ORDINANCE NO.

AN ORDINANCE OF THE BOROUGH OF CARLISLE AMENDING CHAPTER 193 OF THE CODE OF THE BOROUGH OF CARLISLE TO PROVIDE FOR THE REGISTRATION AND INSPECTION OF RENTAL DWELLING UNITS AND AMENDING CHAPTER 120 TO PROVIDE FOR FEES WITH RESPECT THERETO.

IT IS HEREBY ENACTED AND ORDAINED by Carlisle Borough, Cumberland County, Pennsylvania, as follows:

SECTION 1: Chapter 193 [Rental Housing] of the Code of the Borough of Carlisle is hereby amended as follows:

A. §193-2, Legislative intent, is revised in its entirety to provide as follows:

The background of this Chapter and the legislative intention of the Borough Council in enacting it are as follows:

A. The governance of rental housing within the Borough is necessary to promote and protect the public health, safety and welfare of its citizens.

B. The establishment of certain minimal rights and obligations of owners and occupants with respect to the rental and occupancy of residential rental dwelling units in the Borough is necessary.

C. Owners and occupants of rental housing are required to maintain and improve the quality of rental housing within the community.

D. Owners and occupants of rental housing should share the responsibility to comply with Borough ordinances enacted to protect and promote the public health, safety and welfare.

E. Rental housing has consumed the majority of Borough code enforcement resources, and, as a result, non-owner occupied residential properties bear a disproportionate burden of the cost of code enforcement.

F. Tenants of rental housing have been reluctant to make code complaints to Borough officials for fear of retaliation by landlords.

G. Approximately 55% of residential dwelling units in the Borough are residential rental housing units.

H. The Borough has encountered difficulties obtaining cooperation and corrective action by owners of rental housing who reside or have offices a long distance from the Borough.

I. Those residents who own and live in their homes have greater incentive to maintain their properties in accord with minimum standards of habitability.

J. Because of their lack of ownership, certain tenants resist complying with Borough ordinances.

K. The lack of attention to Borough ordinances by both owners of rental housing and tenants has denied neighbors the full peace and enjoyment of their homes.

L. Having an accurate and comprehensive licensing and registry database will ensure that the Borough has complete records to better understand the long-term demographic, economic, land-use, planning, social, and general public welfare and public safety impact of the Borough's growing tenant population.

M. To recognize and provide regulatory flexibility by recognizing well maintained, organized, and operated rental building(s) or complex, that are self-policing, and can demonstrate little or no property maintenance issues or violations impacting the Borough or neighborhood.

N. To have inspection of residential rental units in order to certify that the unit meets basic safety and habitability standards when it is rented.

O. This chapter shall be construed liberally to promote its purposes and policies.

B. §193-3, Definitions, is hereby amended as follows:

1. The definition of Residential Rental Dwelling Unit is amended to include the following at the end thereof:

   Whenever the word "unit" or words "rental dwelling unit" are used herein, they shall mean "residential rental dwelling unit".

2. "Certificate of Compliance", "Designated Agent" and "Manager" and their definitions are hereby deleted.

3. The definition of "Owner" is amended to delete the phrases "property management group," and ",or property management groups," from that definition.

4. The following new or amended definitions as follows are hereby adopted in appropriate alphabetical order:

   Code Official – The person, persons, company and/or entity authorized by the Borough to determine compliance with the provisions of this Chapter and to enforce the same. The code official shall include, but not be limited to, the Borough Zoning and/or Property Code Officer and employees of the Building Codes Department of the Borough as appointed or employed from time to time,

as well as any third-party code inspection person, persons, company or entity appointed by the Borough.

In-House Superintendent – An individual hired by a property owner, property manager or property management company whose primary responsibility is the repair, maintenance and management of rental dwelling units and who occupies a dwelling unit in the building or complex for which he or she provides such services.

Property Manager - An individual certified or licensed by the Commonwealth of Pennsylvania to manage a residential dwelling unit or units or who takes responsibility for the care, maintenance, tenant management and supervision of a residential dwelling unit or units, under written contract with the Owner of an improved property.

Property Management Company - A business certified or licensed by the Commonwealth of Pennsylvania to manage a residential dwelling unit or units or which takes responsibility for the care, maintenance, tenant management and supervision of a residential dwelling unit or units, under written contract with the Owner of an improved property.

Residential Rental Registration – The confirmation issued by the Borough to owners, property managers or property management companies of a residential rental dwelling unit evidencing the existence of the residential dwelling unit. A residential rental registration shall be required for lawful rental and licensing of a rental dwelling unit. Rental registration does not warrant the proper zoning, habitability, safety or condition of the unit in any way. Whenever the word "registration" is used in this Chapter, it shall mean "residential rental registration" as used in this paragraph.

Residential Rental Occupancy License – The document issued by the Borough to the owners, property manager or property management company of a residential rental dwelling unit evidencing that the residential dwelling unit is licensed in accordance with the requirements of this Chapter. Whenever "license" is used in this Chapter, it shall mean "residential rental occupancy license" as defined in this paragraph.

On-campus Housing – A student housing facility or structure having 30 or more students, such as, but not limited to, a dormitory or traditional residence hall, located on property owned by an accredited college or university, and on which property all or portions of the college or university campus are located.

C. §193-5, Violations and penalties, is amended to change the phrase "a fine of not more than $1,000" to "a fine of no less than $200 and not more than $1,000".

D. Article II and Article III hereby deleted in their entirety.

E. New Article II is hereby added to provide as follows:

Article II. Residential Rental Registration.

§193-10. General registration requirements.

Every owner of rental housing shall register each residential rental dwelling unit with the Department in accordance with this section.

A. Every owner of a rental dwelling unit not exempt from registration shall register each rental dwelling unit with the Department within five (5) months of September 1, 2020. Registration of a dwelling unit may be accomplished by a property manager or a property management company provided proper evidence of licensure/certification and a current fully signed contract with the owner is provided to and approved by the Borough. Any contract provided may have redacted any proprietary information as determined by the owner, property manager or property management company.

B. Every owner who removes or creates a rental dwelling unit or converts any building or structure into one or more new rental dwelling units shall register each new rental dwelling unit with the Department, or inform the Department in writing and in the case of the removal of a registered rental dwelling unit, within 30 days of completion of construction, conversion or removal.

C. Every owner of a rental dwelling unit shall provide the following information to the Department in order to comply with the registration requirement:

(1) The owner's name, address, telephone number and an emergency telephone number.

(2) The name, address, telephone number, emergency telephone number and contact name of the property manager or property management company, if applicable.

(3) The property address, number of rental dwelling units and the specific address or assigned number for each rental dwelling unit.

(4) The number of full-time occupants of each rental dwelling unit. The name of each occupant shall not be provided.

D. Any change in the information submitted for registration under Subsection C of this section shall be provided to the Department within 10 days of such change, including, but not limited to, any change in ownership of the rental dwelling unit.

E. There shall be no registration fee for registration.

F. Registrations and the information contained therein shall be publicly available to the extent permitted by the Pennsylvania Right-to-Know Act. However, the information contained in Subsection C.(1) and (2) shall be provided to the Borough Police Department for use in the case of emergencies.

§193-11. Exemptions from registration requirements.

A. The following properties and uses shall be exempt from registration:

(1) Hotels and motels for transient visitor use;

(2) Hospitals, state licensed nursing homes, state-licensed personal care homes and state licensed group homes; and

(3) On-campus student housing that is owned by an accredited college or university.

§193-12 through §193-14. (Reserved)

F. New Article III is hereby added to provide as follows:

Article III. Rental dwelling unit inspections.

§193-15. Inspection requirement and inspection cycle.

A. Unless specifically exempted as noted in §193-17 below, all rental dwelling units shall be inspected by a Code Official and no owner of a rental dwelling unit or the owner's property manager or property management company shall rent a unit to a tenant or allow the unit to be occupied unless the rental unit has been inspected by a Code Official and a license for the unit has been issued by the Borough. All units lawfully existing upon the effective date of the amendments to this Chapter may continue to be leased and occupied without a license; however, all such units will be subject to inspection and license requirements noted above.

B. In lieu of inspection by a Code Official, a property owner, property manager or property management company may, at his, her or its expense, utilize the services of a qualified code inspector to perform and report on the inspection conducted of a unit using those criteria noted in §193-16. A qualified code inspector shall be a person or Pennsylvania firm maintaining an office in Pennsylvania that is either (1) a person or firm listed by the Pennsylvania Department of Labor & Industry as a certified third party or agency (buildings); (2) a person or firm that has ICC Property Maintenance/Residential Building Inspector #10 status; or (3) a person or firm that has the American Society of Home Inspector's certification.

The inspection report, which must be completed on a form to be provided by the

Borough, must be provided to the Borough by the applicable unit inspection deadline. If the Borough finds the inspection acceptable, it will issue a license for the unit inspected. The Borough reserves the right to reject the inspection and not issue a license if the inspector was not qualified as noted above or if there are any irregularities in the inspection report submitted.
Any property manager or property management company that utilizes the services of a qualified code inspector as described above shall provide proper evidence of licensure/certification and a current fully signed contract with the owner for approval by the Borough at or before the submission of the inspection report to the Borough.

C. It shall be the duty of all owners, property managers, property management companies and occupants to provide access to the Code Official to all units subject to inspection. Failure to provide such access shall be deemed a violation of this Chapter. For purposes of enforcing this requirement, the Code Official may seek to obtain an administrative warrant for purposes of compelling an inspection of a unit, or take other appropriate action.

D. It is anticipated that the initial inspection of all rental dwelling units shall be completed within eight (8) months of September 1, 2020 and after the rental dwelling units have been registered. Thereafter, units will be subject to inspection every three (3) years unless the following circumstances are or become applicable:

(1) If there are no building or property maintenance violations within the prior three-year period, the owner shall be permitted to have the units or building inspected on a five-year cycle. Accordingly, if there are no building or property maintenance violations during the three-year period, the next inspection will take place every five (5) years thereafter.

(a) If a unit is on a five-year inspection cycle, and there are more than four (4) building or property maintenance violations within the prior five-year period, the inspection schedule will change to an inspection every three (3) years.

(b) Any unit that is moved from a five-year inspection cycle to a three-year inspection cycle as noted in (a), above, may again be moved into a five-year inspection cycle as provided in (1), above.

(2) If there are more than four (4) building or property maintenance violations within the prior three-year period, the owner's units shall be placed on a two-year inspection cycle.

(a) If there are no building or property maintenance violations for two (2) consecutive two-year inspection periods, the inspection period will be extended to every three (3) years and can later be extended to five (5) years if the requirements of C.(1) above are met.

E. All owners of rental dwelling units shall after completing registration as required in §193-10 submit an application to the Borough for the initial inspection of each rental dwelling unit. Such application must be made within 90 days of the Borough issuing confirmation to the owner that a rental dwelling unit has been registered. All subsequent applications for inspections shall be submitted at least 60 days prior to the expiration of the license for the unit to be inspected. Applications for inspection of a dwelling unit may be submitted by a property manager or a property management company provided proper evidence of licensure/certification and a current fully signed contract with the owner is provided to and approved by the Borough, redacted as necessary as noted in §193-10.A, above. Upon submission of an application, it is the responsibility of the owner, property manager or property management company to contact the Borough to schedule a specific date and time for the inspection to be conducted, at which inspection, the owner, property manager or representative of the property management company shall be present.

Any owner of a rental dwelling unit seeking an exemption from inspection in accordance with §193-17 shall submit information to the Borough prior to the deadline for the submission of an application for inspection in support of the exemption claimed.

No application shall be required for any owner, property manager or property management company that complies with §193-15.B, above; however, the completed inspection report must be submitted to the Borough in accordance with the time limits noted in this Chapter.

§193-16. Inspection criteria and notice of violation.

A. Each rental dwelling unit shall be subject to inspection based upon the following sections and criteria of the 2006 ICC Property Maintenance Code:

Section	**2006, ICC Property Maintenance Code**
	Ingress - Egress
304.1	**Stairways, decks, porches, balconies**, and attached appurtenances shall be maintained in a safe and structurally sound condition.
304.15; 702.3	**Doors** - No interior keyed locks on exterior doors.
702.1	A safe, **unobstructed [uncluttered] path of travel** shall be provided from any point in a building or structure to the public way. Means of

	egress shall comply with the IFC.
	Interior
108.1.1, 2	**Unsafe building, equipment (boiler, electric, HVAC, stairs), or structures** - Dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in case of fire, or unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is possible.
108.1.3	Structure **unfit for human occupancy** - **Disrepair / lacks maintenance** to the degree that structure is **unsanitary, vermin or rat infested, filth and contamination**, or lacks ventilation, illumination.
304.12; 305.5; 306.1; 307.1	**Hand (Interior / Exterior) and guardrails** shall be firmly fastened, capable of supporting normally imposed loads, and shall be maintained in good condition. **Stairs having more than 4 risers shall have handrail.** Balconies, decks, landings, porches, ramps **more than 30 inch. above grade shall have a guard** (30 - 42 inch. high).
504.1, 3; 505.1, 2	**Plumbing fixtures** shall be maintained in a safe, sanitary and functional condition. **Hot water must be provided.**
602.3	Owner / operator of any building who rents, leases or lets one or more DU or sleeping units, shall furnish heat to the occupants during the period from **Oct. 15 until April 30 to maintain a temp. of not less than 68°F** in all habitable rooms, bathrooms, and toilet rooms. ***The use of portable, space heaters, as a primary source, is not an acceptable heating source.***
604.3; 605.1, 2	**Electrical system hazards** - DU shall have safe and reliable service, including proper fusing / circuit breaker. Habitable rooms shall contain grounded-type receptacles, or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle.
704	**Smoke detectors / fire alarm**, or fire suppression - shall be maintained in an operable condition at all times in accordance with the IFC.

B. If an inspection discloses non-compliance with any of the criteria noted in Paragraph A, above, the Code Official shall issue an advisory notice letter setting forth the following:

(1) The street address and identification of the unit;

(2) The date and time of the inspection;

(3) The name of the inspector;

(4) A list of the code deficiencies;

(5) The time, indicated by the number of days, the owner has by which to repair or otherwise cure the code deficiencies.

If after a subsequent inspection by the Code Official or a qualified code inspector conducted after the time period given in the advisory notice letter all deficiencies identified are not repaired or cured, an enforcement letter shall be issued containing the information noted in Paragraphs B.(1) through (5), above, together with a notice that if the conditions are not repaired or cured within the time given, the owner may be prosecuted and/or the rental dwelling unit may be placarded as unfit for human occupancy if the conditions are such that they pose a threat to health and safety.

Nothing in this Section shall be construed to prevent a Code Official from immediately condemning a property if the conditions of the unit warrant such action.

C. If the inspection reveals no code deficiencies, the Borough shall issue a license certifying that the unit is in compliance with this Chapter and may be occupied. A license shall also be issued by the Borough upon any deficiencies noted in an advisory notice letter or a notice of violation being repaired or cured based upon a subsequent inspection by a Code Official or a qualified code inspector.

D. The issuance of a license shall not be deemed or construed as a representation, guaranty or warranty of any kind by the Borough, its officials, agents or employees, and shall create no liability upon the Borough, it officials, agents or employees.

E. The license issued by the Borough for a unit shall be displayed in a conspicuous location within each unit near the main entrance to the unit. The temporary absence or removal of a license shall not by itself constitute a violation of this Chapter.

F. An inspection fee as well as a license fee, required to be paid to the Borough, shall be noted in Chapter 120. The inspection and license fee is payable at the time of the submission of the application for an inspection license as a condition of the Borough accepting the application. For inspections conducted in accordance with §193-15.B, a separate license fee shall be paid at the time of the submission of the inspection report as a condition of the Borough accepting the report.

§193-17. Inspection exemptions.

A. The following properties and uses shall be exempt from the inspection and licensing requirement of this Chapter:

(1) Hotels and motels for transient visitor use;

(2) Hospitals, state licensed nursing homes, state-licensed personal care homes and state licensed group homes;

(3) On-campus student housing that is owned by an accredited college or university; and

(4) Shelter and transitional housing provided for indigent or homeless persons.

B. The following properties and uses may be exempt from the inspection and licensing requirement of this Chapter when approved by a Code Official, after being provided documentation from the property owner, property manager or representative of the property management company establishing compliance with the criteria specified below:

(1) Rental housing building(s) or complex, whether or not it has its own in-house superintendent, property manager or property management company, and which provides evidence that regular interior and external inspections of the buildings or complex is conducted on a minimum 2-year cycle utilizing U.S. HUD Housing Quality criteria, Pennsylvania Housing Finance Agency inspection standards, the ICC International Property Maintenance Code, Version 2006 ("ICC") or American Society for Testing and Materials E2018 – 15 Standard Guide for Property Condition Assessments: Baseline Property Condition ("ASTM").

(2) Individual rental buildings or a complex of contiguous rental buildings under the same ownership, having more than 10 individual rental dwelling units, which can produce evidence of having a written contract with a property manager or property management company that provides "24-7 On-call" service, and that can also demonstrate that there has been no more than six (6) property maintenance citations, or violations for units and/or buildings in the 24 months prior to license application, or renewal, and that the property manager or property maintenance company conducts regular interior and external inspections, at a minimum 2-year cycle, utilizing written criteria promulgated by ICC, ASTM, or other accredited institute or organization.

(3) Residential buildings, where the current property owner either resides within the Borough or within a 25 mile radius of the Borough as determined from the closest point of the Borough boundary line, or who utilizes the

services of a property manager or a property management company that maintains an office in the Borough or within a 25 mile radius of the Borough as determined from the closest point from the Borough boundary line, , and can demonstrate that no more than
four (4) property maintenance citations or violations for that building have occurred in the 24 months prior to license application or renewal. However, for this exemption to be applicable, the rental dwelling units must first be subject to inspection as provided for in §193-15 and then every five (5) years thereafter.

§193-18. Revocation of licenses.

A rental dwelling unit license may be denied, revoked, or not renewed if any of the following issues exist:

A. The property and/or dwelling is in the process of being, or has been condemned by the Borough;

B. The owner has not received a valid building permit for the rental dwelling unit or associated building structure, unless Borough staff determines that the dwelling unit or building is considered a legal, non-conforming structure;

C. There are significant outstanding or unresolved building or property maintenance citations or violations related to health, safety, or unsound structural issues as determined by Borough staff; or

D. There have been more than six (6) property maintenance citations, or violations for the dwelling unit and/or building in the 24 months prior to original license application or renewal.

G. Article IV, Relations Between Landlord and Tenant, is hereby amended in its entirety to provide as follows:

§193-19. Disclosure to Tenant.

The owner, property manager or property management company shall disclose, in writing, to every prospective tenant on or before the commencement of the tenancy and the occupancy of the unit, the name, address, telephone number and emergency telephone number of the owner and if applicable, the property manager or property management company.

§193-20. Lease Addendum.

Every owner of a rental dwelling unit, the property manager or property management company, shall be required to submit a written acknowledgement and verification that the owner and the owner’s tenants have been notified of their

respective rights and responsibilities as an owner and tenant of a rental dwelling unit, including matters related to collection and disposal of trash, recycling, maintenance of property and the interior and external rental dwelling unit, disruptive or nuisance behavior, noise and snow and ice removal. A sample lease notice shall be provided, and a signed copy shall be returned to the Borough with the license application, or in the case of a unit inspected in accordance with §193-15.B, at the time of the submission of the inspection report to the Borough. The lease agreement notice, upon signature by both parties, shall be posted within each rental dwelling unit. The temporary absence or removal of the lease agreement notice shall not by itself constitute a violation of this Chapter.

H. The following new Article and Section is added to Chapter 193:

ARTICLE V
Appeals

§193-22. Appeal Process.

A. Any person aggrieved by any action or decision of a code official concerning the administration of the provisions of this Chapter may appeal to the Board of Appeals. Such appeal must be filed, in writing, within 30 days after the decision, determination or action of the building permit officer and the the appropriate fee must be submitted at the time of appeal.

B. Upon receipt of such appeal the Board of Appeals shall follow the procedures established in Chapter 5 of this Code.

C. Any person aggrieved by any decision of the Board of Appeals may seek relief by appeal to court, as provided by the laws of this Commonwealth.

SECTION 2: Article II [General Fee Schedule] of Chapter 120 [Fees] of the Code of the Borough of Carlisle is hereby amended to include the following new Section:

§120-28. Rental Dwelling Unit Fees.

The residential rental dwelling unit inspection fee is $75.00 for each unit.

The residential rental dwelling unit license fee is $50.00 for each unit.

SECTION 3: If any clause, section, subsection, paragraph, sentence or phrase of this Ordinance is for any reason declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance or the Code of the Borough of Carlisle as a whole or any section or part thereof other than the section or part thereof so declared to be invalid.

SECTION 4: Any clause, section, subsection, paragraph, sentence or phrase of any ordinance conflicting with the provisions of this Ordinance shall and the same is hereby repealed to the extent of such conflict.

SECTION 5: This Ordinance shall become effective September 1, 2020.

ENACTED AND ORDAINED this _____ th day of _____, 2020.

ATTEST:

_____
Joyce E. Stone, Secretary

(Borough Seal)

BOROUGH OF CARLISLE

_____
Timothy A. Scott, Mayor