

CHAPTER 11

HOUSING

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PART 1

OCCUPANCY REGISTRATION

§11-101. Obtaining an Occupancy Permit.

Any person, who hereinafter rents, purchases, owns or otherwise occupies any dwelling or commercial business place in the Borough of East McKeesport must apply for and obtain an occupancy permit in conformance with existing ordinances of the Borough of East McKeesport prior to said occupancy.

(Ord. 911, 8/8/2013, Part 1)

§11-102. Obligation to Confirm Possession of an Occupancy Permit.

All owners of real estate which are available for rental use by other persons shall have the duty to see that an occupancy permit is obtained prior to the change in occupancy or sale of property of any dwelling or commercial business place. Said obligations on the owners of real estate will apply irrespective of the number of units for lease or rent. However, it shall not include transient or casual rental for persons not permanently residing or occupying said premises. However, any occupancy of a premises for a period in excess of 7 days shall be presumed a permanent occupancy of said premises and deemed to be a resident.

(Ord. 911, 8/8/2013, Part 1)

§11-103. Obligation to Notify of Occupancy.

All such owners and occupiers of real estate must furnish the Borough Building Inspector or other appointed official within 10 days of the signing of a lease, or occupancy of any premises, whichever occurs first, a notification of occupancy as defined in the following Section.

(Ord. 911, 8/8/2013, Part 1)

§11-104. Notification of Occupancy.

The notification of occupancy to be completed by each owner, agent, rental agent, tenant or occupier of any premises shall including the following:

- A. Address of the dwelling or commercial business place.
- B. Name and address of the owner and rental agent, if any.

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- C. Name and address of the tenant or tenants including the number of adults and children, persons under 18, residing in the rental unit.

(Ord. 911, 8/8/2013, Part 1)

§11-105. Application Fee.

From this date hereafter each application for an occupancy permit shall be accompanied by a check, cash or money order in the amount described hereinafter.

- A. Commercial business places shall pay the sum in an amount to be established from time to time by resolution of Borough Council as long as the inspection is of a routine nature. If the inspection requires a complex procedure and excessive time the applicant shall bear the cost of the inspection.
- B. Rental dwelling units or single-family dwelling units shall pay the sum in an amount to be established from time to time by resolution of Borough Council as long as the inspection is of a routine nature. If the inspection requires a complex procedure and excessive time, the applicant shall bear the cost of the inspection.
- C. For purposes of this Part, the first revisit of the inspector will be deemed to be part of the original inspection. Thereafter, if the applicant fails to comply with the regulations, the second revisit by the inspector shall be deemed to be a new inspection and subject to additional fees as described above.

(Ord. 911, 8/8/2013, Part 1)

§11-106. Inspection and Occupancy Limit.

1. Inspection.

- A. All premises shall be subject to periodic inspection by the Code Enforcement Officer or another duly authorized agent of the Borough. Such inspection may take place when an application is submitted for a permit, or at any time during the year.
- B. The Code Enforcement Officer is hereby designated as the official authorized to enforce this Part and to take appropriate measures to abate violations herein, for and on behalf of the Borough of East McKeesport. The police will also have authority to enforce this Part and take appropriate action to abate violations.
- C. This Section shall not be construed so as to limit or restrict the Code Enforcement Officer's authority to conduct inspections of premises, whether or not subject to the permitting and inspection requirements of this Part or pursuant

to any other ordinance or code.

2. Search Warrant.

- A. Upon a showing of probable cause that a violation of this Part or any other ordinance of the Borough of East McKeesport has occurred, the Code Enforcement Officer may apply to the district justice having jurisdiction in the Borough of East McKeesport for a search warrant to enter and inspect the premises.

3. Occupancy Limit.

- A. The maximum number of persons permitted in any regulated rental unit at any time shall not exceed one person for each 50 square feet of habitable floor space in said regulated rental unit. The maximum number of persons permitted in the common areas of any multiple-unit dwelling at any time shall not exceed one person for each 15 square feet of common area on the premises.
- B. The permit shall indicate thereon the maximum number of occupants in each regulated rental unit.

(Ord. 911, 8/8/2013, Part 1)

§11-107. Violation.

1. It shall be a violation of this Part for any owner and/or his agent to lease, rent or otherwise permit the occupancy of any dwelling under his or their respective ownership and/or control without having first filed with the Borough Building Inspector or other appointed official, the notice of occupancy as set forth and required hereinabove. It shall further be a violation for any owner or his agent to collect rent or lease payments from any tenant for any dwelling unit or commercial business place without having first complied with the obligations of this Part.
2. It shall be a violation of this Part for any person to occupy any premises as an owner or otherwise without having first complied with this Part.
3. Each day in violation of the ordinance shall be a separate violation and subject to the maximum penalty provided herein.

(Ord. 911, 8/8/2013, Part 1)

§11-108. Penalty.

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said find and costs, to a term of imprisonment not to exceed 30 days.

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Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 911, 8/8/2013, Part 1)

PART 2

RENTAL PROPERTY

§11-201. General.

1. Purpose/Scope/Declaration of Policy and Findings.

- A. It is the purpose of this Part and the policy of the Council of the Borough of East McKeesport, in order 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 East McKeesport and to encourage owners and occupants to maintain and improve the quality of rental housing within the community. It is also the policy of the Borough that owners, managers and occupants share responsibilities to obey the various codes adopted to protect and promote public health, safety and welfare. As means to those ends, this Part provides for a system of inspections; issuance and renewal of occupancy license; and sets penalties for violations. This Part shall be liberally construed and applied to promote its purposes and policies.
- B. In considering the adoption of this Part, the Borough of East McKeesport makes the following findings:
 - (1) There is a greater incidence of violations of various codes of the Borough at residential properties where owners of rental property do not reside in the Borough than at owner-occupied residential properties or family occupied residential rental properties.
 - (2) There is a greater incidence of problems with the maintenance and upkeep of residential properties where owners do not reside in the Borough than at owner-occupied residential properties or family occupied residential rental properties.
 - (3) There is a greater incidence of disturbances which adversely affect the peace and quiet of the neighborhood at residential properties where owners do not reside in the Borough than at owner-occupied residential properties or family-occupied residential rental properties.

2. Definitions.

BOROUGH - the Borough of East McKeesport, Allegheny County, Pennsylvania.

CODE - any code or ordinance adopted, enacted and/or in effect in and for the Borough of East McKeesport concerning fitness for habitation or the construction, maintenance, operation, occupancy, use or appearance of any premises or dwelling unit. Included within, but not limited by, this definition are the following which are

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in effect as of the date of enactment of this Part:¹ BOCA Basic Building Code [Chapter 5]; BOCA Basic Property Maintenance Code [Chapter 5]; BOCA Basic Fire Prevention Code [Chapter 5]; National Electrical Code [Chapter 5]; Floodplain Management Ordinance [Chapter 8]; Weed and Vegetation Control Ordinance [Chapter 10]; Sidewalk Maintenance and Ice Removal Ordinance [Chapter 21]; Solid Waste and Recycling Ordinance [Chapter 20]; Zoning Ordinance [Chapter 27]; and any duly enacted amendment or supplement to any of the above and any new enactment falling within this definition.

CODE ENFORCEMENT OFFICER - the duly appointed Code Enforcement Officers(s) having charge of the Office of Code Enforcement of the Borough of East McKeesport, and any assistants or deputies thereof.

COMMON AREA - in multiple unit dwellings, space which is not part of a regulated rental unit and which is shared with other occupants of the dwelling whether they reside in regulated dwelling units or not common areas shall be considered as part of the premises for purposes of this Part.

DISRUPTIVE CONDUCT - any form of conduct, action, incident or behavior perpetrated, caused or permitted, by any occupant or visitor of a regulated dwelling unit that is so loud, untimely (as to hour of the day), offensive, riotous or that otherwise disturbs other persons of reasonable sensibility in their peaceful enjoyment of their premises such that a report is made to police and/or to the Code Enforcement Officer complaining of such conduct, action, incident or behavior. It is not necessary that such conduct, action, incident or behavior constitute a criminal offense, or that criminal charges be filed against any person in order for a person to have perpetrated, caused or permitted the commission of disruptive conduct, as defined herein. Provided, however, that no disruptive conduct shall be deemed to have occurred unless the Code Enforcement Officer or police shall investigate and make a determination that such did occur, and keep written records, including a disruptive conduct report, of such occurrence.

DISRUPTIVE CONDUCT REPORT - a written report of disruptive conduct on a form to be prescribed therefore, to be completed by the Code Enforcement Officer or police, as the case maybe, who actually investigates an alleged incident of disruptive conduct and which shall be maintained by the Code Enforcement Officer.

DWELLING - a building having one or more dwelling units.

DWELLING UNIT - a room or group of rooms within a dwelling and forming a single unit and used for living and sleeping purposes, having its own cooking facilities and a bathroom with a toilet and a bathtub or shower.

¹Editor's Note: The codes identified as in effect as of the date of enactment of this Part relate to the adoption of *Ord. 800* on November 11, 1999, a predecessor to *Ord. 911*, the ordinance enacting the current version of this Part.

GUEST - a person on the premises with the actual or implied consent of an occupant.

LANDLORD - one or more persons, jointly or severally, in whom is vested all or part of the legal title to the premises, or all or part of the beneficial ownership and a right to present use and enjoyment of the premises, including a mortgage holder in possession of a regulated rental unit. (Same as “owner.”)

MANAGER - an adult individual designated by the owner of a regulated rental unit under §11-202(2). The manager shall be the agent of the owner for service of process and receiving notices or demands and to perform the obligation of the owner under this Part and under rental agreements with occupants.

MULTIPLE-UNIT DWELLING - a building containing two or more independent dwelling units including, but not limited to, double houses, row houses, townhouses, condominiums, apartment houses and conversion apartments.

OCCUPANCY LICENSE - the license issued to the owner of regulated rental units under this Part, which is required for the lawful rental and occupancy of regulated rental units.

OCCUPANT - an individual who resides in a regulated rental unit, whether or not he or she is the owner thereof, with whom a legal relationship with the owner/landlord is established by a written lease or by the laws of the Commonwealth of Pennsylvania.

OWNER - one or more persons, jointly or severally, in whom is vested all or part of the legal title to the premises, or all or part of the beneficial ownership and a right to present use and enjoyment of the premises, including a mortgage holder in possession of a regulated rental unit.

OWNER-OCCUPIED DWELLING UNIT - a dwelling unit in which the owner resides on a regular, permanent basis.

PERSON - a natural person, partnership, corporation, unincorporated association, limited partnership, trust or any other entity.

POLICE - the Police Department of the Borough of East McKeesport, or any properly authorized member or officer thereof or any other law enforcement agency having jurisdiction within the Borough of East McKeesport.

PREMISES - any parcel of real property in the Borough, including the land and all buildings and appurtenant structures or appurtenant elements, upon which one or more regulated rental units is located.

REGULATED RENTAL UNIT - a dwelling unit occupied by any person under a rental agreement.

RENTAL AGREEMENT - a written agreement between owner/landlord and

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occupant/tenant supplemented by the addendum required under §11-202(5) of this Part, embodying the terms and conditions concerning the use and occupancy of a specified regulated rental unit or premises.

TENANT - an individual who resides in a regulated rental unit, whether or not he or she is the owner thereof with whom a legal relationship with the owner/landlord is established by a written lease or by the laws of the Commonwealth of Pennsylvania. (Same as “occupant.”)

(Ord. 911, 8/8/2013, Part 2)

§11-202. Owner’s Duties.

1. General.

- A. It shall be the duty of every owner to keep and maintain all regulated rental units in compliance with all applicable codes and provisions of all other applicable State laws and regulations and local ordinances, and to keep such property in good and safe condition.
- B. As provided for in this Part, every owner shall be responsible for regulating the proper and lawful use and maintenance of every dwelling which he, she or it owns.
- C. As provided for in this Part, every owner shall also be responsible for regulating the conduct and activities of the occupants of every regulated rental unit which he, she or it owns in the Borough, which conduct or activity takes place at such regulated rental unit or its premises.
- D. In order to achieve those ends, every owner of a regular rental unit shall regulate the conduct and activity of the occupants thereof, both contractually and through enforcement, as more fully set forth below.
- E. This Section shall not be construed as diminishing or relieving, in any way, the responsibility of occupants or their guests for their conduct or activity; nor shall it be construed as an assignment, transfer or projection over or onto any owner of any responsibility or liability which occupants or their guests may have as a result of their conduct or activity under any private cause of action, civil or criminal enforcement proceeding, or criminal law; nor shall this Section be construed so as to require an owner to indemnify or defend occupants or their guests when any such action or proceeding is brought against the occupant based upon the occupant’s conduct or activity. Nothing herein is intended to impose any additional civil/criminal liability upon owners other than that which is imposed by existing law.
- F. This Part is not intended, nor shall its effect be, to limit any other enforcement remedies which may be available to the borough against an owner, occupant

or guest thereof.

2. **Designation of Manager.** Every owner who is not a full-time resident of the Borough of East McKeesport or a resident elsewhere within 15 miles from East McKeesport, shall designate a manager who shall reside within 15 miles of the Borough of East McKeesport. If the owner is a corporation, a manager shall be required if any officer of the corporation does not reside within the aforesaid distance. The officer shall perform the same function as a manager. If the owner is a partnership, a manager shall be required if a partner does not reside in the aforesaid distance. Said partner shall perform the same function as a manager. The manager shall be the agent of the owner for service of process and receiving notices and demands, as well as for performing the obligations of the owner under this Part and under rental agreements with occupants. The identity, address and telephone number(s) of a person who is designated as manager hereunder shall be provided by owner or manager to the Borough, and such information shall be kept current and updated as it changes.
3. **Disclosure.** The owner or manager shall disclose to the occupant in writing on or before the commencement of the tenancy:
 - A. The name, address and telephone number of the manager, if applicable.
 - B. The name, address and telephone number of the owner of the premises.
4. **Maintenance of Premises.**
 - A. The owner shall maintain the premises in compliance with the applicable codes of the Borough and shall regularly perform all routine maintenance, including lawn mowing and ice and snow removal, and shall promptly make any and all repairs necessary to fulfill this obligation.
 - B. The owner and occupant may agree that the occupant is to perform specified repairs, maintenance tasks, alterations or remodeling. In such case, however, such agreement between the owner and occupant must be in writing. Such an agreement may be entered into between the owner and occupant only if:
 - (1) The agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the owner or occupant.
 - (2) The agreement does not diminish or affect the obligation of the owner to other occupants in the premises.
 - C. In no case shall the existence of any agreement between owner and occupant relieve any owner of any responsibility under this Part or other ordinances or codes for maintenance of premises.
5. **Written Rental Agreement.**

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- A. All rental agreements for regulated dwelling units shall be in writing. No oral leases and no oral modifications thereof are permitted. All disclosures and information required to be given to occupants by the owner shall be furnished before the signing of the rental agreement. The owner shall provide occupant with copies of the rental agreement upon execution.
 - B. **Terms and Conditions.** Owner and occupant may include in a rental agreement terms and conditions not prohibited by this Part or other applicable ordinances, regulations and laws, including rent, term of the agreement and other provisions governing the rights and obligations of the parties.
 - C. **Prohibited Provisions.** Except as otherwise provided by this Part, no rental agreement may provide that the occupant or owner agrees to waive or to forego rights or remedies under this Part. A provision prohibited by this subsection included in a rental agreement shall be unenforceable.
 - D. Upon oral or written request by the police or Code Enforcement Officer, the owner shall within 10 days of such request furnish to the Borough for inspection purposes, copies of the releases the owner has entered into for regulated rental units.
6. **Complaints.** The owner shall reply promptly to reasonable complaints and inquiries from occupants.
 7. **Landlord/Tenant Act.** The owner shall comply with all provisions of the Landlord/Tenant Act of the Commonwealth of Pennsylvania.
 8. **Common Areas.** Where an owner does not regulate the use of common areas and the behavior of occupants and guests in the common areas, the owner shall be directly responsible for the behavior of occupants and guests in the common area as if the owner were an occupant.
 9. **Enforcement.**
 - A. Within 10 days after receipt of written notice from the Code Enforcement Officer that an occupant of a regulated rental unit has violated a provision of this Part, the owner shall take immediate steps to remedy the violation and take steps to assure that there is not a reoccurrence of the violation.
 - B. Within 20 days after receipt of a notice of violation, the owner shall file with the Code Enforcement Officer a report on a form provided by the Borough, setting forth what action the owner has taken to remedy the violation and what steps he or she has taken to prevent a reoccurrence of the violation. The report shall also set forth a plan as to steps the owner will take in the future if the violation recurs.
 - C. The Code Enforcement Officer shall review the report and, if adequate steps have been taken and the plan is adequate to address future violations, shall

approve the plan. The owner shall, on his or her initiative, enforce the plan and failure to do so shall be a violation of this Part.

- D. In the event that a third violation occurs with a license year involving the same occupant or occupants, the Code Enforcement Officer may direct the owner to evict the occupants who violated this Part and to not permit the occupant to occupy the premises during the subsequent licensing period.
 - E. If an occupant has been evicted from a regulated unit pursuant to this Part, he or she shall not be eligible to rent any other regulated unit within the Borough of East McKeesport for one year from the date of the third violation.
10. **Code Violations.** Upon receiving notice of any code violation from the Code Enforcement Officer, the owner shall promptly take action, or cause the necessary action to be taken, to abate the offending condition and eliminate the violation.
11. **Borough Can Make Repairs.** In case the owner of premises shall neglect, fail or refuse to comply with any notice from the Borough or its Code Enforcement Officer to correct a violation relating to maintenance and repair of the premises under any code within the period of time stated in such notice, the Borough may cause the violation to be corrected. There shall be imposed upon the owner a charge of the actual costs involved, plus 10% of said costs for each time the Borough shall cause a violation to be corrected; and the owner of the premises shall be billed after same has been completed. Any such bill which remains unpaid and outstanding after the time specified therein for payment shall be grounds for the imposition of a municipal lien upon the premises as provided by law. Such a lien may be reduced to judgment and enforced and collected as provided by law, together with interest at the legal rate and court costs. The remedies provided by this paragraph are not exclusive and the Borough and its Code Enforcement Officer may invoke such other remedies available under this Part or other applicable codes, ordinances or statutes, including, where appropriate, condemnation proceedings or declaration of premises as unfit for habitation; or suspension, revocation or non-renewal of the license issued hereunder.
12. The owner shall permit inspections of any premises by the Code Enforcement Officer at reasonable times upon reasonable notice.

(Ord. 911, 8/8/2013, Part 2)

§11-203. Occupant Duties.

- 1. **General.** The occupant shall comply with all obligations imposed upon occupants by this Part, all applicable codes and ordinances of the Borough and all applicable provisions of State law.
- 2. **Health and Safety Regulations.**
 - A. The maximum number of persons permitted in any regulated rental unit at

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any time shall not exceed one person for each 50 square feet of habitable floor space in said regulated rental unit. The maximum number of persons permitted in the common areas of any multiple-unit dwelling at any time shall not exceed one person for each 15 square feet of common area on the premises.

- B. The occupant shall dispose from his or her regulated rental unit all rubbish, garbage and other waste in a clean and safe manner in compliance with East McKeesport's Solid Waste Ordinance [Chapter 20] and all other applicable ordinances, laws and regulations.
3. **Peaceful Enjoyment.** The occupant shall conduct himself or herself and require the other persons, including, but not limited to, guests on the premises and within his or her regulated rental unit with his or her consent to conduct themselves in a manner that will not disturb the peaceful enjoyment of the premises by others, and that will not disturb the peaceful enjoyment of adjacent or nearby dwellings by the persons occupying same.
 4. **Residential Use.** The occupant shall, unless otherwise permitted by applicable law or ordinance, occupy or use his or her regulated rental unit for no other purpose than as a residence.
 5. **Illegal Activities.** The occupant shall not engage in, nor tolerate nor permit others on the premises to engage in, any conduct declared illegal under the Pennsylvania Crimes Code (18 Pa.C.S.A. §101 *et seq.*) or Liquor Code (47 P.S. §1-101 *et seq.*) or the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §780-101 *et seq.*).
 6. **Disruptive Conduct.**
 - A. The occupant shall not engage in, nor tolerate, nor permit others on the premises to engage in disruptive conduct or other violations of this Part.
 - B. When police or the Code Enforcement Officer investigate, an alleged incident of disruptive conduct, he or she shall complete a disruptive conduct report upon a finding that the reported incident did, in his or her judgment, constitute "disruptive conduct" as defined herein. The information filled in on said report shall include, if possible, the identity or identities of the alleged perpetrators(s) of the disruptive conduct and all other obtainable information including the factual basis for the disruptive conduct requested on the prescribed form. Where the police make such investigation, said police officer shall then submit the completed disruptive conduct report to the Code Enforcement Officer within 7 working days. In all cases, the Code Enforcement Officer shall mail a copy of the disruptive conduct report to the owner or manager within 10 working days of the occurrence of the alleged disruptive conduct, whether the person making the investigation on behalf of the Borough is the Code Enforcement Officer or police. In the event that three disruptive conduct incidents occur involving the same occupant or occupants, the Code Enforcement Officer may direct the owner to evict the occupants who violated this Part.

7. **Compliance with Rental Agreement.** The occupant shall comply with all lawful provisions of the rental agreement entered into between owner and occupant. Failure to comply may result in the eviction of the occupant by the owner.
8. **Damage to Premises.** The occupant shall not intentionally cause, nor permit nor tolerate others to cause, damage to the premises. Conduct which results in damages in excess of \$500 shall be considered a violation of this Part.
9. **Inspection of Premises.** The occupant shall permit inspections by the Code Enforcement Officer of the premises at reasonable times, upon reasonable notice.

(Ord. 911, 8/8/2013, Part 2)

§11-204. Licenses.

1. License Requirement.

- A. As a prerequisite to entering into a rental agreement or permitting the occupancy of any regulated rental unit (except as provided in subsection (C) below), the owner of every such regulated rental unit shall be required to apply for and obtain a license for each regulated rental unit.
- B. A license shall be required for all regulated rental units.
- C. The following categories of rental properties shall not require licenses, and shall not, therefore, be subject to the permitting provision of this Part:
 - (1) Senior citizen housing.
 - (2) Convents and parish houses.
- D. The application for the license shall be in a form as determined by the Borough.
- E. The owner shall maintain a current list of occupants in each regulated dwelling unit which shall include their name, permanent address and permanent telephone number. The owner shall furnish the list to the Borough upon request and shall notify the Borough of any changes in the number of occupants so that revisions can be made to the license.

2. Annual License Term and Fee.

- A. Each license shall have an annual term running from January 1 through December 31 each year.
- B. Upon application for a license and prior to the issuance or renewal thereof, each applicant shall pay to the Borough, or to an assigned agent, an annual

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license, in an amount to be established from time to time by resolution of the Borough Council. Such resolution may provide for more than one fee scale for different categories of premises, to be more specifically set forth in the resolution.

- C. No license shall be issued if the owner has not paid any fines and costs arising from enforcement of this Part or any of the ordinances of the Borough of East McKeesport relating to land use and/or code enforcement or if any licensing fees under this Part are due and owing to the Borough.
- D. No license shall be issued until all Borough taxes, sewer fees, refuse fees, and other municipal claims are paid in full and are current with no delinquencies.

(Ord. 911, 8/8/2013, Part 2)

§11-205. Grounds for Non-renewal, Suspension or Revocation of License.

- 1. **General.** The Code Enforcement Officer may initiate disciplinary action against an owner that may result in a formal warning, non-renewal, suspension or revocation of the owner's license, for violating any provision of this Part that imposes a duty upon the owner, and/or for failing to regulate the breach of duties by occupants as provided for herein.
- 2. **Definitions of Options.**
 - A. **Formal Warning.** Formal written notification of at least one violation of this Part. Upon satisfactory compliance with this Part and any conditions imposed by the Code Enforcement Officer and/or the Borough Council, the formal warning shall be removed when the owner applies for license renewal at a time set by the Code Enforcement Officer or by Borough Council.
 - B. **Non-renewal.** The denial of the privilege to apply for license renewal after expiration of the license term. The Borough will permit the owner to maintain occupants in the premises until the end of the license term but will not accept applications for renewal of the license until a time set by the Code Enforcement Officer or by Borough Council.
 - C. **Suspension.** The immediate loss of the privilege to rent regulated rental units for a period of time set by the Code Enforcement Officer or Borough Council. The owner, after the expiration of the suspension period, may apply for license renewal without the need to show cause why the owner's privilege to apply for a license should be reinstated. Upon suspension, the owner shall take immediate steps to evict the occupants.
 - D. **Revocation.** The immediate loss of the privilege to rent regulated rental units for a period of time set by the Code Enforcement Officer or the Borough Council and the loss of the privilege to apply for renewal of the license at the expiration

of the time period. Upon the loss of the privilege to rent, the owner shall take immediate steps to evict the occupant's.

3. **Criteria for Applying Discipline.** The Code Enforcement Officer, when recommending discipline, and the Borough Council, when applying discipline, shall consider the following:
 - A. The effect of the violation on the health, safety and welfare of the occupants of the regulated rental unit and other residents of the premises.
 - B. The effect of the violation on the neighborhood.
 - C. Whether the owner has prior violations of this Part and other ordinances of the Borough or has received notices of violations as provided for in this Part.
 - D. Whether the owner has been subject to disciplinary proceedings under this Part.
 - E. The effect of disciplinary action on the occupants.
 - F. The action taken by the owner to remedy the violation and to prevent future violations, including any written plan submitted by the owner.
 - G. The policies and lease language employed by the owner to manage the regulated dwelling unit to enable the owner to comply with the provisions of this Part.
 - H. In addition to applying discipline as set forth above, the Code Enforcement Officer may recommend and Borough Council may impose upon the existing or subsequent licenses reasonable conditions related to fulfilling the purposes of this Part.

4. **Grounds for Imposing Discipline.** Any of the following may subject an owner to discipline as provided for in this Section:
 - A. Failure to abate a violation of Borough codes and ordinances that apply to the premises within the time directed by the Code Enforcement Officer.
 - B. Failure to pay delinquent Borough taxes, sewer fees, refuse fees, and other municipal claims or failure to enter into an authorized payment plan and meet the conditions set forth in said payment plan.
 - C. Refusal to permit the inspection of the premises by the Code Enforcement Officer as required by §11-204(3) of this Part.
 - D. Failure to take steps to remedy and prevent violations of this Part by occupants of regulated rental units as required by §11-202(9) of this Part.

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- E. Failure to file and implement an approved plan to remedy and prevent violations of this Part by occupants of a regulated rental unit as required by §11-202(9) of this Part.
- F. Failure to evict occupants after having been directed to do so by the Code Enforcement Officer of the Borough as provided for in §11-202(9) of this Part.
- G. Three violations of this Part or other ordinances of the Borough that apply to the premises within a license term. For purposes of this Part, there need be no criminal conviction before a violation can be found to exist. Before a prior violation can be considered under this Section, the owner must have received notice in writing of this violation within 30 days after the Code Enforcement Officer received notice of the violation.

5. **Procedure for Non-renewal, Suspension or Revocation of License.**

- A. **Notification.** Following a determination that grounds for non-renewal, suspension or revocation of a license exist, the Code Enforcement Officer shall notify the owner of the action to be taken and the reason therefore. Such notification shall be in writing, addressed to the owner in question, and shall contain the following information:
 - (1) The address of the premises in question and identification of the particular regulated rental unit(s) affected.
 - (2) A description of the violation which has been found to exist.
 - (3) A notice that the regulated rental units) is in violation of this Part with a specification of the grounds of the violation. Such violations must be cured within 30 days from the date of the notice.
 - (4) Notice that each day the violation remains shall be a separate violation and punishable under §11-206. The Borough shall further have the right to enjoin the obligations and duties created under this Part.
 - (5) A statement informing the owner that he, she or it has a right to appeal the decision that the owner is in violation of this Part by submitting in writing to the Borough Secretary/Manager, within 30 days from the date printed on the notice, a detailed statement of the appeal including the grounds therefore and the reason(s) alleged as to why the determination of the Code Enforcement Officer is incorrect or should be overturned, and a statement of the relief requested by the appellant. Such notice of appeal may be required to be submitted on a form to be prescribed therefore by Borough Council, to be signed by the appellant. There is hereby imposed a fee for filing of such appeals, the amount of which shall be determined and established from time to time by resolution of Borough Council.

- (6) Upon receipt of such an appeal in proper form, accompanied with the requisite filing fee, the Borough Secretary/Manager shall schedule a hearing to be held at the time and date of the next regularly scheduled
- (7) Borough Council meeting not less than 10 days from the date on which the appeal is filed.
- (8) The appellant and the Code Enforcement Officer shall receive written notice of the hearing on the appeal.
- (9) Borough Council shall hold a hearing on the appeal which shall be conducted in accordance with the Local Agency Law, 2 Pa.C.S.A. §§551–555. The appellant and all other parties having an interest may be heard. Based on the facts and arguments of the appellant and of the Code Enforcement Officer and any police or other public officials involved, and any relevant factual presentations of other parties, the Borough Council shall make a decision either affirming, reversing or modifying the action of the Code Enforcement Officer from which the appeal was taken. Such decision shall be rendered at a public meeting either immediately following the hearing or within 30 days thereafter. The decision shall be reduced to writing stating clearly the factual and legal basis for the decision, within 45 days after the hearing. If Borough Council deems it necessary or desirable, it may continue the hearing to a subsequent time and date not later than 30 days from the initial hearing, which time and date shall be openly announced at the initial hearing and in such case, the time limits for rendering the decision and reducing it to writing set forth herein shall be calculated from the last hearing date (at which the substance of the decision is orally announced).

B. Delivery of Notification.

- (1) All notices shall be sent to the owner or manager, if applicable, by certified mail. In the event that the notice is returned by the postal authorities marked “unclaimed” or “refused,” then the Code Enforcement Officer shall attempt delivery by personal service on the owner or manager, if applicable. The Code Enforcement Officer shall also post the notice at a conspicuous place on the premises.
- (2) If personal service cannot be accomplished after a reasonable attempt to do so, then the notice may be sent to the owner or manager at the address stated on the most current license application for the premises in question, by regular first-class mail, postage prepaid. If such notice is not returned by the postal authorities within 5 days of its deposit in the U.S. mail, then it shall be deemed to have been delivered to and received by the addressee on the fifth day following its deposit in the U.S. mail, and all time periods set forth under subsection (A) above, shall thereupon be calculated from said fifth day.

HOUSING

(Ord. 911, 8/8/2013, Part 2)

§11-206. Violations and Penalties.

1. **Basis for Violation.** It shall be unlawful for any person, as either owner or manager of a regulated rental unit for which a license is required, to operate without a valid, current license issued by the Borough authorizing such operation. It shall also be unlawful for any person, either owner or manager, to allow the number of occupants of a regulated unit to exceed the maximum limit as set forth on the license, or to violate any other provision of this Part. It shall be unlawful for any occupant to violate this Part.
2. **Penalties.** Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.
3. **Nonexclusive Remedies.** The penalty provisions of this Section and the license non-renewal, suspension and revocation procedures provided in this Part shall be independent, non-mutually exclusive separate remedies, all of which shall be available to the Borough as may be deemed appropriate for carrying out the purposes of this Part. The remedies and procedures provided in this Part for violation hereof are not intended to supplant or replace, to any degree, the remedies and procedures available to the Borough in the case of a violation of any other code or ordinance of the Borough, whether or not such other code or ordinance is referenced in this Part and whether or not an ongoing violation of such other code or ordinance is cited as the underlying ground for a finding of a violation of this Part.

(Ord. 911, 8/8/2013, Part 2)

§11-207. Miscellaneous Provisions.

1. **Notices.**
 - A. For purposes of this Part, any notice required hereunder to be given to a manager shall be deemed as notice given to the owner.
 - B. There shall be a rebuttal presumption that any notice required to be given to the owner under this Part shall have been received by such owner if the notice was given to the owner in the manner provided by this Part.
 - C. A claimed lack of knowledge by the owner 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 Part.

2. **Changes in Ownership Occupancy.** It shall be the duty of each owner of a regulated rental unit to notify the Code Enforcement Officer in writing of any change in ownership of the premises or of the number of regulated rental units on the premises. It shall also be the duty of the owner to notify the Code Enforcement Officer in writing of any increase in the number of occupants in any regulated rental unit or of the changing of a dwelling unit from owner-occupied to nonowner-occupied, which thereby transforms the dwelling into a regulated rental unit for purposes of this Part.
3. **Owners Severally Responsible.** If any regulated rental 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 Part, and shall be severally subject to prosecution for the violation of this Part.

(Ord. 911, 8/8/2013, Part 2)

