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

RESIDENTIAL RENTAL UNIT OCCUPANCY ORDINANCE

SECTION 1. PURPOSE AND SCOPE.

The purpose of this Regulation and the policy of the Borough of Dunmore shall be to protect and promote the public health, safety and welfare of its citizens, to establish rights and obligations of Owners and to Occupants relating to Residential Rental Units in the Borough and to encourage Owners and Occupants to maintain and improve the quality of rental housing within the Borough. As a means to these ends, this Regulation provides for a systematic inspection program, registration and licensing of Residential Rental Units, and penalties.

SECTION 2. DEFINITIONS AND INTERPRETATION.

Unless otherwise expressly stated, the following terms shall for the purpose of this Regulation, have meanings indicated as follows:

BOROUGH - Borough of Dunmore

BOROUGH CODE – the building code officially adopted by the governing body of the Borough of Dunmore, or other such codes officially designated by the governing body of the Borough for the regulation of construction, alteration, addition, repair removal, demolition, location, occupancy and maintenance of buildings and structures.

CODE ENFORCEMENT OFFICER – a Person designated by Borough Council to enforce this Regulation, including performance of inspections, issuance of Residential Rental Licenses and issuance of citations.

CODES – any state of local code or ordinance adopted, enacted or in effect in and for the Borough including, but not limited to, the Building Code, the Property Maintenance Code, the Zoning Ordinance, Trash Collection, and general nuisance ordinances.

COUNTY – County of Lackawanna

DISRUPTIVE CODUCT – any act by an Occupant of a Residential Rental Unit or by a Person present at a Residential Rental Unit involving public drunkenness, consumption of an alcoholic beverage in public, public urination or defecation, the unlawful deposit of trash or litter on public or private property, damage to or destruction of public or private property, the obstruction of public roads, streets, highways or sidewalks, interference with emergency or police services, use of profane or obscene language or gestures, indecent exposure, fighting or quarreling, or any other act defined as Disorderly Conduct in the Pennsylvania Crimes Code or any act which otherwise injures or endangers the health, safety or welfare of the residents of the Borough residing in the neighborhood or vicinity of the gathering. It is not necessary that such conduct, action, incident or behavior constitutes a criminal offense, nor that the 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 Police Officer shall investigate and make a determination that such did occur, and keep written records, including a Disruptive Conduct Report, of such occurrences.

DISRUPTIVE CONDUCT REPORT – a written report of Disruptive Conduct to be complete by a Police Officer who actually investigates an alleged incident of Disruptive Conduct and which shall be maintained by the Code Enforcement Officer.

DWELLING UNIT – means a single habitable living unit, having its own toilet, bath or shower, sink, sleeping or cooking facilities and separate access to the outside. There may be more than one Dwelling Unit on a premises.

FAMILY – one or more persons living in a single dwelling unit and functioning as a common household unit sharing household expenses and sharing joint use of the entire dwelling unit. If a dwelling is rented, in order to qualify as a family, there shall not be more than one (1) lease among occupants. A family shall not include more than four (4) persons who are not "related" to each other.

INSPECTOR – means any person authorized by Law or Ordinance to inspect buildings or systems, e.g. zoning, housing, plumbing, electrical systems, heating systems, mechanical systems and health necessary to operate or use buildings within the Borough of Dunmore. An inspector also includes Code Enforcement Officer and Fire Inspectors, and any firefighter designated by the Fire Chief to inspect buildings for fire safety and compliance with the current International Property Maintenance Code of 2018, as amended, Fire Prevention Code in effect within the Borough of Dunmore.

FIRE DEPARTMENT – means the Fire Department of the Borough of Dunmore or any member thereof, includes Fire Prevention Officer and Fire Inspectors, and the Fire Chief or his designee.

LET FOR OCCUPANCY – to permit possession or occupancy of a building or dwelling unit by a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease.

MANAGER – a person retained by an Owner to be responsible for one or more Residential Rental Units within the Borough.

OCCUPANT – a person who resides at a premises such as a tenant, or any other individual that is allowed on premise by such resident or tenant.

OPERATOR – any person who has charge, care of control of a rental property.

OWNER – means one or more persons, jointly or separately, in who is vested all or part of the legal title to the premises, or all or part of the beneficial ownership and right to present use and employment of the premises, including a mortgage holder in possession of a Rental Unit. For purposes of this Ordinance also includes a LANDLORD.

OWNER/OCCUPANT – means an owner who resides in a dwelling unit on a regular permanent basis.

PERSON – any natural person, partnership, firm, association, corporation, or municipal authority.

PREMISES – any parcel of real estate within the Borough, including the land and all the buildings and appurtenant structures, on which one or more Residential Rental Units are located.

PROPERTY MAINTENANCE CODE – the Borough Property Maintenance Code, adopted as the International Property Maintenance Code of 2018 and any future amendments.

RENT – a payment made periodically by a tenant to a landlord in return for the use of land, a building, an apartment, an office, or other property.

RENT TO OWN – legal agreement where you pay rent for a property with the option to buy it later. This for purposes will be treated the same as a Residential Rental Unit.

RESIDENTIAL CERTIFICATE – a Certificate issued by the Code Enforcement Officer indicating that the owner of a rental property has paid the annual registration fee.

RESIDENTIAL RENTAL LICENSE – a document issued by the Code Enforcement Officer to the Owner of a Residential Rental Unit.

RESIDENTIAL RENTAL UNIT – means a dwelling unit occupied by one or more tenants and is not owner occupied. Does not include, for purposes of this Ordinance a Dormitory Room occupied by one or more students.

VIOLATION – the act of doing something that is not allowed by a law or rule.

SECTION 3. APPOINTMENT OF A MANAGER

Each property owner who is not an owner-occupant, or who does not reside in the Borough of Dunmore shall appoint an agent who shall live either in the Borough, within the County of Lackawanna or within 20 miles of municipal limits.

SECTION 4. DUTIES OF THE OWNER OR MANAGER:

- 1. It shall be the duty of every Owner/Manager to:
 - A. Keep and maintain all Residential Rental Units in compliance with all applicable Codes and provisions of all applicable federal, state and local laws, ordinances and regulations including, but not limited to the Zoning Ordinance.
 - B. Keep and maintain the Premises in good and safe condition.
 - C. Be aware of, and to act to eliminate Disruptive Conduct in all Residential Rental Units under his/her control.

- D. Employ policies and to manage the Residential Rental Units under his/her control in compliance with the provisions of this Regulation, and all applicable federal, state and local laws, ordinances and regulations.
- E. Pay or ensure payment of all real estate taxes, all Borough fees, taxes, licenses, and trash collection fees to ensure that such vital utilities are provided.
- F. Obtain and maintain a Residential Rental License from the Borough in the amount of \$75 for each Residential Rental Unit. <u>See Appendix A for fee schedule.</u>
- G. Ensure trash receptacles and recyclable collection and disposal services are available and instruct Occupants of the method of trash and recyclable collection (e.g. curbside or dumpster) and, if applicable, the day of the week of trash and recyclable pickup.
- H. Provide each Occupant with a disclosure statement containing the requirements of this Regulation. Providing a copy of this Regulation to each Occupant will satisfy this requirement.
- I. Take all actions necessary to ensure that each Residential Rental Unit is occupied by a "Family" as defined by the Borough of Dunmore Zoning Ordinance.
- J. Require a written rental agreement for each Residential Rental Unit, which shall contain the names of all permitted Occupants.
- K. Retain a Manager when this Regulation requires that a Manager be designated.
- 2. If the Owner has appointed a Manager, the Manager shall be jointly responsible to fulfill all of the obligations set forth in section 1. No Owner may relieve himself of the responsibility to perform the duties set forth in Section 1 by appointing a Manager.
- 3. It shall be unlawful for any Person to conduct or operate or cause to be rented either as Owner or Manager any Residential Rental Unit within the Borough without having a Residential Rental License as required by this Regulation.
- 4. It shall be the responsibility of every Owner and every Manager to display the Residential Rental License in the Residential Rental Unit. The Residential Rental License will include the following information:
 - A. The name, mailing address and telephone number of the Owner and Manager.
 - B. The evenings on which garbage and recycling are to be placed curbside for collection.
 - C. Borough of Dunmore Code Enforcement Office number is 570-343-7611 Ext 106, to register complaints regarding the physical condition of the Residential Rental Unit.
 - D. The telephone number for emergency police, fire and medical services.
 - E. The date of expiration of the Residential Rental License.
 - F. A summary of the Owner's and Occupant's duties under this Regulation.
 - G. A small decal shall be displayed in a conspicuous window by the front door allowing emergency services recognition of proper registration. A small color-coded decal with appropriate year will be provided upon registration.
- 5. No Residential Rental License shall be issued to any Owner residing more than twenty (20) miles from the municipal limits of the Borough unless the Owner provides the Code Enforcement

Officer with the name, mailing address and telephone number of a Manager residing within the twenty (20) mile radius.

SECTION 5. EXEMPTION FROM LICENSING REQUIREMENTS

- 1. All property owned by the County or any housing authority created by the County 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 be exempt from the licensing provisions of this Regulation.
- 2. Dormitories located within a school facility or use and all nursing home facilities and associated cottages are exempt from licensing/inspections.
- 3. Hotels and Motels, Hospitals, Bed and Breakfast units as designed by Dunmore Borough Zoning Ordinance shall be exempt from the licensing provisions of this Regulation.
- 4. Apartment complexes or Condos that have multiple units shall be subject to discounted fee based on number of units on property.
- 5. If in response to a complaint, an exempt unit is found to be in violation of a Code, the Owner and, if applicable, the Manager shall correct the violation(s) with in the time frame cited by the Code Enforcement Officer. If the violation(s) is/are not corrected with in a timely manner, 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 a license for a period of five (5) years.
- 6. All Occupants of Residential Rental Units, whether or not the Residential Rental Unit is exempt from the licensing requirements of this Regulation, shall be subject to the provisions of Section 6 and Section 7 of this Regulation.

SECTION 6. DUTIES OF OCCUPANTS OF RESIDENTIAL RENTAL UNITS

Each Occupant of a Residential Rental Unit shall have the following duties:

- 1. Comply with all obligations of this Regulation and all applicable federal, state and local laws, ordinances and regulations.
- 2. Conduct himself/herself and require other Persons, including, but not limited to, guest 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.
- 3. 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 Regulation, Codes, Borough Ordinances, or applicable state laws.
- 4. Use the trash and recyclable collection services and receptacles as instructed by the Owner.
- 5. Use the Residential Rental Unit for no purpose other than as a residence.

- 6. Allow the Code Enforcement Officer to inspect the Residential Rental Unit at reasonable times.
- 7. Not allow Persons other than those identified on the residential rental agreement to reside in the Residential Rental Unit.
- 8. Not allow the Residential Rental Unit to be occupied in a way that conflicts with the Borough Zoning Ordinance and the International Property Maintenance Code of 2018, as amended.

SECTION 7. DISRUPTIVE CONDUCT

- Police officers shall investigate alleged incidents of Disruptive Conduct. The police officer conducting the investigation shall complete a Disruptive Conduct Report upon a finding that the reported incident constitutes Disruptive Conduct. The information filed in the Disruptive Conduct Report shall include, if possible, the identity of the alleged perpetrator(s) of the Disruptive Conduct and the factual basis for the Disruptive Conduct described in the Disruptive Conduct Report. A copy of the Disruptive Conduct Report shall be given or mailed to the Occupant and mailed to the Owner and, if applicable, the Manager, within ten (10) working days of the occurrence of the alleged Disruptive Conduct.
- 2. The Occupant or the Owner and, if applicable, the Manager shall have ten (10) working days from the date of a Disruptive Conduct Report to appeal the Disruptive Conduct Report. The appeal shall be made in writing and submitted to the Code Enforcement Officer.
- 3. After three (3) documented Disruptive Conduct incidents by an Occupant in any twelve (12) month period, the property Owner's rental license shall be revoked unless proof is provided that eviction process is started and being diligently pursued by Owner or Manager.
- 4. 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 Section 7.

SECTION 8. RESIDENTAL RENTAL UNIT REGISTRATION/LICENSING

As a prerequisite to entering into a rental agreement or permitting the occupancy of any rental unit, the owner of every such rental unit shall be required to apply for and obtain a license for each residential rental unit.

A. License Requirement

- 1. The Borough Code Enforcement Department shall have the responsibility of administering the registration of all rental properties within the Borough at a cost which is (TBD).
- 2. Any person who owns a rental unit or units in the Borough shall be required to have the rental units registered with the Department. Any person who owns a rental unit in the Borough and does not reside in the Borough shall provide the Department with the name, address and telephone number of an agent residing within a twenty (20) mile

radius of the Borough who is authorized to accept service of process on behalf of the property owner or of said rental property.

- 3. Starting July 1, the Owner and, if applicable, the Manager of each Residential Rental Unit shall apply for a Residential Rental License with the Code Enforcement Office which shall be valid for one (1) year. Property Owner/Manager shall apply yearly for a rental license.
- 4. Each license shall have an annual term running from July 1 of the applicable year thru June 30th following year.
- 5. Upon application for a license prior to issuance or renewal thereof, each owner/applicant shall pay to the Borough an annual license fee. Please see Appendix A with the appropriate fees, which may vary from time to time, by resolution of the Dunmore Borough Council. The initial fee for a license shall be \$75. The license fee, will be charged as follows: For the first one to four dwelling units/apartments: (\$75) per unit; for the fifth and any additional dwelling units/apartments up to 10 the registration fee shall be (\$60) per unit/apartment; for 11 and over the registration fee shall be (\$45) per unit/apartment. The fee shall be paid by June 30 of each year.
- 6. The Code Enforcement Officer shall issue Residential Rental license if the Owner provides the name, address and phone number of a Manager (if applicable), pays the registration fee, submits a complete and accurate Occupant listing for the Residential rental Unit by the registration deadline of each year and is current on Dunmore Borough real estate taxes, all Borough fees, licenses, and trash fees for the Residential Rental Unit.
- 7. The Code enforcement Officer shall deny and may revoke a Residential Rental License if the Owner does not provide the name, address and phone number of a Manager (if applicable), does not pay the annual registration fee, is not current on Dunmore Borough real estate taxes, sewer and water rates or trash collection fees for the Residential Rental unit does not correct a code violation within the time frame cited by the Code enforcement Officer, and/or has not complied with the Disruptive Conduct provisions of this Regulation.
- 8. The Code Enforcement Officer shall deny and may revoke a Residential Rental License if the following occur within the licensed Residential Rental Unit or on the Premises:

A. Failure to abate any violation of this Regulation or any Code violation noted in the Rental Housing Inspection Form within the time specified in the notice of violation unless an appeal is pending.

B. Occurrence of three violations of this regulation and/or any other Borough codes or ordinances that apply to the Residential Rental Unit or premises during the term of the license. Before an occurrence may be considered a violation there must be either a summary conviction or the Code Enforcement Officer must send the Owner a written notice of the violation within thirty (30) days of the incident and the period for the

Owner to file an appeal from the determination of the Code enforcement Officer must have expired.

- 9. The Code Enforcement Officer shall forward written notice to the owner if the Code Enforcement Officer will deny, refuse to renew or revoke a Residential Rental License. The notification shall identify the Residential Rental Unit, the grounds for the denial, non-renewal or revocation, including the factual circumstances and the Section of this Regulation supporting such determination; and informing the Owner of the right to appeal the denial, non-renewal or revocation of the Residential Rental License to Borough Council under this Regulation.
- 10. The Code Enforcement Officer may reinstate a Residential Rental License if the Owner or Manager corrects the reason for the revocation of the Residential Rental License and has paid the Residential Rental License reinstatement fee.
- 11. Registration Certificate must be conspicuously displayed inside the rental property within three (3) feet of the principal means of ingress and egress to the property. In addition to the issuance of the Registration Certificate, each owner of rental property shall be issued a small decal to be placed in accordance to Section 4, #4. Failure to affix the decal as required by this Ordinance shall constitute a violation hereof.

SECTION 9. INSPECTION OF RESIDENTIAL RENTAL UNITS

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 or Manager shall register with and make written application to the Code Enforcement Officer for a Residential Rental License as herein provided.

- Maintenance inspections will occur in accordance with a phased-in-systematic inspection program to be prepared and made available upon request by the Code Enforcement Officer. <u>A minimum thirty (30) days written notice shall be given for all initial inspections.</u> The penalty for not allowing an inspection shall be revocation of the Residential Rental License.
- 2. The Code Enforcement Officer shall inspect Residential Rental Units after completion of the initial inspections under this Regulation in accordance with a systematic program. The Code enforcement Officer may also inspect Residential Rental Units upon a change in occupancy of the Residential Rental Unit, upon receipt of complaints, upon the occurrence of Disruptive Conduct at such Residential Rental Unit, or for any other reasonable cause.
- 3. If the Code Enforcement Officer, upon completion of the inspection, finds that the applicable Codes have not been met, the Code Enforcement Officer shall issue notices and, if appropriate, commence enforcement actions under the procedure set forth in the Code which has been violated. The following notices shall be issued to the Owner of the Residential Rental Unit or the Manager. Notice provided to a Manager shall be deemed notice provided to the Owner.
 - A. If the Code Enforcement Officer finds violations warranting condemnation of the Residential Rental Unit under the Residential Rental Unit Regulation, in addition to the

remedies under the Residential Rental Unit Regulation, the Code Enforcement Officer shall:

- (1) Issue a Ten (10) Day Notice of Violation; and
- (2) If after ten (10) days from the date of the Ten (10) Day Notice of Violation, a reinspection reveals that the violations are not corrected or arrangements satisfactory to the Code Enforcement Officer have not been made, the Residential Rental License for the Residential Rental Unit shall be revoked until the issue has been satisfactorily resolved, and if the Residential Rental Unit is vacant, it shall remain vacant.
- B. If the Code Enforcement Officer finds violations not warranting condemnation of the Residential Rental Unit under the Residential Rental Unit Regulations, the Code Enforcement Officer shall issue a thirty (30) Day Notice of Violation.
 - If after thirty (30) days from the date of the thirty (30) Day Notice of Violation, the first reinspection reveals that all violations have not been corrected, the Code Enforcement Officer shall issue a second thirty (30) Day Notice of Violation.
 - (2) If after thirty (30) days from the date of the thirty (30) Day Notice of Violation, the first reinspection reveals that all violations have not been corrected, the Code Enforcement Officer shall revoke the rental license for the rental unit, and if the Residential Rental Unit is vacant, it shall remain vacant.
 - (3) No charge will apply for initial inspections, however upon a failed inspection a fee of (TBD) will be applied as well as an additional fee for each reinspection as needed. The Code Enforcement Officer shall maintain a list of all Residential Rental Units and their ownership that have been the subject of prosecution during the preceding five (5) years.

SECTION 10. SALE OR TRANSFER OF RESIDENTIAL RENTAL UNITS

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 secure a Residential Rental License for each Residential Rental Unit and have each Residential Rental Unit inspected. Failure to secure a Residential Rental License for each Residential Rental Unit within sixty (60) days of the date or sale or transfer of ownership shall result in the revocation of the Residential Rental License.

SECTION 11. APPEALS

1. An appeal from any decision of the code Enforcement Officer shall be filed to the Building Code of Appeals (2018 IPMC). Such appeal shall be made in writing within ten (10) working days after such decision has been made. The appeal shall be verified by an affidavit, shall state the grounds

therefore and shall be filed with the Borough Secretary. The appeal shall be accompanied by the appeal fee which shall be established by ordinance or resolution of Borough Council. The appellant or his representative shall have the right to appear and be heard, if such right is requested in the written appeal. Board of Appeals shall render a written decision, copies of which shall be provided to the Code Official and the appellant.

 Any person aggrieved by any decision of a Police Officer or Code Enforcement Officer in regard to a Disruptive Conduct Report or the revocation of a Residential Rental License may appeal to Code Enforcement Officer thru Building Code of Appeals (2018 IPMC) in accordance with the provisions of Section 11 above. <u>All appeals will follow the IPMC appeals process.</u>

SECTION 12. VIOLATIONS AND PENALTIES

1. Violations

It shall be a violation of this Regulation to commit or to permit any other Person to commit any of the following acts:

- A. To lease, let, or allow the occupancy of a Residential Rental Unit without obtaining a Residential Rental License where required by this Regulation.
- B. To refuse to permit inspections required under this Regulation for a Residential Rental Unit.
- C. To fail to perform the duties established by Section 4 of this Regulation if such Person is an Owner or a Manager of a Residential Rental Unit.
- D. To fail to perform the duties if such Person is an Occupant of a Residential Rental Unit.
- E. To place false information on or to omit relevant information from an application for a Residential Rental License.
- F. To fail to comply with any other provision of this Regulation.

2. Penalties and remedies:

- Allowing occupancy of a Residential Rental Unit after the Residential Rental License has been revoked. A fine (\$500) per Residential Rental Unit for each month the violation exists. Each month the violation exists constitutes a separate violation.
- B. Failure to secure a Residential Rental License:
 - The Owner or Manager shall be sent a thirty (30) Day Notice of Violation, warning them of their failure to comply with the terms of this Regulation. If they do not comply at the end of thirty (30) days, there shall be a fine of not less than five hundred dollars (\$500) per residential Rental Unit for each month the violation exists. Each month the violation exists is considered a separate violation.
- C. Whoever violates any other provision of this Regulation shall upon a first offense be fined not more than One Thousand dollars (\$1,000) or imprisoned not more than thirty (30) days, or both.

- D. In addition to prosecution of Persons violating this Regulation, the Code Enforcement Officer, or any authorized agent of the Borough 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 affect the provisions of this Regulation.
- E. The provisions of this Section and the provisions of this Regulation governing revocation, suspension or non-renewal of Residential Rental Licenses shall be independent, non-mutually exclusive, separate remedies, all of which shall be available to the Borough as may be deemed appropriate. The remedies and procedures in this Regulation are not intended to supplant or replace, to any degree, the remedies provided to the Borough in Property Maintenance Code, Zoning Ordinance or any other code.
- F. Where there are three documented Disruptive Conduct Reports within a 12-month period and if the eviction process is started and being diligently pursued by an Owner or Manager, no further enforcement by the Borough will occur regarding this Residential Rental unit during the eviction process.

Appendix A

BOROUGH OF DUNMORE, LACKAWANNA COUNTY

CODE ENFORCEMENT FEE SCHEDULE

RESIDENTIAL RENTAL UNIT LICENSING

- Application for Rental License \$75 per unit up to 4.
- 5-10 \$60 per unit.
- >11 \$45 per unit.

INSPECTION OF RESIDENTIAL RENTAL UNITS

- Re-inspection Fee \$35
- No-show Inspection Fee \$50
- Inspection Appeal Fee \$500

VIOLATIONS AND PENALTIES

- \$500 fine to allow occupancy after license revoked; each month is a separate violation
- \$500 fine for failure to obtain a rental license within 30 days.
- \$1,000 fine for violations or any other provisions of the Ordinance