

ORDINANCE NO. 14827

FILE OF CITY COUNCIL

BILL NO 50 - 2010

INTRODUCED BY COUNCILPERSONS Schweyer, D'Amore,
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September 1, 2010

AN ORDINANCE

Amending Article 1759, Licensing Residential Rental Units, by requiring the owner, operator, responsible agent or manager to begin eviction proceedings against the occupants for any violation of the Landlord Tenant Act relating to drug offenses set forth in 68 P.S. 205.505A .

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

SECTION ONE: That Article 1759 be amendment to include the following provisions relating to violations of Landlord Tenant Act relating to drug offenses set forth in 68 P.S. 205.505A , and to read as follows:

**ARTICLE 1759
LICENSING RESIDENTIAL RENTAL UNITS**

(Passed by Certified Voter Initiative on May 18th, 1999, Ordinance No. 13775)

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1759.01 PURPOSE

The purpose of this ordinance and the policy of the City of Allentown shall be to protect and promote the public health, safety and welfare of its citizens, to establish rights and obligations of owners and occupants relating to residential rental units in the City and to encourage owners and occupants to maintain and improve the quality of

rental housing within the community. As a means to these ends, this ordinance provides for a systematic inspection program, registration and licensing of residential rental units, and penalties.

In considering the adoption of this ordinance, the City makes the following findings:

1. There is a growing concern in the community with the general decline in the physical condition of residential rental units;
2. City records indicate there is a greater incidence of problems with the maintenance and upkeep of residential properties which are not owner occupied as compared to those that are owner occupied;
3. City records indicate there are a greater number of disturbances at residential rental units than all other properties combined; and
4. City records indicate that violations of the various codes are generally less severe at owner-occupied units as compared to residential rental units.

1759.02 DEFINITIONS

The following definitions are hereby added to Section 1742.03 -- Definitions.

Codes means any state or local code or ordinance adopted, enacted or in effect in and for the City of Allentown including, but not limited to, The Pennsylvania Uniform Construction Code International Building Code, International Plumbing Code, International Mechanical Code, National Electrical Code, Fire Prevention Code, Property Rehabilitation and Maintenance Code, International Property Maintenance Code, International Residential Code, Zoning Ordinance, Solid Waste Ordinance, Residential Recycling Ordinance, and general nuisance ordinances.

Disruptive Conduct means 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, or causes damage to said premises or causes damages to said premises, or risks a catastrophe by destroying, damaging, disabling or failing to maintain smoke detectors or other life safety features, such that a report is made to or by a Police Officer and/or a Public 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 said 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 a Public Officer or a Police Officer shall investigate and make a determination that such did occur, and keep written records, including a Disruptive Conduct Report, of such occurrences. The tenant and the owner, operator, responsible agent or manager shall be notified of any such occurrences, in writing. (14435 §1 11/7/06)

Disruptive Conduct Report means a written report of disruptive conduct on a form to be prescribed therefore, to be completed by a Police Officer or a Public Officer, as the case may be, who actually investigates an alleged incident of disruptive conduct and which shall be maintained by the Department of Community Development.

Hotel Unit means any room or group of rooms located within a hotel or motel forming a single habitable unit used or intended to be used for living and sleeping only on a transient basis for a period of less than thirty (30) days.

Notice of Violation is a written document issued to a person in violation of a City ordinance which specifies the violation and contains a directive to take corrective action within a specified time frame or face further legal action.

Residential Rental License means a document issued by the Department of Community Development to the owner, operator, responsible agent or manager of a residential rental unit upon correction of all applicable code violations granting permission to operate a residential rental unit in the City of Allentown. Such license is required for lawful rental and occupancy of residential rental units under this Article, unless a Public Officer has not inspected the unit or violations of the applicable codes are being corrected and the unit operates under a Residential Rental Registration, or the residential rental unit is exempt from the license provisions of this Article.

Residential Rental Registration means the document issued annually for a fee by the City of Allentown to the owner, operator, responsible agent or manager of a residential rental unit evidencing the existence of said residential rental unit. This registration shall be required until the Public Officer inspects the unit and issues a Residential Rental License. A Residential Rental Registration shall be required for lawful rental and occupancy of residential rental units under this Article, unless a Public Officer has inspected the residential rental unit and has issued a Residential Rental License or the residential rental unit is exempt from the registration provisions of this Article. This registration does not warrant the proper zoning, habitability, safety, or condition of the residential rental unit in any way.

Residential Rental Unit means a rooming unit or a dwelling unit let for rent, or an other-than-owner-occupied residential unit. A residential rental unit shall not include a hotel unit. A residential rental unit includes dwelling units under lease-purchase agreements, or long-term [greater than six (6) months] agreements of sale.

Violation Ticket is a form issued by a police officer or public officer to a person who violates the provisions of this Code. The violation ticket is an offer by the City of Allentown extended to a person to settle a violation by paying the fine in lieu of a citation being issued against the violator. (14737 §1 8/24/2009

1759.03 OWNER AND OCCUPANT DUTIES

A. Owner's Duties: It shall be the duty of every owner, operator, responsible agent or manager to keep and maintain all residential rental units in compliance with all applicable codes and provisions of all applicable state laws and regulations and local ordinances, and to keep such property in good and safe condition and to be aware of, and to act to eliminate disruptive conduct in such residential rental units.

It shall be unlawful for any person to conduct or operate or cause to be rented either as owner, operator, responsible agent or manager any residential rental unit within the City of Allentown without having a Residential Rental Registration or a Residential Rental License, as required by this Article.

The owner, operator, responsible agent or manager shall include the amendment attached hereto as the Addendum to Residential Rental Agreement in each lease of a residential rental unit taking effect on or after January 1, 2000. Said amendment is hereby considered to be a part of every lease of a residential rental unit in the City of Allentown executed on or after January 1, 2000.

It shall be the responsibility of every owner, operator, responsible agent or manager to display the Residential Rental Registration or Residential Rental License in the residential rental unit. The Residential Rental Registration or Residential Rental License shall include the following information:

1. The name, mailing address and telephone number of the owner, operator, responsible agent or manager;
2. The evenings on which garbage and recycling are to be placed curbside for collection;
3. The telephone number to call to register complaints regarding the physical condition of the residential rental unit;

4. The telephone number for emergency police, fire and medical services;
5. The date of expiration of the Residential Rental Registration or Residential Rental License; and
6. A summary of the owner's and occupant's duties under this Article.

It shall be the responsibility of every owner, operator, responsible agent or manager to employ policies and to manage the residential rental units under his/her control in compliance with the provisions of this ordinance, City codes and applicable State laws.

No Residential Rental Registration or Residential Rental License shall be issued to any residential rental unit owned or operated by a person residing outside the County of Lehigh unless there is provided to the Department of Community Development the name, mailing address and telephone number of a designated responsible agent residing or working within the County of Lehigh, authorized to accept service of process on behalf of the legal owner of said residential rental unit. For the purpose of this section, a post office box is not acceptable for the owner and/or responsible agent's address.

This designation shall not be valid unless signed by the owner/operator and the responsible agent designated to act on behalf of the absentee owner/operator. The absentee owner/operator shall be required to notify the Department of Community Development within thirty (30) days of any change in responsible agent.

Owners or operators residing outside the County of Lehigh but within a ten (10) mile radius of Allentown City Hall and meeting the following criteria shall be exempt from naming a designated responsible agent:
No cases of three (3) disruptive conduct complaints within a twelve (12) month period regarding the same occupants of a particular residential rental unit, as documented by upheld Disruptive Conduct Reports;

All taxes and fees paid by December 31 of the preceding year;

The residential rental units must pass inspection at the first re-inspection, both interior and exterior of the property must be in compliance with all codes (there will be an allowance for exterior repairs for the time of the year);

The previous year's annual license fee was paid by March 31 of each year prior to 2005 and by April 15th for 2005, and for each year after 2005; and (14219 §2 10/21/04)

The owner, operator or manager must correct any code violations cited between the five (5) year full inspections within thirty (30) days.

B. Occupant Duties: The occupant(s) shall comply with all obligations imposed by this Article and all applicable codes and ordinances of the City of Allentown, as well as all State laws and regulations.

The occupant(s) shall conduct themselves and require other persons, including but not limited to, guests on the premises and within their residential rental unit with their 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 people occupying the same.

The occupant(s) shall not engage in, nor tolerate, nor permit others on the premises to cause damage to the residential rental unit or engage in disruptive conduct, or other violations of this Article, City codes or applicable State laws. The occupant(s) shall not tamper with or interfere with the operation or effectiveness of any smoke detector. Every occupant shall maintain in a clean and sanitary condition that part of the dwelling, dwelling or rooming unit, sleeping unit and yard which he occupies and controls. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests in it or in the

yard. In a two-unit or multi-unit dwelling, the occupant(s) shall be responsible for such extermination whenever his dwelling is the only one infested.

Police Officers or Public Officers shall investigate alleged incidents of disruptive conduct. They shall complete a Disruptive Conduct Report upon a finding that the reported incident constitutes disruptive conduct as defined herein. The information filed in said report shall include, if possible, the identity of the alleged perpetrator(s) of the disruptive conduct and all other obtainable information, including the factual basis for the disruptive conduct described on the prescribed form. A copy of the disruptive conduct report shall be given or mailed to the occupant and mailed to the owner, operator, responsible agent or manager within ten (10) working days of the occurrence of the alleged disruptive conduct.

The occupant or the owner, operator, responsible agent or manager shall have ten (10) working days from the date of receipt of a Disruptive Conduct Report to appeal the contents of said Disruptive Conduct Report. The appeal shall be made in writing and submitted to the Department of Community Development. An appeal of the third Disruptive Conduct Report within a twelve (12) month period shall stop the eviction proceedings against the occupants until the appeal is resolved, only if the eviction proceedings were a direct result of the third Disruptive Conduct Report.

After three (3) disruptive conduct incidents in any twelve (12) month period by an occupant documented by Disruptive Conduct Reports, or any violation of Landlord Tenant Act relating to drug offenses set forth in 68 P.S. 205.505A, the owner, operator, responsible agent or manager shall have ten (10) working days from the date of his/her receiving the notice to begin eviction proceedings against the occupants. Failure to take such action will result in the immediate revocation of the Residential Rental Registration or Residential Rental License. The residential rental unit involved shall not have its Residential Rental Registration or Residential Rental License reinstated until the reinstatement fee is paid and the disruptive occupants have been evicted, the Magistrate has ruled in the occupant's favor, the Magistrate has ruled in the owner's favor but has not ordered the eviction of the occupant(s), or the occupants have filed an appeal to a higher court or declared bankruptcy, thereby preventing their eviction. The disruptive occupants, upon eviction, shall not re-occupy any residential rental unit on the same premises involved for a period of at least one (1) year from date of eviction. This paragraph is not intended to limit or inhibit the owner, operator, responsible agent or manager's right to initiate eviction actions prior to the third disruptive conduct incident.

The content of the Disruptive Conduct Report shall count against all occupants of the residential rental unit. More than one (1) Disruptive Conduct Report filed against the occupants of a residential rental unit in a twenty-four (24) hour period shall count as a single Disruptive Conduct Report for the purpose of the preceding paragraph. The Department of Community Development shall maintain a list of the names of all occupants evicted as a result of the preceding paragraph. The names shall remain on the list for a period of five (5) years. (14737 §1 8/24/2009)

1759.04 EXEMPT UNITS

All property owned by the Housing Authority of the City of Allentown or the Housing Authority of the County of Lehigh which is inspected annually by those agencies to assess conformance with federal standards, or properties that are inspected annually for compliance with the requirements of the United States Department of Housing and Urban Development or the Pennsylvania Housing Finance Agency, regardless of the occupants, shall no longer be exempt but payment will be deferred until October 31st in the year 2010 only, without penalty. Commencing in January 1, 2011 all exemptions and deferments under this paragraph shall be void. (14753 §1 11/18/09)

The registration and licensing provisions of this Article shall not apply to hospitals, nursing homes, group homes or other rental units used for human habitation which offer or provide medical or nursing services, and wherein all operations of such facilities are subject to county, state or federal licensing or regulations concerning the health and safety of the users, patients or tenants. The registration and licensing provisions of this Article also shall not

apply to hotel units, as defined previously, or dormitories, fraternity houses and sorority houses, as defined in the City's Zoning Ordinance.

If, in response to a complaint, an exempt unit is found to be in violation of a City code, the owner, operator, responsible agent or manager shall correct the violation(s) within the time frame cited by the Public Officer. If the violation(s) is/are not corrected, the unit shall lose its exemption until the violation(s) is/are corrected. If three (3) verified complaints are received in any twelve (12) month period, the unit shall lose its exemption for a period of five (5) years.

1759.05 RESIDENTIAL RENTAL REGISTRATION

A. Registration Required for Rental Units: By March 31, 2000, the owner, operator, responsible agent or manager of each residential rental unit shall apply for a Residential Rental Registration with the Department of Community Development. By March 31st of each calendar year from 2000 through 2004, inclusive, and by April 15th of 2005 and all subsequent years, the owner, operator, responsible agent or manager of each residential rental unit shall continue to apply for a Residential Rental Registration until the unit is licensed, at which time he/she shall be issued a Residential Rental License. For each calendar year thereafter, the owner, operator, responsible agent or manager of the residential rental unit shall continue to apply for a Residential Rental License. (14219 §3 10/21/04)

B. Issuance of Residential Rental Registration: A Residential Rental Registration shall be issued if the owner or operator of the residential rental unit provides the name of a responsible agent (if applicable), pays the registration fee and is current on water and sewer fees for the residential rental unit, as defined in Article 925, Water Rates and Article 945, Sewer Rates of the Codified Ordinances of the City of Allentown, respectively. This registration does not warrant the proper zoning, habitability, safety or condition of the residential rental unit in any way.

C. Revocation of Residential Rental Registration: A Residential Rental Registration shall be revoked if the owner or operator of a residential rental unit does not provide and maintain for City records the name and current mailing address for the owner, operator and responsible agent (if applicable), has not brought the unit into compliance with the minimum standards for safety and maintenance as per 1759.06 (B) (1) or (B) (2), does not pay the registration fee, is not current on water and sewer fees and other municipal charges for the residential rental unit, does not correct a code violation found in response to a complaint within the time frame cited by the Public Officer, and/or has not complied with the disorderly conduct provision of this ordinance, as described above.

D. Reinstatement of Residential Rental Registration: A Residential Rental Registration shall be reinstated if the owner or operator of a residential rental unit corrects the reason for the revocation of the Residential Rental Registration and has paid the Residential Rental Registration reinstatement fee. (14737 §1 8/24/2009)

1759.06 RESIDENTIAL RENTAL LICENSE

A. Residential Rental License Required for Residential Rental Units: A Residential Rental License shall be required for each residential rental unit unless the residential rental unit has not been inspected or has outstanding violations of the applicable codes and operates under a Residential Rental Registration, or is exempt as defined above.

Prior to initial occupancy of newly constructed residential rental units, newly created residential rental units, or substantially rehabilitated residential rental units (as documented by a certificate of occupancy), the owner, operator, responsible agent or manager of each residential rental unit shall register with and make written application to the Department of Community Development for a Residential Rental License as herein provided. Such units will be exempt from further inspection, unless a complaint of violation has occurred or a Public Officer has probable cause to believe that a violation has occurred as provided in Section 1741.08, for a period of at

least five (5) years and will be inspected again when the area in which they are located is next scheduled for inspection after the five (5) year exemption has expired.

For licensing purposes, the Department of Community Development shall fully inspect each residential rental unit no more frequently than once within a five (5) year period unless a complaint of violation has occurred or a Public Officer has probable cause to believe that a violation is occurring as provided in Section 1741.08. Unless sooner revoked for cause, the Residential Rental License shall remain in effect until such time as the next regularly scheduled inspection occurs, assuming the annual license fee is paid.

Initial inspections will occur in accordance with a phased-in systematic inspection program to be prepared and made available upon request by the Department of Community Development. A minimum sixty (60) days written notice shall be given for all initial inspections. The penalty for not allowing an inspection shall be revocation of the Residential Rental Registration or the Residential Rental License.

B. Compliance: If the Public Officer, upon completion of the inspection, finds that the applicable codes have not been met, a Notice of Violation shall be issued, as prescribed in Section 1741.10 and 1741.11.

1. Ten (10) Day Notice of Violation: If the Public Officer finds one (1) or more of the following violations:

Multiple Dwelling Unit Fire Exits, Section 1745.06
Separation of Common Walls and Floors, Section 1745.09
Automatic Fire Alarm Systems, Section 1745.08
Multiple Dwelling Unit Fire Protection, Section 1745.04
Heating, Section 1749.05
Hot and Cold Water Supplies, Section 1743.05
Water Closet and Basin, Section 1743.02
Plumbing Connections, Section 1743.06
Electrical Hazards, Section 1744.05
Structural Hazards, Section 1747.02 and Section 1747.03
Overcrowding, Sections 1740.02, 1746.03, 1746.04, 1746.05
Serious Roof Leak, Section 1747.02

a. A Ten (10) Day Notice of Violation shall be issued; and

b. The residential rental unit shall be determined Unfit for Human Habitation and ordered vacated as prescribed in 1741.15 and shall remain vacant until the violation is abated. If after ten (10) days from the receipt of the Ten (10) Day Notice of Violation, a re-inspection reveals that the violations are not corrected and arrangements satisfactory to the Public Officer have not been made, the Residential Rental Registration or Residential Rental License for the residential rental unit shall be revoked, and if the residential rental unit is vacant, it shall remain vacant.

2. Thirty (30) Day Notice of Violation: If the Public Officer finds violations other than those listed in 1759.06(B)(1), a Thirty (30) Day Notice of Violation shall be issued.

If after thirty (30) days from the date of receipt of the Thirty (30) Day Notice of Violation, the first re-inspection reveals that all violations have not been corrected, a Thirty (30) Day Legal Action Warning shall be issued.

If after thirty (30) days from the date of receipt of the Thirty (30) Day Legal Action Warning, the second re-inspection reveals that all violations have not been corrected, the Residential Rental Registration or the

Residential Rental License for the residential rental unit shall be revoked, and if the residential rental unit is vacant, it shall remain vacant.

A fee will be charged for the initial inspection and for each re-inspection after the second re-inspection. The Department of Community Development shall maintain a list of all residential rental units and their ownership that have been the subject of prosecution in Magistrates Court during the preceding five (5) years.

C. **Issuance of Residential Rental License:** A Residential Rental License shall be issued if the residential rental unit meets the following conditions:

1. The Public Officer finds that the residential rental unit is in compliance with the applicable codes;
2. The owner, operator or manager provides the name of a responsible agent (if applicable);
3. The owner, operator, responsible agent or manager pays the license inspection and re-inspection (if applicable) fee(s);
4. The owner, operator, responsible agent or manager is current on water and sewer fees for the residential rental unit, as defined in Article 925, Water Rates and Article 945, Sewer Rates of the Codified Ordinances of the City of Allentown, respectively;
5. The uses of the property are in compliance with the Zoning Ordinance of the City of Allentown;

D. **Revocation of Residential Rental License:** A Residential Rental License shall be revoked if the owner or operator of a residential rental unit does not provide and maintain for City records the name and current mailing address for the owner, operator and responsible agent (if applicable), does not correct a code violation found in response to a complaint within the time frame cited by the Public Officer, does not pay the annual license fee, is not current on water and sewer fees and other municipal charges for the residential rental unit, changes the uses of the property so as to no longer be in compliance with the Zoning Ordinance of the City of Allentown, and/or has not complied with the disorderly conduct provision of this ordinance, as described above. If the Residential Rental License is revoked and the residential rental unit is vacant, it shall remain vacant. (14737 §1 8/24/2009)

E. **Reinstatement of Residential Rental License:** A Residential Rental License shall be reinstated if the owner or operator of a residential rental unit corrects the reasons for the revocation of the Residential Rental License and has paid the license reinstatement fee. (14737 §1 8/24/2009)

1759.07 SALE OR TRANSFER OF RESIDENTIAL RENTAL UNITS

A Residential Rental Registration issued hereunder is not automatically transferable to any person or entity who has acquired ownership of a residential rental unit. A Residential Rental Registration shall be revoked upon failure to apply for its transfer within sixty (60) days of the date of sale or transfer of ownership of the residential rental unit.

A Residential Rental License shall not be transferred. In the case of licensed residential rental units that are sold or transferred, the new owner shall seek a Residential Rental License for each residential rental unit and have each residential rental unit inspected. Failure to seek a Residential Rental License for each residential rental unit within sixty (60) days of the date of sale or transfer of ownership shall result in the revocation of the Residential Rental License.

1759.08 APPEALS OF REVOCATION OF RESIDENTIAL RENTAL REGISTRATION OR RESIDENTIAL RENTAL LICENSE

Property Condition Appeals: Any person aggrieved by any decision of a Public Officer may appeal to the Property Rehabilitation and Maintenance Code Board of Appeals in accordance with the provisions of Section 1741.12, et seq., of Title Five, Property Rehabilitation and Maintenance Code.

Disruptive Conduct Appeals: Any person aggrieved by any decision of a Police Officer or Public Officer in regard to a Disruptive Conduct Report or the revocation of a Residential Rental Registration or Residential Rental License may appeal to the Disruptive Conduct Board of Appeals. Such appeal must be filed, in writing, within ten (10) working days from the date of receipt of the Disruptive Conduct Report or notice of revocation.

1759.09 DISRUPTIVE CONDUCT BOARD OF APPEALS ORGANIZATION AND POWERS

A. Any person aggrieved by any decision of a Police Officer or Public Officer in regard to a Disruptive Conduct Report or the revocation of based upon the issuance of Disruptive Conduct reports or a revocation a Residential Rental Registration or Residential Rental License based on any the failure to abide by any other provision of this ordinance, may appeal to the Disruptive Conduct Board of Appeals. Such appeal must be filed, in writing with appropriate fee, within ten (10) working days from the date of receipt of the Disruptive Conduct Report or notice of revocation.

B. The Disruptive Conduct Board of Appeals shall be a body of seven (7) members consisting of: the Director of Community Development or his/her designee who shall serve as Chairperson; a Councilperson, the Director of Public Works or his/her designee; the Chief of Police or his/her designee; an owner, operator, responsible agent or manager of a residential rental unit(s) in Allentown; an occupant of a residential rental unit residing in the City of Allentown; and a member of a community group recognized by the Bureau of Planning. (14435 §2 11/7/06)

There shall be three (3) alternate members: an owner, operator, responsible agent or manager, an occupant of a residential rental unit residing in the City of Allentown and a member of a community group recognized by the Bureau of Planning.

All members of the board shall be appointed by the Mayor with the advice and consent of the Council of the City of Allentown, with the exception of the Council Member, who shall be appointed by the Council President.

A member or alternate member shall serve a term of not more than three (3) years from the time of appointment or reappointment or until his/her successor shall take office. Members and alternates of the initial board shall be appointed to staggered terms of one (1), two (2) and three (3) years.

Designees and alternate members may be requested to attend meetings in absence of a regular member and shall have all the powers of a regular member at such meetings.

Four (4) members shall constitute a quorum of the Board. A majority vote of the members of the quorum of the Board shall prevail. A tie vote shall be deemed as a denial of the appeal.

C. The Board shall have the following powers:

1. To adopt and administer the rules of procedure regarding its organization, officers (except the Chairperson), times and places of meetings, conduct of meetings and other legal procedures relating to the hearing and determination of appeals and other matters within the Board's jurisdiction;

2. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Police Officer or Public Officer in the enforcement of the provisions of this Ordinance.

3. To modify any notice of violation or order and to authorize a variance from the terms of this Code when because of special circumstances, undue hardship would result from literal enforcement, and where such variance substantially complies with the spirit and intent of the Code;

4. To grant a reasonable extension of time for the compliance of any order where there is a demonstrated case of hardship and evidence of bona fide intent to comply within a reasonable time period;

5. In exercising the above mentioned powers, the Board shall act with reasonable promptness and seek to prevent unwarranted delays prejudicial to the party involved and to the public interest; provided, however, that the Board shall file its decision within ten (10) working days after the appeal hearing.

6. The Board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as justice would require, and, to that end, shall have all the powers of the Police Officer or Public Officer; provided, however, that the Disruptive Conduct Board of Appeals, in its determination, shall be bound by this Article and shall not ignore the clear provisions and intent of this Article.

D. Any person, including the Police Officer or Public Officer for the City, aggrieved by any decision of the respective Board, may appeal to the Court of Common Pleas of Lehigh County. Such appeal shall be made by a duly verified petition which shall set forth the factual and legal basis upon which the decision of the Board is alleged to be illegal, in whole or in part. Such petition shall be presented to the Court of Common Pleas and a notice thereof must be given to the appellee within thirty (30) days after the filing of the decision in the office of the Board.

E. If this appeal is of a third Disruptive Conduct Report and the decision of the Police Officer or Public Officer has been affirmed, and no appeal is pending, within ten (10) working days after the expiration of the time for compliance as required by the decision of the Disruptive Conduct Board of Appeals or Court of Common Pleas, the Public Officer shall re-inspect to determine compliance as to whether the occupant has voluntarily moved from the premises or the owner has initiated eviction proceedings.

F. If, when so required by a third Disruptive Conduct Report or any violation of Landlord Tenant Act relating to drug offenses set forth in 68 P.S. 205.505A, the occupant has not voluntarily moved or the owner has not initiated eviction proceedings, the public officer shall institute revocation of the Residential Rental Registration or the Residential Rental License.

G. The Disruptive Conduct Report and all records of all proceedings and the final disposition of the matter outlined in the appeal shall be public and available for inspection; provided, however, that the Police Officer or Public Officer may prescribe reasonable regulation regarding the time and manner of inspection.

1759.98 SEVERABILITY

The provisions of this article are declared to be severable and if any section, sentence, clause or phrase of this article shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this article but they shall remain in effect, it being the legislative intent that this article shall stand notwithstanding the invalidity of any part.

1759.99 FEES/PENALTIES SECTION

A. FEES

1. Registration:

The fee for a Residential Rental Registration shall be Seventy-five Dollars per residential rental unit per year due and payable by on or before April 30th of each year until a Residential Rental License is obtained. (14047 §1 12/10/02 14219 §1 10/21/04; 14436 §1 11/7/06; 14737 §1 8/24/2009; 14753 §1 11/18/09)

For all payments received after April 30th of any year, a late fee shall be assessed, such that the total fee shall be One Hundred (\$100) Dollars per residential rental unit. (14219 §1 10/21/04; 14436 §1 11/7/06)

2. Licensure:

The fee for a Residential Rental License or License shall be Seventy-five (\$75.00) Dollars per residential rental unit per year due and payable on or before April 30th of each year. (14047 §1 12/10/02 14219 §1 10/21/04; 14436 §1 11/7/06)

For all payments received after April 30th of any year, a late fee shall be assessed, such that the total fee shall be One Hundred (\$100) Dollars per residential rental unit. (14219 §1 10/21/04; 14436 §1 11/7/06; 14744 §1 10/20/09)

3. Re-inspections:

The fee for the second re-inspection shall be Seventy-five (\$75) Dollars per residential unit. The fee for the third and all subsequent re-inspections shall be One Hundred Fifty (\$150) Dollars per residential rental unit per re-inspection. (14436 §1 11/7/06)

4. Reinstatement:

The fee to reinstate a revoked Residential Rental Registration or a Residential Rental License shall be One Hundred (\$100) Dollars per residential rental unit. (14047 §1 12/10/02; 14436 §1 11/7/06; 14737 §1 8/24/2009)

B. PENALTIES

1. Revocation of Residential Rental Registration or Residential Rental License:

A fine of not less than Five Hundred (\$500) Dollars per residential rental unit for each month the violation exists. Each month the violation exists constitutes a separate violation. A fine shall not be sought for any period during which the residential rental unit is vacant and the owner, operator, responsible agent or manager is taking appropriate action to correct the violations. (14436 §1 11/7/06)

2. Failure to Register, or Failure to Seek a Residential Rental License (for newly constructed, newly created or substantially rehabilitated residential rental units):

The owner, responsible agent or manager shall be sent a Thirty (30) Day Notice of Violation, warning them of their failure to comply with the terms of this Article. If they do not comply at the end of thirty (30) days, there shall be a fine of not less than Five Hundred (\$500) Dollars per residential rental unit for each month the violation exists. Each month the violation exists constitutes a separate violation.

C. Whoever violates any provision of this Code or any Section of this Code shall upon a first offense be fined not more than One Thousand (\$1,000) Dollars or imprisoned not more than ninety (90) days, or both.

D. If, after any conviction for violation of this Code or any lawful order issued pursuant thereto, such person continues violation, then such person shall be liable for further prosecution, conviction, and punishment without any necessity of the Public Officer to issue a new notice of violation or order, and until such violation has been corrected.

E. In addition to prosecution of persons violating this Code, the Public Officer, or the Bureau of Law or any duly authorized agent of the City may take such civil or equitable remedies in any court of record of the Commonwealth of Pennsylvania, against any person or property, real or person, to effect the provisions of this Code. (14737 §1 8/24/2009)

(A section of the initiative also states that the Department of Community Development shall be responsible for promulgating rules and regulations to carry out Article 1759.)

ADDENDUM TO RESIDENTIAL RENTAL AGREEMENT

This Addendum to Residential Rental Agreement is made this _____ day of _____, _____, and is incorporated into and shall be deemed to amend and supplement the Residential Rental Agreement made by the undersigned Tenant and Landlord, their heirs, successors and assigns, dated _____. The Residential Rental Agreement and this Addendum pertaining to the premises described in said agreement and located at _____.

This Addendum is required by Section 1759.03(A) of the Certification of Residential Rental Units Ordinance of the City of Allentown.

ADDITIONAL COVENANTS AND OBLIGATIONS

In addition to the covenants and obligations set forth in the aforementioned Residential Rental Agreement, Tenant and Landlord hereby covenant and agree as follows:

A. Landlord's Covenants and Obligations:

1. Landlord shall keep and maintain the leased premises in compliance with all applicable Codes and Ordinances of the City of Allentown and all applicable state laws and shall keep the leased premises in good and safe condition.

2. The manager for the leased premises shall be as follows:

Name

Telephone Number

Address

3. The Landlord shall be responsible for regularly performing all routine maintenance, including lawn mowing and ice and snow removal, and for making any and all necessary repairs in and around the leased premises, except for any specific tasks which the parties hereby agree shall be delegated to the Tenant and which are identified as follows:

4. The Landlord shall promptly respond to reasonable complaints and inquiries from the Tenant.

5. The Landlord shall comply with all applicable provisions of the Landlord-Tenant Act of the Commonwealth of Pennsylvania.

B. Tenant's Covenants and Obligations:

1. Tenant shall comply with all applicable Codes and Ordinances of the City of Allentown and all applicable state laws.

2. Tenant agrees that the maximum number of persons permitted within the regulated 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 dispose of all rubbish, garbage and other waste from the leased premises in a clean and safe manner and shall separate and place for collection all recyclable materials in compliance with the City of Allentown's Solid Waste and Recycling Ordinances.

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 (as to hour of the day), offensive, riotous or that otherwise disturbs other persons of reasonable sensibility in their peaceful enjoyment of their premises or causes damage to said premises, such that a report is made to a Police Officer and/or a Public 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 said 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 a Public Officer or a Police Officer shall investigate and make a determination that such did occur, and keep written records, including a Disruptive Conduct Report of such occurrence. The tenant and the owner, operator, responsible agent or manager shall be notified of any such occurrences in writing."

8. Tenant acknowledges and agrees that this tenancy is subject to the provisions of the Certification of Residential Rental Units Ordinance of the City of Allentown and that the issuance by a Public Officer or Police Officer of the City of Allentown of three (3) disruptive conduct reports in any twelve (12) month period relating to the leased premises or any violation of Landlord Tenant Act relating to drug offenses set forth in 68 P.S.

205.505A, shall constitute a breach of the rental agreement of which this addendum is a part. 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; and
- b. Bring an action to recover possession of the leased premises without abatement of rents paid, including reasonable attorney's fees and costs; and
- 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; and
- 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.

WITNESS

WITNESS

WITNESS

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APPENDIX A

Section 205.505A of the Landlord Tenant Act 68 P.S. 205.101 et seq. is reprinted below to provide notice of the provisions.

§ 250.505-A. Use of illegal drugs

(a) The following acts relating to illegal drugs shall be a breach of condition of the lease and shall be grounds for removal of the tenant from a single-family dwelling, apartment, multiple dwelling premises or tenement building:

(1) The first conviction for an illegal sale, manufacture or distribution of any drug in violation of the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," [FN1] on a single-family dwelling or any portion of the multiple dwelling premises or tenement;

(2) The second violation of any of the provisions of "The Controlled Substance, Drug, Device and Cosmetic Act" on a single-family dwelling or any portion of the multiple dwelling premises or tenement;

(3) The seizure by law enforcement officials of any illegal drugs on the leased premises in the single-family dwelling or multiple dwelling premises or tenement.

(b) Failure to remove any tenant for violation of any of the provisions of subsection (a) shall not act as a waiver of the landlord's rights with regard to the same or any other tenant relating to any subsequent acts.

CREDIT(S)

1951, April 6, P.L. 69, No. 20, § 505-A, added 1990, Dec. 20, P.L. 1465, No. 221, § 2, effective in 60 days. Editorially renumbered from § 250.555 in 1993.

[FN1] 35 P.S. § 780-101 et seq.

SECTION TWO: That this Ordinance will take effect ten (10) days after final passage.

SECTION THREE: That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

	Yea	Nay
W. Michael Donovan	X	
Jeanette Eichenwald	X	
Julio A. Guridy	X	
Ray O'Connell	X	
Michael Schlossberg	X	
Peter G. Schweyer	X	
Michael D'Amore, President	X	
TOTAL	7	0

I hereby certify that the foregoing Ordinance was passed by City Council on November 3, 2010 and signed by the Mayor on November 5, 2010.


 CITY CLERK