

# ORDINANCE 14 OF 2024

## AN ORDINANCE OF AVOCA BOROUGH, LUZERNE COUNTY, REQUIRING OWNERS OF RESIDENTIAL RENTAL PROPERTIES/UNITS OCCUPIED BY INDIVIDUALS OTHER THAN THE OWNER TO REGISTER THE RESIDENTIAL RENTAL PROPERTY/UNIT WITH THE BOROUGH OF AVOCA.

**WHEREAS**, the Borough of Avoca ("Borough") has experienced an increase in tenant occupied residential properties within the Borough; and

**WHEREAS**, in the interest of the health, safety, and welfare of the citizens and residents of the Borough, the Borough Council wishes to implement requirements on landlords to register all residential rental properties/units with the Borough of Avoca; and

**NOW THEREFORE**, be it ordained as follows:

### SECTION 1 – TITLE

This Ordinance shall be known as the Avoca Borough Rental Property Registration Ordinance.

### SECTION 2 – PURPOSE

It is the purpose of this Ordinance and the policy of the Borough to protect and promote the public health, safety, and welfare of its citizens by establishing rights and obligations of Landlords and tenants relating to the rental of certain Properties/Units in the Borough. This Ordinance establishes rental licensing requirements for landlords and sets penalties for violations. This Ordinance shall be liberally construed and applied to promote its purposes and policies.

### SECTION 3 – DEFINITIONS

Whether or not capitalized, the following words, terms, and phrases used herein shall have the following meaning:

**AGENT –** Any person, corporation, co-partnership, association or fiduciary who, for monetary consideration, aids in the rental of property as defined herein. When used in this Ordinance in a clause prescribing any activity or imposing a penalty, the term, as applied to partnerships and associations shall mean each partner and as applied to corporations, the officers thereof.

- BOROUGH – The Borough of Avoca which is located within the confines of Luzerne County, Pennsylvania.
- CODE – Any code or ordinance adopted, enacted and/or in effect in and for Avoca Borough concerning fitness for habitation or the construction, maintenance, operation, occupancy, use of appearance of any premises or residential rental property.
- CODE ENFORCEMENT OFFICER – The duly appointed Code Enforcement Officer having charge of the Office of Code Enforcement of Avoca Borough and any assistants, agents or designees.
- COUNCIL – Avoca Borough Council, Luzerne County, Pennsylvania.
- DWELLING UNIT – A room or group of rooms within a structure forming a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
- FIRE DEPARTMENT - The Fire Department of Avoca Borough or any properly authorized member or officer thereof having jurisdiction within Avoca Borough.
- LANDLORD – One or more persons, jointly or severally, in whom is vested all or part of legal title to the premises or all or part of the beneficial ownership and a right to the present use and enjoyment of the premises, including a mortgage holder in possession of a residential rental property. (same as owner).
- PROPERTY MANAGER – An adult individual designated by the owner of a residential rental property.
- OCCUPANT – An individual who resides in a residential rental unit with whom a legal relationship with the owner/landlord is established by a lease or by the laws of the Commonwealth of Pennsylvania. (same as tenant).
- OWNER – Any person, agent, operator, firm, corporation, partnership, association, property management group or fiduciary, jointly or severally, having legal, equitable or other interest in any real property; or recorded in the official records of the state, county or municipality as being vested all or part in holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person and the executor or administrator of such person's estate and including a mortgage holder in possession of a residential rental property. When used in this Ordinance in a clause prescribing any activity or imposing a penalty, the term, as applied

to partnerships and associations shall mean each partner and as applied to corporations, the officers thereof.

PERSON – A natural person, partnership, corporation, unincorporated association, limited partnership, trust or any other entity.

POLICE – The Police Department of Avoca Borough or any properly authorized member or officer thereof or any other law enforcement agency having jurisdiction within Avoca Borough.

PREMISES – Any parcel or real property in the Borough, including the land and all buildings and appurtenant structures or appurtenant elements, on which one or more rental units are located.

RESIDENTIAL RENTAL PROPERTY– Any real property in the Borough containing one or more Residential Rental Units. Residential Rental Property shall include all Premises of such property.

RESIDENTIAL RENTAL UNIT – A Dwelling Unit in the Borough subject to a rental agreement between at least one Tenant and the Landlord. Residential Rental Unit shall not include any:

- (1) Dwelling Unit in which the Landlord resides with one or more Tenants;
- (2) Hotel, motel, or bed-and-breakfast, as defined by Zoning Code;
- (3) Hospital, nursing home, residential treatment facility, nursing facility, physical therapy facility, or assisted living facility, as may be defined by Zoning Code;
- (4) Drug, alcohol, or other dependency treatment facility, halfway house, residence or other facility devoted to monitoring and promoting a sober or substance-free lifestyle;
- (5) A community or group home facility licensed as such by the Pennsylvania Department of Public Welfare; or
- (6) Public housing under Section 9 of the U.S. Housing Act of 1937.

STRUCTURE – Any human made object, the use of which requires an ascertainable stationary location on land, whether or not it is affixed to the land.

TENANT – An individual who resides in a residential rental property/unit with whom a legal relationship with the owner/landlord is established by a lease or by laws of the Commonwealth of Pennsylvania. (same as occupant).

Singular words shall include plural and masculine words shall include feminine and neuter. The words "and" and "or" shall mean "and /or" whenever reasonably applicable.

## **SECTION 4 – RETNAL LICENSE**

### **A. Rental License Required.**

- (1) A Landlord shall apply for and obtain a Rental License for each Residential Rental Unit in each calendar year in which said unit is occupied by any part of that year.
- (2) Accordingly, a Landlord may not furnish or allow occupancy of a Residential Rental Unit without a Rental License. During any period of noncompliance, no Landlord may collect rents otherwise due for the rental of the Residential Rental Unit, unless and until they shall have complied with this Ordinance and been issued a Rental License. Nothing herein shall be construed to prevent a Landlord, upon receipt of the Rental License, from receiving the equitable value of the occupancy of the Residential Rental Unit from the earliest date of occupancy, but in no event shall a Landlord recover in excess of the agreed rent in the form of late fees or other penalties.

### **B. Application Timeline.**

- (1) A landlord shall apply by March 15 of a given year for every Residential Rental Unit requiring renewal of the Rental License.
- (2) A landlord shall apply within thirty (30) days of the commencement of any Tenancy for any Residential Rental Property/Unit not already operating under a valid, current Rental License.
- (3) For the calendar year of 2025 only, all Landlords must apply by March 15, 2025 for all Residential Rental Units occupied at any time between January 1, 2025 and March 15, 2025. Paragraph (2) shall begin to apply March 16, 2025.

### **C. Rental License Information.**

- (1) Every Landlord shall submit to the Borough and/or Code Enforcement Officer a Rental License application, on a form to be determined by the Borough that shall require at least the following information:
  - a. Landlord name, address, email, and direct telephone number;
  - b. The address of the Residential Rental Property;
  - c. A listing of all Residential Rental Units within the Residential Rental Property;
  - d. Rental Contact name, address, email, and direct telephone number; and

- e. Name, address, email, and direct telephone number of any Property Manager.

**D. Designation of Rental Contact.**

(1) Rental Contact Required. For each Residential Rental Unit, the Landlord shall designate at least one adult natural person who shall serve as a Rental Contact for the unit

(2) Eligibility. A Rental Contact may only be:

- a. The Landlord themselves, if the Landlord's primary residence is located within the Borough or within a twenty (20) mile drive of the boundaries of the Borough;
- b. A designated Property Manager whose primary residence is located within the Borough or within a twenty (20) mile drive of the boundaries of the Borough;
- c. A person who is an Owner of a Landlord, as the case may be when such Landlord is an entity, whose primary residence is located within the Borough or within a twenty (20) mile drive of the boundaries of the Borough.

(3) Agency. The Rental Contact shall be the agent of the Landlord for service of process and receiving of notices and demands, as well as for performing the obligations of the Landlord under this Ordinance and under rental agreements with Tenants. However, in no case shall the Landlord be relieved of responsibility for compliance.

(4) Emergency Contact. The Rental Contact shall be reachable by telephone by the Borough twenty-four (24) hours a day, seven (7) days a week, as emergency situations require immediate telephonic and/or in-person contact. The Landlord may supplement the Rental Contact's information with additional Rental Contacts' information if needed to ensure 24/7 contact availability via telephone and to respond to the premises if necessary.

**E. Rental License Fees.** The fee for a Rental License shall be paid at the time of application and shall be assessed for each unit within a Residential Rental Property, based on the Residential Rental Units requiring a Rental License at the time of application contained in such building, as follows:

1-3 Units	\$45 per Residential Rental Unit.
4-9 Units	\$150 flat fee
10-19 Units	\$250 flat fee
20-49 Units	\$350 flat fee

50+ Units

\$450 flat fee

**F. Outstanding Noncompliance** – No Rental License shall be issued if:

- (1) The Landlord has not paid any fines or costs arising from enforcement of this Ordinance, Borough Codes, and/or applicable laws;
- (2) Any licensing or inspection fees under this Ordinance or Borough Codes are due and owing to the Borough; or
- (3) A Code Violation remains unresolved at the time the Rental License application is received by the Borough.

**G. Rental Inspection Disclosure to Tenants.**

- (1) On or before the commencement of the Tenancy, the Landlord shall provide to all Tenants a copy of the current year's Rental License; or
- (2) If the current year's Rental License is obtained after the commencement of the Tenancy, the Landlord shall provide to all Tenants:
  - a. A copy of the prior year's Rental License, if applicable, on or before the commencement of the tenancy; and
  - b. A copy of the current year's Rental License within 10 calendar days of receiving such license from the Borough.

**H. Changes in Rental License Information.**

- (1) The Landlord shall provide any change of any information contained in the Rental License application to the Borough and in writing within ten (10) calendar days of such change. Within a reasonable time, the Borough shall issue an updated Rental License under the provisions of this Ordinance.
- (2) The Landlord shall provide to all Tenants whose Residential Rental Property is affected by any change of information a copy of any updated Rental License within ten (10) calendar days of receiving such license from the Borough.
- (3) Any change in ownership of the Premises or the number of Residential Rental Units on the Premises shall be provided to the Borough in writing within ten (10) calendar days of such change.
- (4) Any change of a Residential Rental Property/Unit from owner-occupied (whereby the owner resides on a regular, permanent basis) to non-

owner occupied, thereby transforming a Premises into a Residential Rental Property/Unit for the purposes of this Ordinance, shall be provided to the Borough in writing within ten (10) calendar days of such change.

- I. Immediate Family Exception.** Residential Rental Units occupied by immediate members of the owner's family shall be exempt from paying any Rental License fee. This exemption only applies if not more than two unrelated individuals, in addition to the immediate members of the owner's family, occupy the Residential Rental Unit at any given time. The Code Enforcement Officer shall have the authority to determine whether this exception applies in any given case.

### **SECTION 5 – LICENSING SANCTIONS**

**A. Sanctions Permitted.** After making a reasonable investigation, the Code Enforcement Officer may initiate disciplinary action against a Landlord by issuing a Formal Warning or refusing to renew, suspending, revoking, or refusing to issue the Landlord's Rental License for violating any provision of this Ordinance.

**B. Reinstatement.** A rental License shall be reinstated if the Landlord corrects the reason for the revocation of the Rental License, has paid the Rental License Reinstatement Fee, which shall be equal to the Rental License Fee, and has satisfied all other reasonable requirements imposed by the Code Enforcement Officer.

**C. Refusal to Issue.** In the case of a Landlord who furnishes or allows the occupancy of a Residential Rental Property/Unit without a Rental License, the Code Enforcement Officer may refuse to grant a Rental License or may take any other action pursuant to a non-renewal, suspension, or revocation.

### **SECTION 6 – PENALTIES**

Any Person, Owner or Agent who has violated or permitted the violation of this Ordinance shall be subject to the following penalties:

- (1) First Violation. A fine of no less than \$100.00 and no more than \$500.00, or thirty (30) days imprisonment, or both;
- (2) Second Violation. A fine of no less than \$300.00 and no more than \$750.00, or sixty (60) days imprisonment, or both;
- (3) Third and Each Subsequent Violation. A fine of no less than \$500.00 and no more than \$1,000.00, or ninety (90) days imprisonment, or both.

Each day a Person, Owner, or Agent violates any provision of this Ordinance, including allowing the occupancy of a Residential Rental Property/Unit without a Rental License shall constitute a separate offense.

## **SECTION 7 – RENTAL IDENTIFICATION**

- A. The Borough may establish and maintain a list of potential Residential Rental Properties, using any and all sources of data available to it and legally allowable for such purpose, including but not limited to property transaction records, licensing and permit information, public advertisements for rental units, police and fire data, visual identification, and third -party data providers.
- B. The Borough may give notice to potential Landlords and/or potential Property Managers that the Borough has identified such a potential Residential Rental Property owned or managed by them. Potential Landlords and potential Property Managers may be required to respond to such notice within a reasonable time, as determined by the Borough.
- C. If Potential Landlord or Potential Property Manager does not, within such time, provide sufficient evidence that the property in question is not a Residential Rental Property, and the Borough has reasonable belief that the property is in fact a Residential Rental Property, the Borough may treat such property as a Residential Rental Property and enforce the provisions of this Ordinance accordingly.

## **SECTION 8 – MISCELLANEOUS PROVISIONS**

### **A. Notices.**

- (1) For purposes of this Ordinance, any notice required hereunder to be given to a Rental Contact shall be deemed as notice given to the Landlord.
- (2) There shall be a rebuttable presumption that any notice required to be given to the Landlord under this Ordinance shall have been received by such Landlord if the notice was given to the Landlord in the manner provided by this Ordinance.
- (3) A claimed lack of knowledge by the Landlord of any violation hereunder cited shall be no defense to License non-renewal, suspension, or revocation proceedings as long as all notices prerequisite to institution of such proceedings have been given and deemed received in accordance with the applicable provisions of this Ordinance.

**B. Landlords Severally Responsible.** If any Residential Rental Property Unit is owned by more than one Person, in any form of joint Tenancy, as a partnership, or otherwise, each Person shall be jointly and severally responsible for the duties imposed under the terms of this Ordinance, and shall be severally subject to prosecution for the violation of this Ordinance.

**C. Citations.** A record of any unpaid citations for property maintenance violations shall be conclusive evidence of a violation of this Ordinance.



**D. Other Remedies.** This Ordinance is not intended to, nor shall its effect be, to limit any other enforcement remedies which may be available to the Borough against a Landlord, Tenant, or guest thereof.

#### **SECTION 9 – REPEALER**

Any past ordinance, or part or parts thereof, conflicting with any part or parts of this Ordinance are hereby repealed to the extent that they are inconsistent herewith. In all other respects, the ordinances of the Borough shall remain as previously enacted and ordained.

#### **SECTION 10 – SEVERABILITY**

The provisions of this Ordinance are severable. If any Section, sentence, clause, phrase of this Ordinance shall be held illegal, invalid, unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

It is hereby declared as the intent of the Borough that this Ordinance would have been adopted had such invalid or unconstitutional section, sentence, clause or phrase not been included. Furthermore, it is the intent of this Ordinance to be supplementary to, and not contrary to, any laws of the Commonwealth of Pennsylvania or regulations of any of its executive agencies.

#### **SECTION 11 – EFFECTIVE DATE**

This Ordinance shall become effective immediately upon enactment as provided by law.

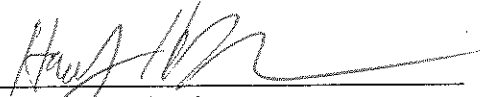
**PASSED and ENACTED** on this 10th day of October, 2024, at the regular meeting of the Avoca Borough Council.

ATTEST:

AVOCA BOROUGH COUNCIL



Sandy Van Luvender  
Borough Manager/Secretary



Holly Homscheck  
President, Avoca Borough Council

Approved by this 10th day of October, 2024.



Mayor Robert Mullen

# Borough of Avoca

950 Main St.  
Avoca, Pa 18641

2024

## BOROUGH OF AVOCA APPLICATION FOR RENTAL REGISTRATION PURSUANT TO ORDINANCE NO. 14 OF 2024

Please be advised that the Application will not be processed unless all Requested Information is provided.

ADDRESS OF RENTAL UNIT

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TAX MAP NUMBER

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NUMBER OF UNITS

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NUMBER OF UNITS OCCUPIED

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IS THE PROPERTY CONDEMNED?

Yes \_\_\_\_\_ No \_\_\_\_\_

The following are exempt from these registration requirements:

1. Residential Rental Units occupied by immediate members of the owner's family provided that not more than two (2) unrelated individuals, in addition to the immediate members of the owner's family, occupy the dwelling at any given time; (Family is defined as the parent or child of the owner).
2. A Residential treatment hospital or facility.
3. A drug, alcohol, or other dependency treatment facility, halfway house.
4. A nurse, physical therapy, or assisted living facility.
5. Hotels, motels and bed and breakfast facilities.
6. A community group facility licensed by the Pennsylvania Department of Public Welfare.
7. An apartment or single-family home where the occupant is a child or parent of the residence.
8. A rental unit in a double or duplex home or two (2) units on one deed which is occupied by the owner of the double or duplex home or two (2) units on one deed.

# Borough of Avoca

950 Main St.  
Avoca, Pa 18641

2024

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