

ORDINANCE NO. 2007-01

AN ORDINANCE OF THE BOROUGH OF BERWICK, COLUMBIA COUNTY, PENNSYLVANIA, REGULATING RESIDENTIAL RENTAL UNIT OCCUPANCY AND PROVIDING FOR INSPECTIONS AND PENALTIES FOR NONCOMPLIANCE.

LANDLORD REGISTRATION ORDINANCE

WHEREAS, the Borough of Berwick enacted a Real Estate Registry Ordinance, Ordinance No. 2007-01 because the predecessor ordinance did not adequately deal with many problems which the Borough was experiencing with residential units ; and

WHEREAS, the Council of the Borough of Berwick desires to modify Ordinance No. 2007-01; and

WHEREAS, the Council of the Borough of Berwick has resolved to repeal the prior Ordinance and replace it with the Ordinance set forth below,

NOW THEREFORE, be it ordained as follows:

§ 141.1 Title.

This chapter shall be known as the Borough of Berwick “Landlord Registration Ordinance.”

§141.2. General.

It is the purpose of this Ordinance and the policy of the Council of the Borough of Berwick, 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 residential rental units in the Borough of Berwick 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 a means to those ends, this Ordinance provides for a system of inspections, issuance and renewal of occupancy licenses and sets penalties for violations. This Ordinance shall be liberally construed and applied to promote its purposes and policies. In considering the adoption of this Ordinance, the Borough of Berwick makes the following findings.

In recent years, many formerly private homes have been turned into residential rental units.

Those rental units have oftentimes been rented to individuals who, because they have no ownership interest in the property, have allowed the properties to deteriorate. In many cases, the owners of the properties live long distances from the Borough of Berwick. As a result, property maintenance of many rental units in the Borough of Berwick has been somewhat lax. In addition, problems have occurred because many tenants, because they have no ownership interest in the real estate, have not been concerned about following Codes of the Borough of Berwick, including Codes which govern maintenance and safety of the property. This, in turn, has caused problems for other home owners near the rental units. In addition, there is a greater incidence of violation of various Codes of the Borough of Berwick in residential rental properties where owners rent properties to tenants. Estimates are that over 75% of all code violations in the Borough of Berwick occur in tenant occupied structures.

§ 141.3 Definitions.

BOROUGH OF BERWICK - The Borough of Berwick, Columbia County, Pennsylvania.

CODE - any code or ordinance adopted, enacted and/or in effect in and for the Borough of Berwick concerning fitness for habitation or the construction, maintenance, operation, occupancy, use or appearance of any premises or residential rental unit. Included within, but not limited by, this definition are the following which are in effect as of the date of the enactment of this Ordinance: The Uniform Construction Code (hereinafter "UCC") the International Property Maintenance Code, International Plumbing Code, International Fire Prevention Code, International Electrical Code, Flood Plain Management Ordinance, the International Building Code 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 Officer(s) having charge of the Office of Code Enforcement of the Borough of Berwick and any assistants or agents.

COMMON AREA - any open area within a structure shared by occupants or that the occupants have the right to share including, but not limited to, kitchens, bathrooms, living rooms, dining rooms, attics, basements and any room used for parties, social events or the congregation of people, excepting bedrooms.

DISRUPTIVE CONDUCT - any form of conduct, action, incident or behavior perpetrated, caused or permitted by any occupant or visitor of a residential rental 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, nor 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 therefor, to be completed by the Code Enforcement Officer or police, as the case may be, who actually investigates an alleged incident of disruptive conduct and which shall be maintained by the Code Enforcement Officer.

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 the present use and enjoyment of the premises, including a mortgage holder in possession of a residential rental unit. (same as “owner”).

LANDLORD-TENANT ACT - The Landlord and Tenant Act of 1951, 68 P.S. §§ 250.101, *et seq.*

MANAGER - an adult individual designated by the owner of a residential rental unit.

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

OCCUPANT - an individual who resides in a residential 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 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 the present use and enjoyment of the premises, including a mortgage holder in possession of a residential rental unit.

OWNER-OCCUPIED RENTAL UNIT - a rental 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 Berwick or any properly authorized member or officer thereof or any other law enforcement agency having jurisdiction within the Borough of Berwick.

PREMISES - any parcel of 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.

RENTAL AGREEMENT - a written agreement between owner/landlord and occupant/tenant supplemented by the addendum required under § 141.4.5, embodying the terms and conditions concerning the use and occupancy of a specified residential rental unit or premises.

RESIDENTIAL RENTAL UNIT - any structure within the Borough of Berwick which is occupied by someone other than the owner of the real estate as determined by the most current deed and for which the owner of the said parcel of real estate received any value, including but not limited to money, or the exchange of services. Each apartment within a building is a separate structure requiring inspection and a license.

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. Each apartment within a building is a separate structure.

TENANT - an individual who resides in a 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 lease or by the laws of the Commonwealth of Pennsylvania. (same as “occupant”).

§ 141.4. Owner’s Duties.

- 1. General.** It shall be the duty of every owner to keep and maintain all rental units in compliance with all applicable State laws and regulations and local ordinances and to keep such property in good and safe condition. The owner/landlord shall be responsible for regularly performing all maintenance, including lawn mowing and ice and snow removal, and for making any and all repairs in and around the premises. As provided for in this Ordinance, every owner/landlord shall be responsible for regulating the proper and lawful use and maintenance of every dwelling which he, she or it owns. As provided for in this Ordinance, every owner shall also be responsible for regulating the conduct and activities of the occupants of every rental unit which he, she or it owns in the Borough of Berwick, which conduct or activity takes place at such rental unit or its premises. In order to achieve those ends, every owner of a rental unit shall regulate the conduct and activity of the occupants thereof, both contractually and through enforcement, as more fully set forth below. 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 guest 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. This Ordinance is not intended to, nor shall its effect be, to limit any other enforcement remedies which may be available to the Borough of Berwick against an owner, occupant or guest thereof.

2. Designation of Manager. Every owner who is not a full-time resident of the Borough of Berwick, and/or who does not live within fifteen (15) miles of the boundaries of the Borough of Berwick, shall designate a manager who shall reside in an area that is within fifteen (15) miles from the Borough of Berwick. If the owner is a corporation, a manager shall be required if an officer of the corporation does not reside within the above referenced area. 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 within the above referenced area. 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 of notices and demands, as well as for performing the obligations of the owner under this Ordinance 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 the owner or manager to the Borough and such information shall be kept current and updated as it changes.

3. Disclosure

A. The owner or manager shall disclose to the occupant in writing on or before the commencement of the tenancy:

- (1) The name, address and telephone number of the manager, if applicable.**
- (2) The name, address and telephone number of the owner of the premises.**

B. Before an occupant initially enters into or renews a rental agreement for a rental unit, the owner or manager shall furnish the occupant with the most recent inspection report relating to the property.

4. Maintenance of Premises.

A. The owner shall maintain the premises in compliance with the applicable codes of the Borough of Berwick 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 an owner of any responsibility under this Ordinance or other ordinances or codes for maintenance of the premises.

5. Rental Agreement.

A. All disclosures and information required to be given to occupants by the owner shall be furnished at or before the commencement of the landlord tenant relationship. The owner shall provide occupant with copies of any rental agreement and addendum upon execution.

B. **Terms and Conditions.** Owner and occupant may include in a rental agreement terms and conditions not prohibited by this Ordinance or other applicable ordinances, regulations and laws, including rent, term of the agreement and other provisions governing the right and obligations of the parties.

C. **Prohibited Provisions.** Except as otherwise provided by this Ordinance, no rental agreement may provide that the occupant or owner agrees to waive or to forego rights or remedies under this Ordinance. A provision prohibited by this subsection included in a rental agreement is unenforceable.

D. **Provision of Summary of Ordinance to Occupant.** Following the effective date of this Ordinance, a summary hereof in substantially the form set forth in Appendix A, shall be provided to the occupant at or before the commencement of the landlord tenant relationship. If a summary has been provided at or before the commencement of the landlord tenant relationship, a summary does not have to be provided upon renewal. Where a rental agreement has been entered into prior to the effective date of this Ordinance, the owner shall provide the occupants with a copy of the summary within sixty (60) days after enactment of this Ordinance.

E. The owner shall secure a written acknowledgment from occupants that the occupants have received the disclosures and information required by this Ordinance.

F. Upon request by the Borough of Berwick, the owner within ten (10) days of the request shall furnish to the Borough of Berwick copies of any lease(s) required by the Landlord Tenant Act that the owner has entered into for residential rental units including acknowledgment that the occupants have received the disclosures and information required by this Ordinance.

6. Registration. Every owner of a residential rental unit must register the unit with the Code Enforcement Officer in accordance with the following schedule:

A. All owners of residential units must register the units with the Code Enforcement Officer within thirty (30) days after the effective date of this Ordinance.

B. Any individual, entity or firm which converts any structure to a residential rental unit or units shall register the residential rental unit or units with the Code Enforcement Officer of the Borough of Berwick within thirty (30) days of the completion of the conversion of the unit or units or within thirty (30) days of the time when any rent, including the exchange of other services for the unit or units, is obtained or within thirty (30) days of the date within which a tenant or tenants occupies the unit or units, whichever time period is sooner.

C. It shall be the responsibility of the grantee and the grantee's agent in the purchase of the said real estate, including the grantee's attorney or title company, to notify Berwick Borough City Hall within seventy-two (72) hours of any purchase or transfer of a rental unit.

D. The owner of a residential rental unit must update the registration information on record with the Code Enforcement Officer within ten (10) days of any changes of the information set forth below.

E. All owners of any residential rental unit living outside of the fifteen (15) mile limit set forth in Section 141.4.2 must have a local manager who shall reside within fifteen (15) miles of the Borough of Berwick and who shall be available as an emergency contact person.

F. Registration information shall be provided by all owners and shall include the following:

- (1) Owner name, address, telephone number.**
- (2) Local manager name, address, telephone number (an emergency contact person).**
- (3) Property address and number of units.**
- (4) Maximum occupancy per unit.**
- (5) Emergency telephone number.**
- (6) Actual number of occupants.**

(7) Names and addresses of current tenants.

G. Any owner of a residential rental unit shall notify the Borough of Berwick at Berwick City Hall within ten (10) days of a new tenant occupying, renting or residing in the landlord's or owner's residential rental unit.

H. Notwithstanding any other provisions of this chapter, the names and addresses of a tenant shall not be disclosed by any Borough personnel in the event that the tenant is the subject of a court order requiring that this information be kept confidential.

7. Complaints. The owner shall reply promptly to reasonable complaints and inquiries from occupants.

8. Landlord-Tenant Act. The owner shall comply with all provisions of the Landlord-Tenant Act.

9. Common Areas. Where an owner of a residential rental unit 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 areas as if the owner were an occupant. The failure of the owner to regulate behavior of occupants and guests in the common areas that results in the following shall be a violation of this Ordinance:

- A. Engaging in fighting, threatening or other violent or tumultuous behavior;**
- B. Making unreasonable noise; or,**
- C. Creating a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.**

10. Enforcement.

- A. Within ten (10) days after receipt of written notice from the Code Enforcement Officer that an occupant of a residential rental unit has violated a provision of this Ordinance, 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 twenty (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 reoccurs.**
- 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 Ordinance.

- D.** In the event that a second violation occurs within a license year involving the same occupant or occupants, the Code Enforcement Officer may direct the owner to initiate eviction proceedings against the occupants who violated this Ordinance in accordance with the Landlord-Tenant Act and to not permit the occupant to occupy the premises during the subsequent licensing period. All tenants who have been evicted if asked shall advise their new landlord that they have been evicted from a residence for violating the terms and conditions of this ordinance.
- 11. Code Violations.** Upon receiving notice of any code violations 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.
- 12. 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 in effect in the Borough of Berwick 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 subsection are not exclusive and the Borough and its Code Enforcement Officer may invoke such other remedies available under this Ordinance or the 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.
- 13. Inspections.** The owner shall permit inspections of any premises by the Code Enforcement Officer at reasonable times upon reasonable notice. The inspections shall be completed as follows:
- A.** The Code Enforcement Officer of the Borough of Berwick shall inspect all units once a year and record the inspection on a written Inspection Report. The Inspection Report shall be signed and dated by the owner of the residential rental unit or his or her manager and shall in addition be signed by all the tenants named on the lease at the time of the inspection. Inspections may be made by the Code Officer anytime within the said year.

- 14. Smoke Alarms.** All owners of residential rental units in the Borough of Berwick shall be required within five (5) days of the passage of this Ordinance to install smoke alarms, regardless of the occupant load at the following locations:
- 1. On the ceiling or wall outside each separate sleeping area in the immediate vicinity of the bedrooms;**
 - 2. In each room used for sleeping purposes;**
 - 3. In each story within a dwelling unit, including basements and cellars, but not including crawl spaces and uninhabitable attics.**
- 15. Noncompliance.**
- A. Any parcel of real estate containing a residential rental unit which has been found to be in noncompliance with this chapter shall be subject to re-inspection by the Code Enforcement Officer as follows:**
 - (1) Each residential rental unit referred to above shall be inspected one time each year. A particular residential unit which contains a violation of this sub-chapter shall be re-inspected as set forth above.**
 - (2) In addition, each residential rental unit shall be inspected each time one of the residential rental units is vacant.**
 - B. In the event of a violation, a residential rental unit cannot be occupied unless and until the unit is approved as meeting the criteria of this chapter and any other applicable codes of the Borough of Berwick as determined by the Enforcement Officer.**
 - C. (1) If after inspection of one or more of the residential rental units as set forth above, the Code Enforcement Officer determines that there are violations of any Codes of the Borough of Berwick, the Code Enforcement Officer shall provide a Notice of Violation which shall at a minimum set forth the following:**
 - a. Street address of the property.**
 - b. Date of the inspection.**
 - c.. Name of the inspector.**
 - d. List of violations.**

(2) Within ten (10) days after receipt of a written notice from the Borough of Berwick Code Enforcement Officer that there has been a violation of this section or any other applicable ordinances of the Borough of Berwick, the owner shall take immediate steps to remedy the violation and take steps to assure that there will not be a reoccurrence of the violation.

(3) Within twenty (20) days after receipt of a notice of violation the owner of a residential rental unit shall file with the Code Enforcement Officer a report on a form provided by the Borough of Berwick 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 reoccurs.

(4) 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, on his or her initiative shall enforce the plan, and failure to do so shall be a violation of this ordinance of the Borough of Berwick.

(5) In the event that a second violation occurs within a twelve-month period, involving the same occupant or occupants, the Code Enforcement Officer may direct the owner to evict the occupant or occupants who have violated the ordinance of the Borough of Berwick and to not permit the occupant to occupy the premise during any subsequent period.

D. If, after a violation as set forth above, a parcel of real estate containing residential rental units has no violations of applicable codes of the Borough of Berwick for a period of two (2) years, said property shall then be deemed to be back in compliance with the terms and conditions of this chapter and shall not then be subject to the inspections set forth in this section until there are other violations.

E. If a parcel of real estate in noncompliance with the terms and conditions of this chapter or other ordinances of the Borough of Berwick is sold, then the parcel of real estate shall remain in noncompliance until the sooner of the following has occurred:

(1) The original two-year period with no violations passes with no further violations; or

(2) If twelve (12) months passes after purchase by the new owner with no violations of any ordinances of the Borough of Berwick.

F. All owners of any real estate containing or upon which are erected any

residential rental unit which are in noncompliance with this chapter and who desire to sell the parcel of real estate shall notify the purchasers, in writing, prior to the sale of the parcel of real estate that the parcel of real estate is in noncompliance with the terms and conditions of this chapter. Further, any property owner selling a parcel of real estate upon which is erected a residential rental unit or units which are found to be in noncompliance under the terms and conditions of this chapter shall notify the Code Enforcement Officer, in writing, within thirty (30) days prior to closing on the sale of said parcel of real estate.

- G. All owners of any parcels of real estate containing residential rental units shall permit access to the property so that the Code Enforcement Officer of the Borough of Berwick shall be able to complete all inspections necessary to determine compliance with this ordinance and any other applicable ordinances of the Borough of Berwick. Refusal to allow entry of the residential rental unit by the Code Enforcement Officer of the Borough of Berwick to inspect the said unit shall be a violation of this Ordinance.**
- H. For the purpose of enforcing this ordinance, the Code Enforcement Officer may seek to obtain a search warrant issued by a competent authority for the purpose of compelling an inspection or otherwise enforcing the terms and conditions of this chapter.**
- I. The Code Enforcement Officer may reinspect any property subject to a notice of violation upon expiration of the time to accomplish repairs or upon notice from the owner that the violations have been rectified.**
- J. The owner of any property containing or upon which is erected a residential rental unit shall pay a TWENTY-FIVE (\$25.00) DOLLAR fee for each and every reinspection to cover the cost of a reinspection each time a reinspection is required under the terms of this chapter or each time a reinspection is requested by the Code Enforcement Officer to determine compliance with this Ordinance or any other applicable ordinances of the Borough of Berwick. The fee set forth herein may be increased or decreased by a Resolution of Berwick Borough Council.**

16. Tenant Registration.

- A. All tenants who are renting a residential rental unit or residential rental units in the Borough of Berwick shall within sixty (60) days of the passage of this Ordinance present to the Code Enforcement Officer in Berwick Borough City Hall located at 344 Market Street, Berwick, Pennsylvania two (2) forms of identification which shall include a state issued driver's license or photo identification card and one (1) of the other following forms of identification:**
 - 1. Passport; or**
 - 2. Birth certificate; or**
 - 3. Social Security card; or**

4. Other government issued identification.

- B. The Borough shall not retain a record of the tenant's Social Security number, if any, driver's license or photo identification number, date of birth, passport number or country of issuance or similar confidential information but shall review these documents solely to verify identity.**
- C. The Borough Code Enforcement Officer shall record the name of the tenant, the landlord's name, the date of registration, the address of the leased property and the type of identifying information presented (e.g. passport, birth certificate) and shall have the tenant attest in writing that the information provided is true and correct subject to the penalties provided for unsworn falsification to authorities.**
- D. If a tenant is unable to present this information in person on account of a disability or infirmity, the Code Enforcement Officer shall provide alternative means to provide this information in order to reasonably accommodate the tenant.**
- E. Each time a tenant enters into a new lease, he or she shall register with the Borough of Berwick within ten (10) days of entering into the landlord tenant relationship and/or occupying the premises and provide the information referenced above.**

17. The owner shall maintain at the licensed rental unit and provide upon demand the following:

- A. The current license and current inspection report issued by the Code Enforcement Office of the Borough of Berwick.**
- B. The addendum to the license application required by this Ordinance showing the names of the authorized occupants of the residential rental unit.**
- C. The total number of persons who may occupy the residential rental unit or units and any common areas located within the rental unit.**
- D. A notice of ordinances and statutes applicable to the occupants of the rental unit on a placard provided by the Borough of Berwick.**
- E. The notices required by this Section shall be maintained in such a way so as to minimize tampering and removal.**

§ 141.5. Occupant Duties.

- 1. General. The occupant shall comply with all obligations imposed upon occupants by this Ordinance, all applicable codes and ordinances of the Borough of Berwick and all applicable provisions of State Law.**

- 2. Health and Safety Regulations.**
 - A. The maximum number of persons permitted in any rental unit at any time shall not exceed one person for each 40 square feet of habitable floor space in said rental unit.**
 - B. The occupant shall deposit all rubbish, garbage and other waste from his or her rental unit into containers provided by the owner or landlord in a clean and safe manner and shall separate and place for collection all recyclable materials, in compliance with the recycling plan submitted by the owner to the Borough of Berwick or if there is no recycling plan for the premises, then in compliance with Borough of Berwick's Recycling Ordinance and all other applicable ordinances, laws and regulations.**
- 3. Peaceful Enjoyment. The occupant shall conduct himself or herself and require other persons including, but not limited to, guests on the premises and within his or her 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 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 Ordinance.**
 - 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 perpetrator(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. In all cases, the Code Enforcement Officer shall mail a copy of the disruptive conduct report to the owner or manager within three (3) 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.**
- 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 or tolerate others to cause, damage to the premises. Conduct which results in damages in excess of Five Hundred (\$500.00) Dollars shall be considered a violation of this Ordinance.
9. **Inspection of Premises.** The occupant shall permit inspections by the Code Enforcement Officer of the premises at reasonable times, upon reasonable notice.
10. **Removal or Defacement of Notice.** It shall be a violation of this Ordinance for any person to remove or deface any notice or document required to be posted within a rental unit and it shall be unlawful for any person to occupy the rental unit unless all notices and documents are posted as required.
11. **Disruptive Conduct.** It shall be a violation of this Ordinance for any occupant or any other person to engage in disruptive conduct as defined by this Ordinance.

§ 141.6. Licenses and Inspection.

1. License Requirement.

- A. As a prerequisite to entering into a rental agreement or permitting the occupancy of any rental unit (except as provided in subsection (1)(C) below), the owner of every such rental unit shall be required to apply for and obtain a license for each rental unit.
- B. A license shall be required for all residential 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 Ordinance:
 - (1) Owner-occupied dwelling units; provided, that not more than two (2) unrelated individuals, in addition to the immediate members of the owner's family, occupy the dwelling unit at any given time.
 - (2) Hotels and motels.
 - (3) Hospitals and nursing homes.
 - (4) Bed and breakfast units as defined in the Borough's Zoning Ordinance.
- D. The application for the license shall be in a form as determined by the Borough.
- E. The owner shall maintain a current and accurate list of the occupants in each rental unit which shall include their name, and current telephone number which shall be available

to the Borough for inspection upon reasonable notice. The owner shall notify the Borough of changes in the occupancy or of contact information within ten (10) days of the change and shall provide the name of the person who is no longer residing in the premises in the event a person departs and the name, current address and current telephone number of new occupants in the event a new person is added.

- F. The owner shall furnish with his or her application for a license a floor plan, drawn to scale, with the measurements of each room within the residential rental unit. The owner shall submit the scale drawing only with the first application submitted after the enactment of this Ordinance. In the event that there are changes to the floor plan, the owner shall submit a revised floor plan with the application first submitted after the changes to the floor plan were made.
- G. In the event that a license is denied by the Code Office, the owner shall have the right to appeal to the Borough Council of the Borough of Berwick within thirty (30) days of mailing of the notice of denial of the application. The hearing before the Borough Council shall be governed by the Local Agency Law.

2. Annual License Term, Fee and Occupancy Limit.

A. Each license shall have an annual term running from January 1 of a particular year through December 31 of that next year.

B. Upon application for a license prior to issuance or renewal thereof, each owner/applicant shall pay to the Borough an annual license and inspection fee, in an amount to be established, from time to time, by resolution of the Council of the Borough of Berwick. The initial fee for a license shall be FIFTY (\$50.00) DOLLARS, for each residential rental unit/apartment. The said fee shall be paid by January 10th of each year except for the year of 2007, the said fee shall be paid by June 10th 2007.

C. The license shall indicate thereon the maximum number of occupants in each rental unit.

D. No license shall be issued if the owner has not paid any fines and costs arising from enforcement of this Ordinance or any of the ordinances of the Borough of Berwick relating to land use and/or code enforcement or if any licensing fees under this Ordinance are due and owing the Borough.

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

§ 141.7. 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 Ordinance that imposes a duty upon the owner and/or for failing to regulate the breach by occupants as provided for herein.

A. Definition of Options.

(1) Formal Warning. Formal written notification of at least one (1) violation of this Ordinance. Upon satisfactory compliance with this Ordinance and any conditions imposed by the Code Enforcement Officer and/or the Borough of Berwick 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 the Council of the Borough of Berwick.

(2) 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 the Council of the Borough of Berwick.

(3) Suspension. The immediate loss of the privilege to rent residential 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.

(4) Revocation. The immediate loss of the privilege to rent residential 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 occupants.

2. 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 the occupants of the residential 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 Ordinance and other ordinances of the Borough or has received notices of violations as provided for in this Ordinance.

D. Whether the owner has been subject to disciplinary proceedings under this Ordinance.

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 rental unit to enable the owner to comply with the provisions of this Ordinance.**
- 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 Ordinance.**

3. Grounds for Imposing Discipline. Any of the following may subject an owner to discipline as provided for in this Ordinance:

- 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. Refusal to permit the inspection of the premises by the Code Enforcement Officer as required by this Ordinance.**
- C. Failure to take steps to remedy and prevent violations of this Ordinance by occupants of residential rental units as required by this Ordinance.**
- D. Failure to file and implement an approved plan to remedy and prevent violations of this Ordinance by occupants of the rental unit as required by this Ordinance.**
- E. Failure to evict occupants after having been directed to do so by the Code Enforcement Officer of the Borough as provided for in this Ordinance.**
- F. Three (3) violations of this Ordinance or other ordinances of the Borough that apply to the premises within a license term. For purposes of this Ordinance, 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 thirty (30) days after the Code Enforcement Officer received notice of the violation.**

4. 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 therefor. 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 residential rental unit(s) affected.**
- (2) A description of the violation which has been found to exist.**
- (3) A statement that the license for said residential rental unit(s) shall be either suspended or revoked, or will not be renewed for the next license year beginning January of that year, or that the owner will receive a formal warning. In the case of a suspension or revocation, the notice shall state the date upon which such suspension or revocation will commence and in the case of a suspension shall also state the duration of said suspension.**
- (4) A statement that, due to the non-renewal, suspension or revocation (as the case may be), the owner or any person acting on his, her or its behalf is prohibited from renting, leasing or permitting occupancy of the dwelling unit(s) from and during the period said action is in effect.**
- (5) A statement informing the owner that he, she or it has a right to appeal the decision suspending, revoking or declining to renew the license to Borough Council, by submitting in writing to the Borough Secretary/Manager, within thirty (30) days from the date printed on the notice, a detailed statement of the appeal including the grounds therefor 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 relief requested by the appellant. Such notice of appeal shall be required to be submitted on a form to be prescribed therefor by Borough Council, and 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 Borough Council meeting not less than ten (10) days from the date on which the appeal is filed.**
- (7) The appellant, the Code Enforcement Officer and the owners of properties within a radius of three hundred (300) feet from the premises for which the license is at issue shall receive written notice of the hearing on the appeal.**

(8) 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. §§ 751, *et seq.* 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 thirty (30) days thereafter. The decision shall be reduced to writing stating clearly the factual and legal basis for the decision, within forty-five (45) days after the hearing. If the Council of the Borough of Berwick deems it necessary or desirable, it may continue the hearing to a subsequent time and date not later than thirty (30) days from 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 and 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 addresses 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 five (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 above shall thereupon be calculated from said fifth day.**
- 5. Nonexclusive Remedies. The penalty provisions of this Section and the license non-renewal, suspension and revocation procedures provided in this Ordinance 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 Ordinance. The remedies and procedures provided in this Ordinance 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 Ordinance**

and whether or not an on-going violation of such other code or ordinance is cited as the underlying ground for a finding of a violation of this Ordinance.

§ 141.8. Miscellaneous Provisions.

1. **Notices.** For purposes of this Ordinance, any notice required hereunder to be given to a manager shall be deemed as notice given to the owner.
 - A. **There shall be a rebuttable presumption that any notice required to be given to the owner under this Ordinance shall have been received by such owner if the notice was given to the owner in the manner provided by this Ordinance.**
 - B. **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 Ordinance.**
2. **Changes in Ownership Occupancy.** It shall be the duty of each owner of a residential rental unit to notify the Code Enforcement Officer, in writing, of any change in ownership of the premises or of the number of residential 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 rental unit or of the changing of a rental unit from owner-occupied to nonowner-occupied, which thereby transforms the dwelling into a residential rental unit for purposes of this Ordinance.
3. **Owners Severally Responsible.** If any rental unit is owned by more than one person, in any form of joint tenancy, as a partnership or otherwise, each person 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.
4. **Confidentiality.** All registration and contact information shall be maintained in a confidential manner by the Code Enforcement Officer and shall only be utilized for the purpose of enforcement of this Ordinance by the Code Enforcement Officer and Borough Manager.

§141.9. Enforcement; violations and penalties.

- A. **This chapter shall be enforced by the Code Enforcement Officer of the Borough of Berwick.**
- B. **Basis for Violation.** It shall be unlawful for any person, as either owner or manager of a residential rental unit for which a license is required, to operate without a valid, current license issued by the Borough of Berwick authorizing such operation. It shall also be unlawful for any person, either owner or manager, to allow the number of occupants of a residential rental unit to exceed the maximum limit as set forth on the license, or to violate

any other provision of this section. It shall be unlawful for any occupant to violate this section.

C. Penalties.

(1) Any landlord or owner of a residential unit which violates any of the provisions of § 141.4.6 together with all of the subsections thereunder shall upon conviction thereof be sentenced to pay a fine of \$500.00 for each and every offense. Each day of the said violation shall be a separate offense.

(2) Any landlord or owner of a residential rental unit which violates any of the provisions of § 141.4.13, § 141.4.14, §141.4.15, §141.4.16, and §141.4.17 shall incur the following penalties.

(a) For the first offense. Any owner or landlord violating any of the above listed sections shall upon conviction thereof in a summary proceeding be sentenced to pay a fine of One Hundred (\$100.00) Dollars for each and every offense. Each day of the said violation shall be a separate offense.

(b) For the second offense. Any owner or landlord violating any of the above listed sections shall upon conviction thereof in a summary proceeding be sentenced to pay a fine of Three Hundred (\$300.00) Dollars for each and every offense. Each day of the said violation shall be a separate offense.

(c) For the third offense. Any owner or landlord violating any of the above listed sections shall upon conviction thereof in a summary proceeding be sentenced to pay a fine of Five Hundred (\$500.00) Dollars for each and every offense or shall be imprisoned for a period not to exceed ninety (90) days or both. Each day of the said violation shall be a separate offense.

(3) Any landlord or owner of a residential rental unit who violates Sections 141.6 of this Ordinance shall upon conviction be sentenced to pay a fine of not less than One Thousand Dollars (\$1,000.00).

(4) Any occupant of a residential rental unit who violates any of the provisions of § 141.5 shall incur the following penalties:

For the first offense, he/she shall pay the sum of One Hundred (\$100.00) Dollars for each and every offense. For the second offense, he/she shall pay the sum of

Three Hundred (\$300.00) Dollars for each and every offense. For the third offense, he/she shall pay the sum of Five Hundred (\$500.00) Dollars for each and every offense. Each day of said violation shall be a separate offense.

D. Fines as imposed through this ordinance shall be collected as allowable by law.

E. Each day during which any owner of a residential rental unit violates any provision of this chapter shall constitute a separate offense.

F. This chapter and the foregoing penalties shall not be construed to limit or deny the right of the Borough of Berwick or its agents or representatives to such equitable or other remedies as may otherwise be available with or without process of law.

G. In addition to the fines set forth herein, the Borough of Berwick shall be entitled to reasonable attorneys fees incurred in enforcing this ordinance. The said fees shall be added to any penalties set forth above.

H. The owner of all residential rental units in the Borough of Berwick shall have the responsibility of making sure that all occupants within their rental units comply with and abide by this ordinance of the Borough of Berwick.

I. If any section or provision of this Ordinance is adjudged by a court of competent jurisdiction to be unlawful, void, or unenforceable, all the remaining sections and provisions of this Ordinance shall remain in full force and effect.

Effective Date: This Ordinance shall become effective in five (5) days after the adoption hereof.

ENACTED AND ORDAINED into law by the Borough of Berwick, Columbia County, Pennsylvania, this _____ day of April, 2007.

BOROUGH OF BERWICK

Council President

ATTEST:

Borough Manager

Mayor

APPENDIX A

TENANT'S COVENANTS AND OBLIGATIONS

1. **Tenant shall comply with all applicable Codes and Ordinances of the Borough of Berwick and all applicable State laws.**
2. **Tenant agrees that the maximum number of persons permitted within the residential rental unit at any time shall be _____ and the maximum number of persons permitted within the common areas of the leased premises at any time shall be _____.**
3. **Tenant shall deposit all rubbish, garbage and other waste from the leased premises into containers provided by the owner or landlord in a clean and safe manner and shall separate and place for collection all recyclable materials in compliance with the recycling plan submitted by the owner to the Borough under Berwick's Ordinance or if there is no recycling plan for the premises, then in compliance with Berwick's Ordinance and all other applicable ordinances, laws and regulations.**
4. **Tenant shall not engage in any conduct on the leased premises which is declared illegal under the Pennsylvania Crimes Code or Liquor Code, or the Controlled Substance, Drug, Device and Cosmetic Act, nor shall Tenant permit others on the premises to engage in such conduct.**
5. **Tenant shall use and occupy the leased premises so as not to disturb the peaceful enjoyment of adjacent or nearby premises by others.**
6. **Tenant shall not cause, nor permit nor tolerate to be caused, damage to the leased premises, except for ordinary wear and tear.**
7. **Tenant shall not engage in, nor tolerate nor permit others on the leased premises to engage in, "disruptive conduct" which is defined as "any form of conduct, action, incident or behavior perpetrated, caused or permitted by any occupant or visitor of a residential rental unit that is so loud, untimely, offensive, riotous or that otherwise unreasonably disturbs other persons in their peaceful enjoyment of their premises such that a report is made to the police and/or to the Code Enforcement Officer. It is not necessary that such conduct, action, incident or behavior constitute a criminal offense, nor 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.**
8. **Tenant acknowledges and agrees that this tenancy is subject to the provisions of the Residential Rental Unit Occupancy Ordinance of the Borough of Berwick and that the**

issuance by any municipal officer of the Borough of Berwick of a Certificate of Noncompliance with said Ordinance relating to the leased premises shall constitute a breach of the rental agreement of which this addendum is an Ordinance. Upon such breach, Landlord shall have the right and option to pursue any and all of the following remedies:

- A. Termination of the rental agreement without prior notice;**
- B. Bring an action to recover possession of the leased premises without abatement of rents paid, including reasonable attorney's fees and costs;**
- C. Bring an action to recover the whole balance of the rent and charges due for the unexpired lease term, including reasonable attorney's fees and costs;**
- D. Bring an action for damages caused by tenant's breach, including reasonable attorney's fees and costs.**

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.