OF A LICENSE FOR ALL RENTAL UNITS IN THE BOROUGH; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE SUSPENSION AND REVOCATION OF LICENSES; REQUIRING THE IDENTIFICATION OF, AND REGISTRATION OF, THE OWNERS, AGENTS AND TENANTS OF RENTAL UNITS; REQUIRING THE PAYMENT OF LICENSING FEES; PROVIDING FOR THE ANNUAL INSPECTION OF RENTAL UNITS; PROVIDING FOR A SCHEDULE OF FEES RELATING TO ANNUAL INSPECTIONS OF RENTAL UNITS; IMPOSING LIABILITY AND PROVIDING PENALTIES FOR VIOLATIONS OF THE INSTANT ORDINANCE AND PROVIDING THE BOROUGH WITH PROVISIONS TO ENFORCE THE INSTANT ORDINANCE; REPEALING INCONSISTENT ORDINANCES AND/OR PORTIONS OF INCONSISTENT ORDINANCES, INCLUDING, SPECIFICALLY, ORDINANCE NO. 428, ORDINANCE NO. 462, AND ORDINANCE NO. 521; INCLUDING A SAVINGS CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Borough of California wishes to protect and promote the public health, safety and welfare of its citizens, to establish rights and obligations of owners and occupants relating to the rental of certain dwelling units in the Borough of California and to encourage owners and occupants to maintain and improve the quality of rental housing in the community; and

WHEREAS, the Borough has found it necessary to establish a licensing fee for all rental units in the Borough and to set forth the procedure necessary to obtain a license permit and to establish penalties for violations of this Ordinance; and

WHEREAS, the Borough Council of the Borough of California previously adopted Ordinance Nos. 428, 462, and 521 providing for both the mandatory licensure of all rental units within the Borough and for the annual inspections of all rental units within the Borough with a schedule of fees for the inspection of said rental units; and

WHEREAS, the Borough Council has determined it to be in the best interest and welfare of its residents, visitors, and invitees to repeal Ordinance Nos. 428, 462, and 521, in their entirety, by this instant Ordinance, which will both combine certain sections of those prior Ordinances into a single Ordinance, and, also, will update certain sections of said prior Ordinances.

NOW, THEREFORE, be it ORDAINED and ENACTED and it is hereby ORDAINED AND ENACTED by the Council of the Borough of California, Washington County, Pennsylvania, as follows:

SECTION 1. PURPOSE.

The purpose of this Ordinance is to protect the public health, safety and general welfare of the residents of the Borough of California, including, but not limited to:

- A. The protection of the character and stability of residential areas;
- B. The correction and prevention of housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well-being of persons occupying dwellings and adjoining or neighboring properties;
- C. The prevention of the overcrowding of dwellings;
- D. The prevention of slums and blight, and
- E. The preservation of the value of land and buildings throughout the Borough.

SECTION 2. DEFINITIONS.

The following terms in this Ordinance are defined as follows:

- A. **BOROUGH:** The Borough of California, Washington County Pennsylvania.
- B. **BUILDING CODES:** Any Code or Ordinance adopted, enacted, and/or in effect in and for the Borough of California concerning fitness for habitation, the construction, maintenance, operation, occupancy, use or appearance of any unit, premises or building and/or fire prevention, housing standards, and municipal waste, including, but not limited to, all applicable Federal and State Codes and regulations.
- C. **HOTEL:** Any room or group of rooms located within a hotel or motel, forming a single habitable unit used or intended to be used for living and sleeping only on a transient basis for a period of less than thirty (30) days.
- D. **OWNER:** The owner or owners of the fee simple title of a rental unit, or of a beneficial and equitable interest therein or a lesser estate thereon. The following person, persons, firms or corporations are included in the definition of owner of a rental unit: a mortgagee or vendee in possession, assignee of rents, receiver, executor, administrator, trustee, lessee, agent or any other person, firm, corporation, partnership or other entity directly or indirectly in control of a structure, dwelling, or building in which a rental unit is located, or of an individual rental unit.
- E. **MOTEL:** See the definition of Hotel above.

- F. PERSON: A natural person, partnership, corporation, unincorporated association, limited partnership, trust, or any other entity.
- G. RENTAL UNIT: A room or group of rooms within a building or structure which is either rented, leased, let or hired out to be occupied or is occupied, for a consideration, as the temporary or permanent residence or house of one (1) or more individuals. An owner-occupied unit can be a rental unit if any part thereof is rented, leased, let or hired out to be occupied or is occupied, for a consideration, as the temporary or permanent residence or house of one (1) or more individuals. A rental unit shall not include a hotel unit or a personal-care home. A rental unit includes dwelling units under lease-purchase agreements or long-term (greater than six months) agreements of sale.
- H. TENANT: An individual that rents, leases, hires or occupies a rental unit, whether for a consideration or not, as a temporary or permanent residence. Tenant shall not include the owner's parent(s), sibling(s), child/children, or grandchild/grandchildren.

SECTION 3. REGISTRATION STATEMENT AND MANAGING AGENT.

- A. Every owner of a proposed or new rental unit as above defined shall file with the Borough Code Enforcement Officer, or the Borough's third-party designee, a written registration statement on forms to be supplied by the Borough Code Enforcement Officer, or the Borough's third-party designee, containing the following information:
1. A description of the rental unit by street number, tax parcel I.D. number and apartment number or other indicia sufficient to distinguish the rental unit from all others.
 2. The name and residence and business address of such owner, together with his residence and business telephone number or, if such other is a corporation, the name, telephone number and address of such corporation and the name, residence and business address of all officers thereof, together with the residence and business telephone numbers of the corporation's officers.
 3. The number of tenants the owner proposes to have occupy the rental unit.
 4. Designation of managing agent:
 - (a) The name, residence, business address and residence and business telephone numbers of a natural person, twenty-one (21) years of age or over, who resides within the Borough or within fifteen (15) driving miles from the Borough and who shall be designated by such owners as a managing agent who may be accessible regarding maintenance and operation of such rental unit, and who shall be designated as the person upon whom process may be served on behalf of the owner.

The managing agent shall keep a current record of all the tenants and their names and addresses, who are renting, leasing or living in each rental unit on the premises. This list shall be available for inspection by the Code Enforcement Officer, or the Borough's third-party designee, at reasonable times at a location within the Borough.

There shall be endorsed upon the registration statement a written consent to such designation as managing agent signed by such managing agent. An owner, who is a natural person and who resides within the Borough or within fifteen (15) driving miles from the Borough and otherwise meets the requirements of this subsection, may designate himself or herself as such managing agent. This designation shall not be valid unless signed by the owner and the manager designated to act on behalf of the owner.

For the purpose of this subsection, a post office box is not acceptable for the manager's address.

- (b) Nothing contained in this section shall be construed as preventing a corporation, which is an owner of a rental unit, from designating as its managing agent with respect thereto any officer of such corporation who meets the requirements of this subsection as to the location of the residence of a managing agent.
 - (c) Any designation as managing agent made pursuant to the provisions of this section shall remain in full force and effect until changed or terminated as hereinafter provided.
5. Where, after the filing of any registration statement in relation to any rental unit under the applicable provisions of this Ordinance, the owner of such rental unit shall have granted or transferred his right, title or interest therein or in any part thereof, such owner shall file with the Borough Code Enforcement Officer, or the Borough's third-party designee, within ten (10) days after such grant or transfer, a written statement which shall contain the name, residence and business address, and residence and business telephone numbers of the grantee, transferee or other successor of such right, title or interest, or if such grantee, transferee or successor is a corporation, the name, telephone number and address of such corporation.
 6. Where, after the filing of any registration statement with the Borough Code Enforcement Officer, or the Borough's third-party designee, pursuant to the applicable provisions of this section, any change, other than a designation of a different managing agent or a change of ownership or interest, occurs in any name, residence or business address, list of officers or telephone number(s) or any other information required to be included in such statement, the owner,

within ten (10) days after such change, shall file, in duplicate, on forms to be furnished by the Borough Code Enforcement Officer, or the Borough's third-party designee, a statement setting forth the particulars of such change, so as to supply the information necessary to make currently correct the last registration statement filed pursuant to the applicable provisions of this Ordinance.

7. Any designation of a managing agent made pursuant to the applicable provisions of this Ordinance shall cease to be effective if such agent should die or be judicially declared incompetent.
8. Any owner may terminate the designation of a managing agent by filing with the Borough Code Enforcement Officer, or the Borough's third-party designee, a written designation of a new managing agent made in conformity with the provisions hereinabove.
9. If any owner shall fail to file a designation of a new managing agent with the Borough Code Enforcement Officer, or the Borough's third-party designee, in conformity with the provisions herein and within the following time periods, such owner shall be guilty of a violation of this Ordinance:

on or before the effective date of a notice of termination or within three (3) business days after an owner receives a notice of termination from a managing agent or other termination of a written designation, or fifteen (15) days after any such agent shall die or be judicially declared incompetent.

- B. Any registration statement or designation of a managing agent required to be filed with the Borough Code Enforcement Officer, or the Borough's third-party designee, under the provisions of this Ordinance shall be signed by an owner or, if such owner is a corporation, by an authorized officer thereof.
- C. Any such registration statement or designation of a managing agent shall be deemed prima facie proof of the statements therein contained in any prosecution or litigation instituted by the Borough or any department, commission, agency or authority thereof against the owner or managing agent of a rental unit.

SECTION 4. LICENSE REQUIRED.

It shall be unlawful for any person, firm or corporation to conduct or operate, or cause or permit to be rented or occupied either as owner, lessee, agent or manager within the Borough, any rental unit without having first obtained a license or temporary certificate to do so as hereafter provided.

SECTION 5. APPLICATION.

Within thirty (30) days of the expiration of a current rental license, the Owner of each rental unit shall make written application on forms, approved and provided by the Borough to the Borough Code Enforcement Officer, or the Borough's third-party designee, which contain such information as necessary to administer and enforce and to ensure compliance with the provisions of this Ordinance, and all other applicable Borough Ordinances and Codes, in their entirety. The application shall specify the rental unit the owner desires permission to operate or rent, as well as the total number of tenants the owner requests permission to have occupy the rental unit.

In addition, the owner of each rental unit constructed or proposed to be rented, occupied or used, but not yet existing, rented or occupied as such shall make written application to the Code Enforcement Officer, or the Borough's third-party designee, for a license as herein provided prior to any occupancy.

SECTION 6. TEMPORARY CERTIFICATE.

Upon receipt of a completed application for a license and payment of the appropriate license and inspection fee, for an existing and/or occupied rental unit as hereinafter provided, the Borough Code Enforcement Officer, or the Borough's third-party designee, shall issue a "temporary certificate" indicating that the license has been duly applied for, and that such license shall be issued or denied after the building, including, but not limited to, interior portions thereof intended or used for human habitation, have been inspected for compliance with this Ordinance, and all other applicable Borough Ordinances and Codes. A "temporary certificate," as issued, shall authorize continued occupancy of such rental unit in actual existence and use, pending the issuance or denial of the applied for license.

A duly applied for application, accompanied by the required license and inspection fee, shall serve as the "temporary certificate." The temporary certificate shall be valid for a three (3) month period which expires August 31st of that year. Any rental unit not obtaining a temporary certificate by May 30th shall be in violation of this Ordinance. If any application is returned to the applicant from the Borough for being incomplete, the applicant shall have ten (10) days to return the application with the omitted information. There will be no extension to this ten (10) day deadline.

SECTION 7. LICENSE.

Upon completion of the inspection of the building or buildings, if the Borough Code Enforcement Officer, or the Borough's third-party designee, finds the requirements of this Ordinance and all other applicable Borough Ordinances and Codes have been met, a license shall be issued. Such license shall identify the unit which is authorized for operation and occupancy as a rental unit as well as the total number of tenants which may lawfully occupy the rental unit. It shall be a violation of this Ordinance to occupy, use or permit the occupancy or use of a unit not covered by, or contrary to, a duly issued license.

If the Code Enforcement Officer, or the Borough's third-party designee, finds that the requirements of this Ordinance and all other applicable Borough Ordinances and Codes have not been met, a written denial letter specifying the defects shall be transmitted to the applicant. When a license has been denied, expired, suspended, or revoked, no further rental or occupancy of rental units then vacant or which may become vacant shall be permitted until a license has been issued. It shall be the owner's responsibility to remove all tenants occupying a rental unit for which a license is denied, expired, suspended or revoked.

The rental units within a structure which are in compliance with this Ordinance and all other applicable Borough Ordinances and Codes may continue to be occupied if units or other areas in other portions of the structure which do not comply, do not create a hazard to the health, safety or welfare of the persons in the occupied units.

SECTION 8. RENEWAL OF LICENSE.

Unless sooner revoked or suspended for cause, each license shall expire on May 31st of each year and may be renewed for successive one-year periods.

SECTION 9. TRANSFER OF LICENSE.

A license issued hereunder is transferable, for a fee of Twenty and 00/100 Dollars (\$20.00), to any owner who has acquired ownership of a licensed rental unit for the unexpired portion of the one-year term for which it was issued or reissued, provided that the application to transfer such license is timely filed with the Borough Code Enforcement Officer, or the Borough's third-party designee, for change of ownership and the licensed rental unit is in compliance with this Ordinance and all other applicable Borough Ordinances and Codes.

A license shall terminate upon failure to apply for its transfer within thirty (30) days of the date of sale or transfer of ownership of the rental unit.

Prior to the Borough approving transfer of any license, any and all code violation(s) of the property and pending citation(s) against the property must be corrected and resolved.

SECTION 10. SUSPENSION OR REVOCATION.

A license shall be suspended upon a finding by the Borough Code Enforcement Officer, or the Borough's third-party designee, that one or more of the requirements of this Ordinance and all other applicable Borough Ordinances and Codes have been violated. The Code Enforcement Officer, or the Borough's third-party designee, shall give written notice to the license holder of such violations. Service upon a managing agent shall be deemed service upon the license holder.

Said written notice may be served upon the owner, or such owner's managing agent by any of the following methods:

1. personal service by hand delivery;

2. certified mail, return receipt requested (if said mail is refused or unclaimed, and was also sent by regular mail, service shall be deemed made upon the posting of the property);
3. by handing a copy at the residence of the Owner, or the managing agent, to an adult member of the family with whom such person resides; but if no adult member of the family is found, then to an adult person in charge of such residence;
4. by handing a copy at any office or usual place of business of the owner or the managing agent to their agent or to the person for the time being in charge thereof.

Upon failure of the license holder to correct the violations stated in the notice of violation within thirty (30) days, or such shorter time as may be designated by the Borough Code Enforcement Officer, or the Borough's third-party designee, the license may be revoked. A suspended license may be reinstated upon meeting the requirements of the applicable Borough Ordinances and Codes. Issuance of a new license after revocation shall be subject to payment of the full amount of the applicable license fee and the procedures for issuance set forth above.

SECTION 11. LICENSE AVAILABILITY.

Licenses issued under this Ordinance shall be prominently and publicly displayed on the premises of the structure, or produced on the request of a tenant or prospective tenant and shall be available at reasonable times for inspection by the Borough Code Enforcement Officer, or the Borough's third-party designee, at a location within the Borough of California.

SECTION 12. INSPECTION OF RENTAL UNITS.

The Borough Code Enforcement Officer, or the Borough's third-party designee shall, on an annual basis, conduct an inspection of all rental units having obtained a temporary certificate or requested a renewal license as contemplated under this Ordinance; to ensure compliance with the terms and conditions of this Ordinance, the property maintenance Ordinance(s) of the Borough, and all other applicable Borough Ordinances and Codes. Nothing in this Ordinance shall be interpreted as limiting the authority of the Borough to conduct additional inspections, as deemed appropriate by the Borough, where the Borough has a reasonable basis to believe that a unit is in violation of this Ordinance, the property maintenance Ordinance(s) of the Borough, and all other applicable Borough Ordinances and Codes.

SECTION 13. INSPECTION SCHEDULE OF FEES.

The Borough Code Enforcement Officer, or the Borough's third-party designee, shall, at the time of the application for license or request for license renewal, collect a \$15.00 administrative fee for issuing the license and any renewal thereof, and an inspection fee from each property owner in accordance with the following schedule:

<u>Single Family Dwelling:</u>	\$45.00
<u>Multiple Family Dwelling:</u>	
01-600 square feet	\$45.00 (base fee)
601-900 square feet	Base fee plus \$20.00
Each 300 square feet over 901	Additional \$20.00
<u>Rooming Houses and Special Care Facilities:</u>	
01-600 square feet	\$45.00 (base fee)
601-900 square feet	Base fee plus \$20.00
Each 300 square feet over 901	Additional \$20.00
<u>Re-inspection of corrective work after discovery of violation:</u>	
This inspection will consist of inspecting only the items found in violation to verify corrective work.	\$50.00 for each re-inspection after September 1 st provided, however, that the Borough has the authority to waive that fee for a re-inspection as a result of a first violation, as long as the corrective work was performed as verified by that inspection.

The re-inspection has to occur within fifteen days after the finding of violation.

A fifteen percent (15%) variance on square footage calculation shall be allowed, adjusting the fee to the lower amount as provided above.

No new rental unit license, as contemplated under this Ordinance, shall be issued until an initial inspection of the unit has been conducted by the Code Enforcement Officer, or the Borough's third-party designee, and the appropriate fee paid to the Borough as provided for in this section.

The Borough may reduce the inspection rates for multiple units, if appropriate.

SECTION 14. POWERS BY RESOLUTION.

Borough Council may, also, by resolution, categorize and/or classify and re-categorize and/or re-classify rental units in the Borough and modify application of other deadlines under this Ordinance so as to stagger inspections of rental units.

Borough Council, may also, by resolution, amend the inspection fees, fines, costs and other fees contained within the instant Ordinance.

SECTION 15. DUTY TO FILE LIST OF TENANTS.

At the time of application for the rental unit license and all renewals, it shall be the duty of every owner of a rental unit within the Borough to certify and to file with the Borough Code Enforcement Officer, or the Borough's third-party designee, a list of the names of all lessees, tenants, and occupants, as well as their permanent addresses and the telephone number for such permanent addresses, for each rental unit, whether licensed or not.

Where any change occurs in any tenant's/tenants' or lessee's/lessees' name or residence, the owner, within ten (10) days after such change, shall certify the same to the Borough Code Enforcement Officer, or the Borough's third-party designee, so as to supply the information necessary to make currently correct the last Tenant list filed by the Owner.

Failure to file said list initially or to update said list will be considered violations of this instant Ordinance.

SECTION 16. LIABILITY OF OWNER.

Every owner of a rental unit in the Borough who willfully or negligently fails to register a rental unit; to acquire the annual inspection; to pay the license fee, inspection fee, and/or any other fee(s) or cost(s) required by this instant Ordinance; or does not file or update the list of tenants and occupants shall be liable for, in addition to other penalties herein provided, the payment of all sewer fees and charges levied by the Borough and for the compliance with all other adopted, applicable Borough Ordinances and Codes, together with all penalties, costs, interest and lien charges. This provision shall in no way modify or nullify any other persons' or tenants' liability for the same.

The Code Enforcement Officer, or the Borough's third-party designee, shall not issue a license or temporary certificate as to such property until all such delinquent charges, penalties, costs, interest and lien charges have been paid in full and compliance with all other adopted Borough Ordinances and Codes has been achieved.

SECTION 17. VIOLATIONS, PENALTIES AND REMEDIES.

1. Any person or entity that violates any of the provisions of this Ordinance may be charged with such violation, and, upon conviction thereof, shall be sentenced to pay a fine of not more than One Thousand Dollars (\$1,000.00) for each violation. In default of payment of any

imposed fine(s), the offender may be imprisoned for a term not to exceed ninety (90) days in the Washington County Correctional Facility.

2. In addition to and not in lieu of the foregoing, the Borough may seek equitable and legal relief to compel compliance with this Ordinance. If a court of competent jurisdiction grants the Borough's request for equitable and/or legal relief, the person(s) and/or entity/entities against who such relief was granted, shall be responsible for any and all court costs, attorney's fees and/or expenses incurred by the Borough in seeking said relief and/or compliance.

SECTION 18. OWNERS SEVERALLY RESPONSIBLE.

If any rental unit is owned by more than one person, in any form of joint tenancy, as a partnership, or otherwise, each person, including each corporate officer of a corporate owner, shall be jointly and severally responsible for the duties imposed under the terms of this Ordinance, and shall be jointly and severally subject to prosecution and liability for a violation of this Ordinance.

SECTION 19. REPEAL OF PRIOR ORDINANCES.

Any and all prior Ordinances and/or any and all portions of prior Ordinances, which are in conflict with this Ordinance, are hereby repealed to the extent of such conflict. The remaining Ordinances and/or portions of prior Ordinances, not modified herein, shall remain the same.

Ordinance Nos. 428, 462, and 521 are repealed in their entirety by this instant Ordinance.

SECTION 20. SAVINGS CLAUSE.

Should any section, provision or other part of this Ordinance be found to be illegal, unenforceable or void, such shall not affect the remainder hereof, which shall remain fully binding, valid and enforceable, and such section, provision or other part shall be modified to the extent necessary to so conform to the law.

The Borough Council of the Borough of California hereby declares its intention that should any section, provision or other part of this Ordinance be found to be illegal, unenforceable or void, it would have made the foregoing Ordinance without such part or with such part so modified so as to conform to the law.

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SECTION 21. EFFECTIVE DATE.

This Ordinance shall become effective immediately.

DULY presented and adopted at a meeting of the Borough Council of the Borough of California, Washington County, Commonwealth of Pennsylvania, this 9th day of May, 2019.

ATTEST:

BOROUGH OF CALIFORNIA

Shirley Coan
Borough Secretary

By: *Patsy J. Alpanis*
President of Council

EXAMINED AND APPROVED by me this 9th day of MAY, 2019.

BOROUGH OF CALIFORNIA

By: _____
Mayor