

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE BOROUGH OF HUNTINGDON, HUNTINGDON COUNTY, PENNSYLVANIA, TO REGULATE RESIDENTIAL RENTAL UNITS WITHIN HUNTINGDON BOROUGH, REQUIRE PROPERTY OWNERS TO ADHERE TO MINIMUM BUILDING STANDARDS, REQUIRE PROPERTY OWNERS TO OBTAIN AN ANNUAL RENTAL LICENSE, IMPOSING OTHER DUTIES AND PROVIDING FOR PENALTIES FOR VIOLATION THEREOF.**

**Section 1. Title.**

This Ordinance shall be known and cited as the "Residential Rental Unit Ordinance of the Borough of Huntingdon." Following codification, this Ordinance shall become part of "Chapter 11 – Housing" of the Huntingdon Borough Code.

**Section 2. Purpose.**

It is the purpose of this article and the policy of Borough Council in order to protect and promote the public health, safety and welfare of its citizens and residents, to establish rights and obligations of Owners and Tenants relating to the rental of residential housing units in the Borough of Huntingdon and to encourage Owners to maintain and improve the quality of rental housing within the community.

**Section 3. Excluded Properties.** This ordinance and corresponding code section shall not apply to the following rental units:

- a. Owner-occupied dwelling units; provided it is the Owner's primary residence and that not more than two unrelated individuals, in addition to the immediate members of the Owner's family, occupy the dwelling unit at any given time.
- b. Hotels and motels.
- c. Hospitals and nursing homes.
- d. Federally subsidized housing maintained by the Huntingdon County Housing Authority.
- e. Residential rental units, group homes or abuse shelters which are subject to inspection and licensing by the United States of America or an agency thereof or the Commonwealth of Pennsylvania or an agency thereof, and where such inspection and licensing requirements of the residential rental units has been determined by the Borough of Huntingdon to be equal to or greater than those required herein.

**Section 4. Definitions.** As used in this article, the following terms shall have the meanings indicated:

- a. **Borough** — The Borough of Huntingdon, Huntingdon County, Pennsylvania.
- b. **Code** — Any code or ordinance adopted, enacted and/or in effect in and for the Borough of Huntingdon concerning fitness for habitation or the construction, maintenance, operation, occupancy, use or appearance of any Premises or residential

rental unit, but not limited to the Uniform Construction Code (hereinafter "UCC") §5-101, the Borough Property Maintenance Code §5-201 et seq., the Borough Hazardous Structures Code §4-201 et seq., and the Borough Health and Safety Code §10-101 et seq., and any duly enacted amendment or supplement to any of the above and any new enactment relating to the fitness for habitation or the construction, maintenance, operation, occupancy, use or appearance of any premises or residential rental unit.

- c. **Code Enforcement Officer** — The duly appointed Code Enforcement Officer having charge of the Office of Code Enforcement of the Borough of Huntingdon and any assistants or agents of the Code Enforcement Officer.
- d. **Common Area** — Any open area within a structure shared by Tenants or which the Tenants 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.
- e. **Disruptive Conduct** — Any form of conduct, action, incident or behavior perpetrated, caused or permitted by any Tenant 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 for the purposes of this article shall be deemed to have occurred unless the Code Enforcement Officer or Police shall investigate and make a determination that such did occur, and shall have kept written records, including a disruptive conduct report or the like, of such occurrence.

Disruptive Conduct for purposes of this article shall NOT include contacts arising out of or made by a resident, a tenant, occupant, guest or a Landlord for Police or emergency assistance by or on behalf of a victim of abuse, a victim of a crime or an individual in an emergency as defined in and as such contacts are protected in accord with Pennsylvania Act No. 2014-200, Protection for victims of abuse or crime, 53 Pa. C.S.A. § 304, as it may be amended from time to time.

- f. **Disruptive Conduct Report** — A written report of disruptive conduct on a form to be prescribed for such to be completed by the Code Enforcement Officer or the Police officer, as the case may be, who actually investigates an alleged incident of disruptive conduct and which form shall be maintained by the Code Enforcement Officer.
- g. **Dwelling Unit**—Any room or group of rooms forming a single housekeeping unit for one family having living, sleeping, sanitary and cooking facilities.
- h. **Residential Rental Unit License** — The license issued to the Owner of residential rental units under this article, which is required for the lawful rental and occupancy of residential rental units.
- i. **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.

- j. **Person** — A natural person, partnership, corporation, unincorporated association, limited partnership, limited liability company, trust or any other entity.
- k. **Police** — The Huntingdon Borough Police Department or any properly authorized member or officer thereof or any other law enforcement agency having jurisdiction within the Borough of Huntingdon.
- l. **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 residential rental units are located.
- m. **Rental Agreement** — A written agreement between Owner/Landlord and occupant/tenant.
- n. **Residential Rental Unit** — Any structure within the Borough of Huntingdon which is occupied or intended to be 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 or intends to receive any value, including but not limited to money or the exchange of services. Each apartment within a building is a residential rental unit requiring inspection and a license.
- o. **Tenant or 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 (same as “occupant”).

#### **Section 5. Residential Rental Unit License.**

- a. **License requirement.** Beginning on January 1, 2019, as a prerequisite to entering into a rental agreement or permitting the occupancy of any rental unit, the Owner of every such residential rental unit shall be required to apply for and obtain a license for each residential rental unit. The application for the license shall be in a form as determined by the Borough.
- b. **Appeal procedures.** In the event that a license is denied by the Code Enforcement Officer and/or the agent(s) thereof, the Owner shall have the right to appeal to the Borough Council of the Borough of Huntingdon within thirty (30) days of the date of the denial of the application for a license. The manner of the filing of the appeal shall be by submitting a demand for appeal in writing to the Huntingdon Borough Secretary.

- c. **Annual license term, fee and occupancy limit.** Each license shall have an annual term running from January 1st of a particular year through December 31st of the immediately succeeding year. If a license is granted between January 1 and the end of a particular year, it shall be for the remainder of the year in question. Upon application for a license prior to issuance or renewal thereof, each Owner/applicant shall pay to the Borough an annual license/inspection fee in an amount to be established, from time to time, by resolution of the Council of the Borough of Huntingdon and set forth in the Borough costs and fees schedule.
- d. **Assignability.** The license shall be assignable and transferable, upon notice being given to the Borough Code Enforcement Officer and upon payment to the Borough of an assignment/transfer fee, in an amount to be established, from time to time, by resolution of the Council of the Borough of Huntingdon and set forth in the Borough costs and fees schedule, as amended from time to time.
- e. **Unpaid Fines, Costs or Utilities.** No license shall be issued, nor will an assignment or transfer of the license be issued, if the Owner has unpaid Huntingdon Borough water or sewer service, unpaid fines and costs arising from enforcement of this article or any of the ordinances of the Borough of Huntingdon relating to land use and/or code enforcement and/or if any license fees under this article are due and owing to the Borough.
- f. **Permission of Access.** As part of the license requirement, all Owners of any parcels of real estate containing residential rental units shall permit access to the property so that the Code Enforcement Officer shall be able to complete all inspections necessary to determine compliance with this article and any other applicable ordinances of the Borough of Huntingdon. Refusal to allow entry of the residential rental unit by the Code Enforcement Officer to inspect the said unit shall be a violation of this article.
- g. **Registration of Residential Rental Unit.** In conformance with the Borough Code, and as a license requirement, every Owner of a residential rental unit must register each rental unit in accordance the Borough Rental Property Registration Code §11-101 et seq.

**Section 6. Inspection of Residential Rental Unit.**

- a. **Notice of Inspection.** The Owner of residential rental unit(s) shall permit inspections of any premises by the Code Enforcement Officer at reasonable times upon reasonable notice. The Owner shall allow and schedule inspections by the Codes Enforcement Officer of the premises during Borough business hours, after a minimum of five (5) calendar days' notice have been provided to the Owner. The Owner shall provide a minimum of three (3) calendar days' advance notice to at least one adult Tenant of each regulated rental unit of the time and date of the inspection.
  - 1. These advance notice requirements for inspections, as set forth above, shall not apply under the following circumstances:
    - i. When the Codes Enforcement Officer has reason to believe that an imminent threat to public health and safety may exist;
    - ii. If the Code Enforcement Officer is invited on the premises by a Tenant;

and/or

- iii. Where the Code Enforcement Officer has obtained an administrative search warrant. Upon a showing of probable cause that a violation of this article or any other ordinance of the Borough of Huntingdon has occurred, the Code Enforcement Officer may apply to the Magisterial District Judge having jurisdiction in the Borough of Huntingdon for a search warrant to enter and inspect the premises.
- b. **Time of Regular Inspection.** The residential rental units shall be divided into one of three inspection zones, and, shall receive regular inspections on a revolving schedule every three (3) years. Zones 2 and 3 shall be initially inspected in 2018. Zone 1 shall be inspected in 2019, Zone 2 shall be inspected in 2020 and, Zone 3 shall be inspected in 2021, and thereafter the schedule shall repeat with Zone 1. Borough Council shall define the inspection zones by resolution from time to time with the understanding that each zone will contain approximately the same number of rental units.
  - c. **Notice of Inspection.** For purposes of acknowledgment that the inspection has been made, the inspection report shall be provided to the Owner by mail. The Code Enforcement Officer has the authority to inspect any residential rental unit at any time if he or she has been provided with a public complaint or police report alleging that the Owner has not complied with any of the requirements herein.
  - d. **Scope of Inspection.** The scope of inspections shall be determined by the Code Enforcement Officer and may include, but not necessarily be limited to, the following:
    1. Life and safety (including Property Maintenance Code and Fire Code compliance, as such may be amended and revised from time to time) and relating to:
      - i. The panel box: verification of acceptable panel box;
      - ii. Wood-fuel-burning appliances;
      - iii. Hot water heater safety;
      - iv. Smoke detectors;
      - v. Outlets, including random sampling of outlets for polarity and proper grounding and GFCI outlets within four feet of a water source, as applicable;
      - vi. The condition of the interior, including holes in walls, holes in flooring or weakness of flooring; and
      - vii. The condition of the interior.
    2. Facade/exterior (including Property Maintenance Code and Fire Code compliance, as such may be amended and revised from time to time), and including:
      - i. House number on the Premises;
      - ii. Unit number displayed on unit entrance doors;

- iii. Broken windows or doors;
  - iv. The condition of the entranceway, including porches; and
  - v. The condition of the exterior.
- e. **Inspection No-Show Fee.** There shall be a fee for any no-show by an Owner and/or their representative failing to appear at a scheduled inspection, the fee shall be in an amount to be established, from time to time, by resolution of the Council of the Borough of Huntingdon and set forth in the Borough costs and fees schedule.

**Section 7. Disruptive conduct.**

The Tenant shall not engage in, nor tolerate, nor permit others on the premises to engage in, disruptive conduct or other violations of this article. 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 five (5) 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 the Police. It shall be a violation of this article for disruptive conduct to occur at a Premises.

**Section 8. Notice of violation and Noncompliance.**

- a. **Notice of Violation.** If the Code Enforcement Officer determines that there are violations of any codes or ordinances of the Borough of Huntingdon, the Code Enforcement Officer shall provide a notice of violation to the Owner, which shall at a minimum set forth the following information: Street address of the property;
- 1. Date of the inspection;
  - 2. Name of the inspector; and
  - 3. Violation or list of violations.
- b. **Noncompliance.** The following procedure is to be followed after a Notice of Violation is issued by the Code Enforcement Officer:
- 1. Within fifteen (15) days of the date of a written notice from the Borough of Huntingdon Code Enforcement Officer that there has been a violation of this article or any other applicable ordinances of the Borough of Huntingdon, 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.
  - 2. Within twenty-five (25) days of the date 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 Huntingdon setting forth what action the Owner has taken to remedy the violation and what steps he/she/it has taken to prevent a reoccurrence of the violation. The report shall also set forth a plan as to the steps the Owner will take in the future if the violation reoccurs.

3. 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/her/its initiative, shall enforce the plan, and failure to do so shall be a violation of this article of the Borough of Huntingdon.
4. If the Owner fails to comply with the Code Enforcement Officer or otherwise fails to address the violation(s), the Code Enforcement Officer shall have grounds to issue penalties and determine whether the Owner's license should be suspended, revoked or renewed.

### **Section 9. Grounds for Nonrenewal, Suspension or Revocation of License.**

- a. **General.** The Code Enforcement Officer may initiate disciplinary action against an Owner that may result in a formal warning, nonrenewal, suspension or revocation of the Owner's license for violating any provision of this article that imposes a duty upon the Owner and/or for failing to regulate the breach by Tenants as provided in this article.
- b. **Levels of discipline.**
  1. **Formal warning:** formal written notification of at least one violation of this article. Upon satisfactory compliance with this article and any conditions imposed by the Code Enforcement Officer of the Borough of Huntingdon, the formal warning shall be removed when the Owner applies for license renewal at a time set by the Code Enforcement Officer of the Borough of Huntingdon.
  2. **Nonrenewal:** the denial of the privilege to apply for license renewal after expiration of the license term. The Borough will permit the Owner to maintain Tenants 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 of the Borough of Huntingdon.
  3. **Suspension:** the immediate loss of the privilege to rent residential rental units for a period of time set by the Code Enforcement Officer. 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 Tenants.
  4. **Revocation:** the immediate loss of the privilege to rent residential rental units for a period of time set by the Code Enforcement Officer 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 Tenants.

- c. **Criteria.** The Code Enforcement Officer, when applying discipline, shall consider the following:
1. The effect of the violation on the health, safety and welfare the Tenants of the residential rental unit and other residents of the premises.
  2. The effect of the violation on the neighborhood.
  3. Whether the Owner has prior violations of this article and other ordinances of the Borough or has received notices of violations as provided for in this article.
  4. Whether the Owner has been subject to disciplinary proceedings under this article.
  5. The effect of disciplinary action on the Tenants.
  6. The action taken by the Owner to remedy the violation and to prevent future violations, including any written plan submitted by the Owner.
  7. 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 article.
  8. In addition to applying discipline as set forth above, the Code Enforcement Officer may impose upon the existing or subsequent licenses reasonable conditions related to fulfilling the purposes of this article.
- d. **Grounds for imposing discipline.** Any of the following may subject an Owner to discipline as provided for in this article:
1. Failure to abate a violation of Borough codes and ordinances that apply to the premises within the time directed by the Code Enforcement Officer.
  2. Refusal to permit the inspection of the premises by the Code Enforcement Officer as required by this article.
  3. Failure to take steps to remedy and prevent violations of this article by Tenants of residential rental units as required by this article.
  4. Failure to file and implement an approved plan to remedy and prevent violations of this article by Tenants of the rental unit as required by this article.
- e. **Nonexclusive remedies.** The penalty provisions of this section and the license nonrenewal, suspension and revocation procedures provided in this section 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 article. The remedies and procedures provided in this section for violations 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 section, article, code or ordinance.



**Section 10. Procedure for nonrenewal, suspension or revocation of license.**

- a. **Notification and hearing.** Following a determination that grounds for nonrenewal, 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 1st 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 nonrenewal, 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 the appeal, in writing, to the Huntingdon Borough Secretary within 30 days of the date set forth on the written notice of the decision suspending, revoking or declining to renew the license. The appeal shall include 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.
- b. **Service of Notification.** Notices given under this article shall be sent to the Owner and manager, if applicable, by U.S. Certified Mail, return receipt requested, or in the alternative, personally served by hand delivery to the Owner and manager, if applicable. Additionally, in either case, the notice shall be posted at a conspicuous place on the premises. In the event that notice sent by U.S. Certified Mail, return receipt requested, is returned by the postal authorities marked "unclaimed" or "refused," and if personal service by hand delivery also cannot be accomplished after a reasonable attempt so to do, 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. A U.S. Postal Certificate of Mailing, PS Form 3817, or successor form, shall be obtained to confirm mailing. If such notice is not returned by the postal authorities within five 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.

**Section 11. Penalties for Renting a Residential Unit without a License.**

- a. **Enforcement.** This article shall be enforced by the Code Enforcement Officer, as defined herein, of the Borough of Huntingdon.
- 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 such without a valid, current license issued by the Borough of Huntingdon authorizing such operation.
- c. **Penalties.** This section shall be enforced by an action brought before a Magisterial District Judge of competent jurisdiction in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Criminal fines shall be imposed as follows:
  1. Any Owner/Landlord of a residential rental unit violating this section shall upon conviction thereof be sentenced to pay a fine of \$500 for each and every offense. Each day of the said violation for each unlicensed rental unit shall be a separate offense.
  2. In addition to the fines set forth in this section, the Borough of Huntingdon shall be entitled to reasonable attorneys' fees and court costs incurred in enforcing this article. The said fees and costs shall be added to any penalties set forth above.
- d. **Remedies.** 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 article or the applicable codes, ordinances or statutes, including, where appropriate, equitable proceedings and injunction proceedings.

**Section 12. Penalties for Owner Failing to Correct a Maintenance and/or Violation.**

If the Owner of the 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 Huntingdon 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 that 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 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 article or the applicable codes, ordinances or statutes, including, where appropriate, equitable proceedings, injunction, condemnation proceedings or declaration of the premises as unfit for human habitation, or suspension, revocation or nonrenewal of the license issued hereunder.

**Section 13: Severability.**

If any section or provision of this Ordinance is declared by any court of competent jurisdiction to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect the constitutionality, legality or validity of this Ordinance as a whole nor the constitutionality, legality or validity of any other section or provision of this ordinance other than the one so declared to be unconstitutional, illegal or invalid.

**Section 14: Repeal of Conflicting Ordinances.**

All existing ordinances of the Borough or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed.

**Section 15: Effective Date.**

This Ordinance shall take effect on the date enacted and ordained by Huntingdon Borough Council.

**ENACTED AND ORDAINED** At a meeting of the Borough Council of the Borough of Huntingdon held this \_\_\_\_ day of \_\_\_\_\_, 2018.

ATTEST:

BOROUGH OF HUNTINGDON

\_\_\_\_\_  
Melody Parsons, Secretary

\_\_\_\_\_  
Nicole Houck, President

Approved this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
David Wessels, Mayor