

ORDINANCE NO. 19 of 2010

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

RESIDENTIAL RENTAL UNIT OCCUPANCY ORDINANCE

NOW, THEREFORE, be it ordained and enacted by the Borough Council of the Borough of Edwarsville and it is hereby enacted by the authority of the same as follows:

Section I: Title

This Ordinance shall be known as the Borough of Edwarsville “Residential Rental Unit Occupancy Ordinance.”

Section II: General

It is the purpose of this Ordinance and the policy of the Council of the Borough of Edwarsville, 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 Edwarsville 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 Edwarsville finds that in recent years, many formerly private homes have been turned into residential rental units. Those rental units have often times 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 Edwarsville. As a result, property maintenance of many rental units in the Borough of Edwarsville 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 Edwarsville, 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 violations of various Codes of the Borough of Edwarsville in residential rental properties where owners rent properties to tenants.

Section III: Definitions

BOROUGH OF EDWARDSVILLE – The Borough of Edwardsville, Luzerne County, Pennsylvania.

CODE – any code or ordinance adopted, enacted and/or in effect in and for the Borough of Edwardsville 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 for the Borough of Edwardsville and any assistant 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, 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 therefore, 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 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 Edwardsville or any properly authorized member or officer thereof or any other law enforcement agency having jurisdiction within the Borough of Edwardsville.

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 Section IV (E)(4), 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 Edwardsville, 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 an 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”).

Section IV: Owner’s Duties

A. 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 Edwardsville, 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 guest for their conduct or activity, nor shall it be construed as an assignment, transfer or projection over or onto any owner of any responsibility or liability which occupants or their guests may have as a result of their conduct or activity under any private cause of action, civil or criminal enforcement proceeding, or criminal law; nor shall this Section be construed so as to require an owner to indemnify or defend occupants or their guests when any such action or proceeding is brought against the occupant based upon the occupant’s conduct or activity. Nothing herein is intended to impose any additional civil/criminal liability upon owners other than that which is imposed by existing law. 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 Edwardsville against an owner, occupant or guest thereof.

B. Designation of Manager. Every owner who is not a full-time (ie. domiciled) resident of the Borough of Edwardsville, and/or who does not live within twenty (20) miles of the boundaries of the Borough of Edwardsville, shall designate a manger who shall reside in an area that is within twenty (20) miles from the Borough of Edwardsville. 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 receipt 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.

C. Disclosure

1. The owner or manager shall disclose to the occupant in writing on or before the commencement of the tenancy:
 - (a) The name, address and telephone number of the manager, if applicable.
 - (b) The name, address and telephone number of the owner of the premises.
2. 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.

D. Maintenance of Premises.

1. The owner shall maintain the premises in compliance with the applicable codes of the Borough of Edwardsville 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.
2. 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:
 - (a) 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.

(b) The agreement does not diminish or affect the obligation of the owner to the other occupants in the premises.

3. 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.

E. Rental Agreement

1. 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 the occupant with copies of any rental agreement and addendum upon execution.

2. 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.

3. 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.

4. Delivery 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. For Landlord/Tenant relationships already in place at the time of passage of this Ordinance the owner shall provide the occupants with a copy of the summary within sixty (60) days after enactment of this Ordinance.

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

6. Upon request by the Borough of Edwarsville, the owner shall within ten (10) days of the request furnish the Borough of Edwarsville copies of any lease(s) 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.

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

1. 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.
2. 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 Edwarsville 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.
3. It shall be the responsibility of the grantee to notify Edwarsville Borough within seventy-two (72) hours of any purchase or transfer of a rental unit.
4. 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.
5. All owners of any residential rental unit living outside of the twenty (20) mile limit set forth in Section IV B must have a local manager who shall reside within twenty (20) miles of the Borough of Edwarsville and who shall be available as an emergency contact person.
6. Registration information shall be provided by all owners and shall include the following:
 - (a) Owner name, address, telephone number.
 - (b) Local manager name, address, telephone number (an emergency contact person).
 - (c) Property address and number of units.
 - (d) Maximum occupancy per unit.
 - (e) Emergency telephone number for owner and manager.
 - (f) Actual number of occupants per unit.
 - (g) Names and addresses of current tenants.
7. Any owner of a residential rental unit shall notify the Borough of Edwarsville at the Edwarsville Municipal Building within ten (10) days of a new tenant occupying, renting or residing in the landlord's or owner's residential rental unit.

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

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

I. 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 any of the following shall be a violation of this Ordinance:

1. Fighting, threatening or other violent or tumultuous behavior.
2. Making unreasonable noise.
3. Creating a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

J. Enforcement.

1. Within five (5) 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.
2. Within twenty (20) days after receipt of a notice of a 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.
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, the plan shall be approved. The owner shall, on his or her initiative, enforce the plan and failure to do so shall be a violation of this Ordinance.

4. In the event that a second violation occurs within a license term involving the same occupant or occupants, the Code Enforcement Officer may direct the owner to initiate eviction proceedings against the occupant(s) who violated this Ordinance and to not permit the occupant(s) to occupy the premises during the subsequent licensing period. All tenants who have been evicted shall, if asked, advise their new landlord that they have been evicted from a residence for violating the terms and conditions of this Ordinance.

K. 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.

L. Repairs by Borough. In case 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 Edwardsville 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 or revocation of the license issued hereunder.

M. 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:

1. The Code Enforcement Officer of the Borough of Edwardsville shall inspect all units once every two years 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. Inspections may be made by the Code Officer at any time within the said two year period.

N. Smoke Alarms. All owners of residential rental units in the Borough of Edwardsville shall be required within thirty (30) days of the passage of this Ordinance to install smoke alarms, regardless of the occupant load at the following locations:

- a. On the ceiling or wall outside each separate sleeping area in the immediate vicinity of the bedrooms;
- b. In each story within a dwelling unit, including basements and cellars, but not including crawl spaces and uninhabitable attics.

O. Noncompliance.

1. Any residential rental unit which has been found to be in noncompliance with this Ordinance shall be subject to re-inspection(s) by the Code Enforcement Officer until the unit is found to be in compliance. The Code Enforcement Officer may inspect the unit as often as deemed necessary to ensure the unit continues to be in compliance.
2. 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 Ordinance and any other applicable codes of the Borough of Edwardsville as determined by the Code Enforcement Officer.
3. (a) 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 Edwardsville, the Code Enforcement Officer shall provide a Notice of Violation which shall at a minimum set forth the following:
 - i. Street address of a property.
 - ii. Date of the inspection.
 - iii. Name of the inspector.
 - iv. List of violations.
- (b) Within five (5) days after receipt of a written notice from the Borough of Edwardsville Code Enforcement Officer that there has been a violation of this section or any other applicable ordinances of the Borough of Edwardsville, the owner shall take immediate steps to remedy the violations and take steps to assure that there will not be a reoccurrence of the violations.
- (c) Within twenty (20) days after receipt of a notice of violation the owner of the residential unit shall file with the Code Enforcement Officer a report on a form provided by the Borough of Edwardsville 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.

(d) The Code Enforcement Officer shall review the report and if adequate steps have been taken and the plan is adequate to address future violations the plan shall be approved. The owner, on his or her initiative, shall enforce the plan, and failure to do so shall be a violation of this Ordinance.

4. 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 Edwardsville 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 Ordinance and shall not then be subject to intermittent inspections set forth in this section unless there are future violations.
5. If a parcel of real estate in noncompliance with the terms and conditions of this Ordinance or other ordinance of the Borough of Edwardsville is sold, then the parcel of real estate shall remain in noncompliance until the earlier of the following has occurred:
 - (a) The original two-year period with no violations passes with no further violations; or
 - (b) If twelve (12) months passes after purchase by the new owner with no violations of any ordinances of the Borough of Edwardsville.
6. All owners of any real estate containing or upon which are erected any residential rental unit(s) which are in noncompliance with this Ordinance 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 Ordinance. 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 Ordinance shall notify the Code Enforcement Officer, in writing, within thirty (30) days prior to closing on the sale of said parcel of real estate.
7. 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 Edwardsville shall be able to complete all inspections necessary to determine compliance with this Ordinance and any other applicable Ordinances of the Borough of Edwardsville. Refusal to allow entry of the residential rental unit by the Code Enforcement Officer of the Borough of Edwardsville to inspect the said unit shall be a violation of this Ordinance.

8. 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 Ordinance.
9. 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.

P. Tenant Registration.

1. All tenants who are renting a residential rental unit or residential rental units in the Borough of Edwarsville shall within sixty (60) days of the passage of this Ordinance present to the Code Enforcement Officer or his designee at the Edwarsville Municipal Building, located at 470 Main Street, Edwarsville, Pennsylvania, one (1) form of the following valid forms of photo identification:
 - a. Passport;
 - b. Drivers License (a copy may be retained by Borough); and
 - c. Other government issued identification.
2. Except for a copy of the drivers license the Borough shall not retain a record of the tenant's personal information but shall review these documents solely to verify identity.
3. The Borough Code Enforcement Officer shall record the name of the tenant, the landlords name, the date of registration, the address of the leased property and the type of identifying information presented (e.g. passport, drivers license) 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.
4. 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.

- Q. The owner shall maintain at the licensed rental unit and provide upon demand the following:
1. The current license and current inspection report issued by the Code Enforcement Officer of the Borough of Edwarsville.
 2. The addendum to the license application required by this Ordinance showing the names of the authorized occupants of the residential rental unit(s).
 3. The total number of persons who may occupy the residential rental unit(s) and any common areas.

Section V. Occupant Duties.

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

B. Health and Safety Regulations.

1. The maximum number of persons permitted in any rental unit at any time shall not exceed one person for each 70 square feet of habitable floor space in said rental unit.
2. The occupant shall deposit all rubbish, garbage and other waste from his or her rental unit into containers 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 Edwarsville or if there is no recycling plan for the premises, then in compliance with the Borough of Edwarsville's Recycling Ordinance and all other applicable ordinances, laws and regulations.

C. 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.

D. 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 other than as a residence.

E. Illegal Activities. The occupant shall not engage in or 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.*), 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.*)

F. Disruptive Conduct.

1. The occupant shall not engage in, or permit others on the premises to engage in, disruptive conduct or other violations of this Ordinance.
2. When police or the Code Enforcement Officer investigate an alleged incidence 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.

G. Compliance with Rental Agreement. The occupant shall comply with all lawful provisions of the rental agreement entered into between the owner and occupant. Failure to comply may result in the eviction of the occupant by the owner.

H. 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.

I. Inspection of Premises. The occupant shall permit inspections by the Code Enforcement Officer of the premises at reasonable times, upon reasonable notice.

J. 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.

K. 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.

Section VI. Licenses and Inspection.

A. License Requirement.

1. As a prerequisite to entering into a rental agreement or permitting the occupancy of any rental unit (except as provided in subsection (A) (3) below), the owner of every such rental unit shall be required to apply for and obtain a license for each residential rental unit.
2. A license shall be required for all residential rental units.
3. The following categories of rental properties shall not require licenses, and shall not, therefore, be subject to the permitting provision of this Ordinance:
 - (a) Hotels and motels.
 - (b) Hospitals and nursing homes.
 - (c) Bed and breakfast units as defined in the Borough's Zoning Ordinance.
4. The application for the license shall be in a form as determined by the Borough.
5. 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.
6. 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 Edwardsville 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.

B. Annual License Term, Fee and Occupancy Limit.

1. Each license shall have an annual term running from January 1 of the applicable year through December 31 of the following year.
2. Upon application for a license prior to issuance or renewal thereof, each owner/applicant shall pay to the Borough a bi-annual license and inspection fee in an amount to be established, from time to time, by resolution of the Council of Edwardsville. The initial fee for a license shall be Fifty (\$50.00) Dollars. This includes an inspection of one rental unit/apartment dwelling. For each additional unit there will be a Twenty Five (\$25.00) Dollars for each additional dwelling unit/apartment not to exceed \$2,200.00 per premises. The fee shall be paid by January 30th of each year except for the year 2011. The fee for 2011 shall be paid no later than June 30th of 2011. A fee of \$25.00 shall be paid for each re-inspection required under this Ordinance. The landlord shall be entitled to one free re-inspection per unit, per license term due to a tenant vacancy.
3. The license shall indicate thereon the maximum number of occupants in each rental unit.
4. 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 Edwardsville relating to land use and/or code enforcement or if any licensing fees under this Ordinance are due.

C. Search Warrant. Upon a showing of probable cause that a violation of this Ordinance or any other ordinance of the Borough of Edwardsville has occurred, the Code Enforcement Officer may apply for a search warrant to enter and inspect the premises.

Section VII. Formal Warnings, Suspensions or Revocations of License.

A. General. The Code Enforcement Officer may initiate disciplinary action against an owner that may result in a formal warning, 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.

1. Definition of Options.

- (a) Formal Warning. Formal written notification of at least one violation of this Ordinance. Upon satisfactory compliance with this Ordinance and any conditions imposed by the Code Enforcement Officer the violation shall be deemed to be resolved.

- (b) Suspension. The loss of the privilege to rent a residential rental unit or units for a period of time set by the Code Enforcement Officer.
- (c) Revocation. The loss of the privilege to rent residential rental units or units for a period of time set by the Code Enforcement Officer. Upon the loss of the privilege to rent, the owner shall take immediate steps to evict the applicable occupants.

B. Criteria for Applying Discipline. The Code Enforcement Officer, when applying disciplinary action, shall consider the following:

1. The effect of the violation on the health, safety and welfare of the occupants 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 Ordinance and other ordinances of the Borough or has received notices of violations as provided for in this Ordinance.
4. Whether the owner has been subject to disciplinary proceedings under this Ordinance.
5. The effect of disciplinary action on the occupants.
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 the Ordinance.
8. In addition to applying discipline as set forth above, the Code Enforcement Officer may impose upon the existing or subsequent licensees reasonable conditions related to fulfilling the purposes of this Ordinance.

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

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 Ordinance.
3. Failure to take steps to remedy and prevent violation of this Ordinance by occupants of residential rental units as required by this Ordinance.
4. 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.
5. 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.
6. Two (2) 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 not be a 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.

D. Procedure for Suspension or Revocation of License.

1. Notification. Following a determination that grounds for suspension or revocation of a license exists, the Code Enforcement Officer shall notify the owner of the action to be taken and the reason therefore. Such notification shall be in writing, addressed to the owner in question and shall contain the following information:
 - (a) The address of the premises in question and identification of the particular residential rental unit (s) affected.
 - (b) A description of the violation which has been found to exist.
 - (c) A statement that the license for said residential rental unit(s) shall be either suspended or revoked. 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.

- (d) A statement that due to the suspension or revocation, 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.
- (e) 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 Manager, within thirty (30) days of being served by the Borough Manager, a detailed statement of the appeal including the grounds therefore and the reason (s) alleged as to why the determination of the Code Enforcement Officer is incorrect or should be overturned, and a statement of relief requested by the appellant. There is hereby imposed a fee of \$50.00 for filing such an appeal. This fee can be amended from time to time by resolution of Borough Council.
- (f) Upon receipt of such an appeal with all required information accompanied with the requisite filing fee, the Borough 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.
- (g) The appellant and the Code Enforcement Officer shall be provided with written notice of the hearing by the Borough Manager.
- (h) Borough Council shall hold a hearing on the appeal which shall be conducted in accordance with the Local Agency Law. 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-five (35) 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 Edwardsville deems it necessary or desirable, it may continue the hearing to a subsequent time and date not later than thirty-five (35) 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).

2. Delivery of Notification.

- (a) All notices shall be sent to the owner and manager, if applicable, by certified and regular mail to the last known address provided by the owner or manager. If the certified mail is refused or unclaimed but the regular mail is not returned within fifteen (15) days service will be deemed complete. If service cannot be completed in the above matter the notice shall be posted on the premises and five days after posting service will be deemed to be complete.

E. Nonexclusive Remedies. The penalty provisions of this Section and the license 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 ongoing violation of such other code or ordinance is cited as the underlying ground for a finding of a violation of this Ordinance.

Section VIII. Miscellaneous Provisions.

A. 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.

- 1. 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 either the owner or manager in the manner provided by this Ordinance.
- 2. The claimed lack of knowledge by the owner of any violation hereunder cited shall be no defense to license suspension or revocation proceedings as long as all notices prerequisite to institution of such proceedings have been given in accordance with the applicable provisions of this Ordinance.

B. 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 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.

C. 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.

D. 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, Borough Manager and Borough Solicitor.

Section IX. Enforcement, violations and penalties.

A. This Ordinance shall be enforced by the Code Enforcement Officer of the Borough of Edwardsville.

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 Edwardsville 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 number of occupants, 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 who violates any of the provisions of Section IV(F) of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not less than \$200.00 and not more than \$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 who violates any of the provisions of Section IV of this Ordinance (other than Section IV (F)) shall be subject to the following penalties:
 - (a) First offense. 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) Second offense. 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) Third offense. A fine of Five Hundred (\$500.00) Dollars for each and every offense or imprisonment for a period not to exceed ninety (90) days or both. Each day of the said violation shall be a separate offense.
3. Any occupant of a residential rental unit who violates any of the provisions of Section V 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.
4. Any landlord or owner of a residential rental unit who violates Section VI of this Ordinance shall upon conviction be sentenced to pay a fine of not less than Two Hundred (\$200.00) dollars and not more than Five Hundred (\$500.00) dollars.
5. Fines as imposed through this ordinance shall be collected as allowable by law.
6. Each day during which any owner of a residential rental unit violated any provisions of this Ordinance shall constitute a separate offense.
7. This Ordinance and the foregoing penalties shall not be construed to limit or deny the right of the Borough of Edwarsville or its agents or representatives to pursue such equitable or other remedies as may otherwise be available to the Borough.
8. In addition to the fines set forth herein, the Borough of Edwarsville shall be entitled to reasonable attorneys fees incurred in enforcing this ordinance. The said fees shall be added to any penalties set forth above.
9. The owner of all residential rental units in the Borough of Edwarsville 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 Edwarsville.
10. 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.
11. The Borough of Edwarsville agrees to suspend the imposition of fines and penalties imposed by this Ordinance until June 30, 2011 in order to provide sufficient time for landlords and tenants to become familiar with the terms of this Ordinance and initiate compliance.

12. This Ordinance shall not be applicable to any properties which would be exempted from enforcement under any existing federal or state law.

EFFECTIVE DATE: This Ordinance shall become effective on January 1, 2011.

Ordained and enacted by the Borough Council of the Borough of Edwarsville, this _____ day of _____, 20____.

ATTEST:

EDWARDSVILLE BOROUGH

BY: _____
Borough Secretary

BY: _____
President of Council

APPROVED this _____ day of _____, 20____.

Mayor