

# *CITY COUNCIL*

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## *Public Safety Committee*

**Monday, August 3, 2009**  
**Agenda**  
**5:00 p.m.**

**Committee Members: D. Sterner, Chair; S. Marmarou; M. Goodman-Hinnershitz**

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| <b>I. Special Event Permits (sample ordinance attached)</b>              | <b>5:00 p.m.</b> |
| <b>II. Animal Control Ordinance Amendment</b>                            | <b>5:20 pm</b>   |
| <b>a. Regulating the number of animals per household</b>                 |                  |
| <b>b. Creating an Exotic Animal Permit Fee (permit already required)</b> |                  |
| <b>c. Adding Aggressive Dog language</b>                                 |                  |
| <b>d. Clarifying reporting of dog bites and quarantine</b>               |                  |
| <b>III. DCR Ordinance – amendment to create Level 1 and Level 2 DCRs</b> | <b>5:50 pm</b>   |
| <b>IV. Housing Permit Amendment</b>                                      | <b>6:10 pm</b>   |
| <b>a. Rental registration applications for 2008 &amp; 2009</b>           |                  |
| <b>V. Update – Codes Ticketing System</b>                                | <b>6:20 pm</b>   |
| <b>VI. Update – Rental Housing Process (Zoning &amp; Codes)</b>          | <b>6:30 pm</b>   |
| <b>VII. Vacant Property Registration Ordinance</b>                       | <b>6:40 pm</b>   |
| <b>VIII. Update - Graffiti Issues</b>                                    | <b>7:10 pm</b>   |

*It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information. No action will be taken by*

*any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice.*

## **Public Safety Goals**

**Goal 1: Coordination of Police, Codes and Zoning Services**

**Goal 2: Support Problem Oriented Policing**

**Goal 3: Surveillance Camera Project - *underway***

**Goal 4: Support Consolidation of Fire Departments**

**Goal 5: Support Update of Emergency & Pandemic Plan (including NIMS Training for all required personnel) - *underway***

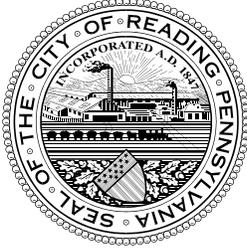
**Goal 6: Support Health and Safety Review Ordinances**

**Goal 7: Support Cops and Codes Sweeps**

**Goal 8: Support Implementation of Sidewalk Café and Sales Ordinances**

**Goal 9: Support Implementation of Sidewalk Vendor Ordinance**

**Goal 10: Support Public Safety at City Schools**



# *CITY COUNCIL*

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## *Public Safety Committee*

Monday, July 6, 2009  
5:00 p.m.

**Attendance:** D. Sterner, M. Goodman-Hinnershitz, S. Marmarou

**Other City Staff Attending:** L. Kelleher, C. Hemnitz, B. Pease, H. Brown, R. Schafer, B. Reinhart

Dennis Sterner, Chair, called the meeting to order at 5:50 p.m.

### **Trucks, Tractors, RV Parking Ordinance Amendment**

Mr. Sterner stated that the Zoning Office requested an amendment to this ordinance as the Zoning Ordinance allows property owners to apply to have a large parking pad on their properties, which seems to conflict with this prohibition.

Ms. Kelleher stated that representatives from the Zoning and Police offices met with her to discuss the proposed amendment. The draft attached is the result of that meeting. The draft allows RVs and Mobile Homes less than 24 feet in length and 12,000 GVW to park on private property after receiving either a temporary permit or an exception from the Police Department.

Ms. Goodman-Hinnershitz suggested adding a permit fee to cover the administrative expenses of the permit. Ms. Sterner suggested adding language to clarify the Chief's ability to determine the period of time the temporary permit will be operational. Ms. Kelleher was asked to make the amendments to the draft ordinance and place it on the Work Session Agenda for Council review.

### **Graffiti**

Ms. Goodman-Hinnershitz noted the continued problem with graffiti and the need for improved tracking. She also noted that property owners are under the impression that they can be fined for failing to remove graffiti in a timely fashion. She noted the need for improved public education about the terms of the ordinance.

Mr. Marmarou expressed the belief that the names of adults convicted of graffiti crimes should be publicized.

Ms. Goodman-Hinnershitz inquired if victims can attend the hearings for juveniles charged with graffiti crimes. Captain Shafer stated that victims are encouraged to attend hearings as witnesses.

Ms. Goodman-Hinnershitz noted the need for improved enforcement of parental responsibility for graffiti crimes. Captain Shafer described the processes used to adjudicate graffiti crime under the State and local laws. He also reported that the property owners are not fined for failing to remove graffiti from their properties. He explained that the ordinance requires notification to the property owner that the City will abate the graffiti.

Ms. Goodman-Hinnershitz reported the increase of graffiti on Met-Ed and post office property. Mr. Marmarou noted Mr. Harrity's work with the County to undertake graffiti prevention and abatement activities. Captain Shafer reported on the coordination and photography of graffiti and tags that is used to build cases against graffiti criminals.

### **Animal Control Ordinance Amendment**

Mr. Pease and Mr. Brown from the Animal Rescue League and the Animal Control Board stated that the Board has been working to review and prepare an amendment to the City's Animal Control Ordinance. The amendment addresses the change of animal control agents, amends the aggressive animal regulations and adds regulations on the number of pets per household.

Mr. Pease described the complaints received about the care and maintenance of pets. He explained that these complaints caused the Board to recommend language that limits the number of pets per household. He stated that this limitation addresses the safety and welfare of animals and the safety and welfare of Reading residents. He added that the Board will next begin to discuss a program that will address feral cats.

Mr. Brown explained that without local limitations the State's regulation of allowing up to 25 pets per household exists. He stated that people having 26 or more pets must apply for a kennel license. He added that this new regulation will allow the inspection of a property to determine if the property can safely handle more than six (6) pets. He noted that recently 22 dogs were removed from a row home in the East Reading area.

Mr. Marmarou inquired how this regulation will be enforced. Mr. Pease stated that it is hoped that people having more than 6 pets will apply for a permit. Those that do not will be addressed via complaint.

Mr. Pease stated that similar ordinances are currently in place in Sinking Spring, Wyomissing, Shillington, Allentown, Bethlehem, Lancaster and Harrisburg. The draft before the Committee is a compilation of those ordinances.

Mr. Sterner suggested adding an application period to the ordinance. Mr. Pease expressed the belief that an application period would be difficult to manage. Everyone agreed that the enforcement of this ordinance will be based on complaint.

Captain Shafer suggested adding language to define a compliance period for permits that are denied. He stated that this would hamper the ability of people to shift animals to alternate locations. Mr. Brown agreed.

Mr. Pease stated that the amended ordinance allows the Police and animal control agent to enter and inspect properties. He also agreed that the enforcement of this ordinance will be complaint based and will help reduce quality of life problems.

Mr. Sterner noted the need for an application form to be made available when the ordinance is adopted.

Mr. Pease stated that the new Aggressive Dog language provides focus on the single animal/dog that attacks. The new language requires the single dog to acquire a special permit and tag. The new language also adds an appeal process.

Mr. Sterner questioned allowing the quarantine of the animal at the home of the owner. Mr. Brown replied that the quarantine regulations are set at the State level. The State regulations allow the Police Officer or the animal control agent to determine the location where the animal shall be quarantined. Ms. Kelleher noted the need to change the Health Code and the Animal Control Ordinance to mirror the State regulations.

Mr. Sterner noted the need to coordinate the animal bite reports. Ms. Kelleher stated that she learned that the bite reports are not well coordinated when she obtained the bite report from the State; some bites were double reported and some were not reported at all. Everyone agreed that the City's Health Officer should obtain all bite reports and report up to the State. Mr. Pease noted the need for Dr. Hassel to coordinate with the area hospitals and medical centers. He suggested meeting annually with Dr. Hassel to go over the bite report.

Mr. Pease explained that the amended Animal Control Ordinance also creates a \$75 fee for an Exotic Pet permit. He explained that the fee will cover the administrative expenses of administering this process.

The Public Safety Committee thanked the Animal Control Board for their diligence and hard work to bring the amendments forward. Mr. Pease stated that the group will begin working on a Trap Neuter Release program that will effectively address the feral cat problems.

Ms. Goodman-Hinnershitz noted the need for good public education on the Animal Control Ordinance and the work of the Animal Rescue League. Mr. Pease described the Animal Rescue League's work to produce public education pieces. Ms. Kelleher offered to assist in developing a brochure on the Animal Control Ordinance.

### **Codes Ticketing**

Mr. Reinhart stated that he and IT will be attending a webinar hosted by a company that offers software and support for the codes ticketing program used in Lancaster. He described his work

to review the programs in place in Lancaster and Allentown and the different software applications available. He stated that he is unsure at this time if IT will be able to support an in-house program.

Mr. Sterner noted that the ticketing program was supposed to be up and running by August 1. He inquired if Mr. Reinhart will have the program started by August 1. Mr. Reinhart stated that he will not have the program in place by August 1. He stated that the ticketing program will require the addition of data entry personnel.

Mr. Hottenstein arrived at the meeting.

Mr. Sterner inquired if the tickets can be appealed. Mr. Reinhart replied that the tickets can be appealed to the Codes Administrator, then to the MDJ. He stated that in Allentown the number of tickets appealed is minimal. Ms. Kelleher noted that the overall number of cases appealed to the Allentown and Lancaster MDJs is less than in Reading. Mr. Reinhart expressed that as the ticketing system fines would be less than the citation charges, more people would pay rather than appeal.

Mr. Sterner requested an update on the ticketing program in August.

### **Vehicle/Muffler Noise**

Mr. Sterner stated that he has received many complaints about vehicle and muffler noise. He inquired how the Police Department addresses these complaints. Captain Shafer stated that the local noise ordinance is used to avoid the decimeter requirements required by the State legislation. Ms. Kelleher noted that the section on motor vehicle noise refers the reader to the State Act 157 which required the use of a decimeter.

Captain Shafer stated that each noise complaint is handled on a case by case basis. He stated that if the noise ends before the police arrive they can file charges based on the statement of witnesses. He noted that the witness would need to be willing to attend a court hearing if one occurred.

Mr. Sterner asked Captain Shafer where noise complaints should be referred to. Captain Shafer stated that noise complaints should be turned in to the Desk Sergeant as they occur or through the Chief's office if the complaint is delayed.

Ms. Goodman-Hinnershitz inquired if the noise ordinance is applied if citizens are found using fireworks. Captain Shafer stated that individuals found with fireworks are charged under the State legislation. He also noted that extra patrols are used on the 4<sup>th</sup> of July to handle the additional complaints of fireworks.

The Public Safety Committee meeting adjourned at 7:10 p.m.

*Respectfully submitted by  
Linda A. Kelleher CMC, City Clerk*

Issues for Follow-Up:

- Graffiti Enforcement - Monthly
- List of property owners without rental permits – July Work Session
- Vehicle/Muffler Noise - August
- Review DCR Amendment – creation of Level 1 and Level 2 DCRs – August
- Review Vacant Property Registration Ordinance - August
- Codes ticketing system - August
- List of tenants and landlords receiving DCRs - Sept
- Enforcement of 800 foot rule for student rentals - Sept

ORDINANCE NO. 2009-12

AN ORDINANCE REPEALING EXISTING CITY ORDINANCE, ARTICLE 4.06 "SPECIAL EVENTS, PUBLIC GATHERINGS AND PARADES" AND REPLACING IT WITH ARTICLE 4.06, Section 4.06.001 *et seq.* "SPECIAL EVENT PERMIT ORDINANCE"; PROVIDING A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, AND AN EFFECTIVE DATE.

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WHEREAS, the City of Bastrop, Texas is a Home Rule municipality incorporated and operating under the Laws of the State of Texas; and

WHEREAS, in 1995 the City of Bastrop adopted an Ordinance regulating permits and activities related to Special Events held in the City of Bastrop to ensure public safety and minimize citizen and City inconvenience.

WHEREAS, with the increase in Special Events being held in the City of Bastrop, the City finds it necessary to repeal and replace the existing Ordinance to further the goals of the community related to protecting the health, safety and welfare of the citizens, as well as the health and safety of participants a Special Events held in Bastrop.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:**

**Part 1:** That Article 4.06 of the Code of Ordinances is hereby repealed in its entirety and is replaced, as set forth herein, which shall hereafter read as follows:

**ARTICLE 4.06 SPECIAL EVENTS PERMITS, PUBLIC GATHERINGS AND PARADES**

**Sec. 4.06.001 Purpose:**

It is the purpose of the Bastrop City Council to establish a comprehensive process for permitting Special Events by the public and private sector using City Streets, facilities, or services. It is recognized that Special Events provide benefits to the City of Bastrop through the creation of unique venues for expression and entertainment. However, certain Special Events, due to their size and special requirements, may place unique demands on public resources or pose a danger to public health, safety, and welfare. In order to plan for these demands on public resources and to ensure that the public health and safety of its citizens is protected, the City of Bastrop must receive advance notice of any Special Events that are to occur within its boundaries. The provisions of this Ordinance are intended to address those concerns and are not intended to place an unreasonable burden on individuals' rights of association or freedom of expression. It is the intent of the Bastrop City Council to protect the rights of its citizens to engage in free speech activities, yet allow for the least restrictive and reasonable regulation of time, place, and manner of those activities within the overall context of rationally regulating Special Events that have an impact on public facilities and services.

**Sec. 4.06.002 Definitions:**

**Special Event** means a temporary event, gathering, or organized activity on any City Street, public property, or private property, or in any City park, building, or other facility, when an organized activity is conducted involving one (1) or more of the following factors:

1. Closing of a public Street, Sidewalk, or alleyway;
2. Blocking or restricting public property;
3. Blocking or restricting access to private property of others;
4. Use of pyrotechnics or special effects;
5. Use of open flame, explosions, or other potentially dangerous displays or actions;
6. Use or display of animals, aircraft, or watercraft;
7. Sale or service of merchandise, food, or non-alcoholic and alcoholic beverages on public and private property where otherwise prohibited by Ordinance;
8. Installation of a stage, band shell, vehicle(s) of any kind, trailer, van, portable building, booth, grandstand, or bleachers on public or private property where otherwise prohibited by Ordinance;
9. Placement of portable toilets on public or private property where otherwise prohibited by Ordinance;
10. Placement of "No Parking" signs or barricades in a public right-of-way;
11. Amplification of music, voices, sounds, or activities that require a Sound Permit;
12. The Special Event Coordinator reasonably determines that the event will result in substantial impact on City resources, facilities, or public safety services in response thereto;
13. Examples of Special Events include but are not limited to: Concerts, dances, assemblages, processions, parades, circuses, amusement rides, fairs, festivals, block parties, community events, marathons and other running events, bicycle races and tours, football games, basketball games, baseball games, golf tournaments, boat races, and other organized activity conducted for the purpose of fundraising for profit, non-profit fundraising, community promotion, or charity.
14. The Special Event Coordinator shall consult with the City Manager to determine if a Special Event Permit is required. The City Manager's determination is final.

**Applicant** means a person who has filed a written Application for a Special Event Permit.

**Special Event Permit** means written, signed authorization to hold a Special Event issued by the Special Event Coordinator and approved by the Bastrop City Council.

**City** means the City of Bastrop, Texas.

**Sidewalk** means that portion of a Street between the curb lines or lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

**Special Event Venue** means that area for which a Special Event Permit has been issued.

**Street** means the entire width between the boundary lines of every publicly-maintained right-of-way when any part thereof is open to use by the public for the purpose of vehicular traffic.

#### **Sec. 4.06.003 Special Event Permit Required**

Except as provided in this Ordinance, no person or entity shall conduct, facilitate, promote, manage, aid, or solicit attendance at a Special Event until a Special Event Permit has been issued by the Special Event Coordinator and approved by the City Council. To obtain a Special Event Permit, the appropriate steps illustrated in *Exhibit A: Event Location* shall be followed.

#### **Sec. 4.06.004 Date of Special Event Not Confirmed Until Permit Issued**

Notwithstanding the Special Event Coordinator's acceptance of a completed Application, no date for a Special Event shall be considered confirmed until an Applicant has fully complied with all necessary requirements and the Special Event Permit has been issued by the Special Event Coordinator after review by the Special Event Review Committee and approved by the City Council. If an Application for a Special Event has been submitted for a specific date but is waiting for approval, no other Application can be accepted for that same date until a decision on the first Special Event Application has been made.

Certain annual Special Events have a "standing tentative reserved date," such as Yesterfest, Halloween, Veterans Day Car Show, Bastrop Homecoming and Rodeo. These dates will be honored providing the Applicant submits the Special Event Permit Application in accordance with this Ordinance.

To avoid double-booking a park pavilion rental, the person responsible for park pavilion rentals should be notified immediately of the proposed date and event so that the park pavilion can be tentatively reserved for said date.

#### **Sec. 4.06.005 Application for Special Event Permit**

An individual requiring a Special Event Permit shall pick up and submit a completed Application for a Special Event Permit at the City's Public Works, Parks, and Recreation Department. Each Applicant shall be required to pay a Processing Fee and a Security Deposit Fee, ***neither of which will be waived***, as specified in *Exhibit B: Fees Schedule*. A Special Event Permit shall be submitted to the City's Public Works, Parks, and Recreation Department ***at least sixty (60) days (two [2] months) but no more than one hundred eighty (180) days (six [6] months) prior*** to the date proposed for the Special Event. The Special Event Coordinator, where good cause is shown, may, but is not required to, consider an Application filed ***less than sixty (60) days (two [2] months)*** prior to the proposed date of said event or activity ***only if agenda deadlines and meeting dates for Special Event Review Committee, Parks Board (if applicable), and City Council can be met.***

#### **Sec. 4.06.006 Content of a Special Event Permit Application**

1. The name of the event.
2. The location of the event.
3. The purpose of the event.
4. The dates, days, and times of the event.
5. The setup, tear-down, and cleanup dates and times.
6. Name of organization's Applicant acting as its event coordinator.
7. Name of organization sponsoring the event.
8. Address of said organization.
9. Daytime phone, fax, and cell phone numbers for Applicant.
10. E-mail address for Applicant, if any.
11. Maps detailing proposed site locations and/or routes along with written descriptions of the following:
  - a. **Amplification Devices**: Types used and for what purposes.
  - b. **Electrical Requirements**: Voltage, amperage, and apparatus associated with electrical needs for activities, vendors, etc.
  - c. **Emergency Medical Stations**: First aid or emergency medical services based on Special Event risk factors, as determined by the City Manager or City Manager's designee.
  - d. **Equipment**: Types of equipment used to service Special Event and/or to be showcased in the event.
  - e. **Fire Lanes**: Contingency plan for access by fire-fighting and emergency medical vehicles, equipment, and personnel.
  - f. **Fireworks or Pyrotechnic Displays**: Amount, type, and fire safety plans, including proof of application for state permit.
  - g. **Litter Control**: Number, size, and location of trash receptacles, as well as trash removal and disposal.
  - h. **Parade, Race, Other Similar Activities**: Including but not limited to marathons, "fun-runs," "walk-a-thons," trail rides, cycle and motorbike tours, watercraft events, scavenger hunts, etc. Show start and finish locations.

- i. **Portable Toilets:** The number of portable sanitation facilities based on the Portable Sanitation Association International (PSAI) policy, City policies, and City codes, including quantity that will be ADA accessible.
  - j. **Signage:** Type of proposed on-site and off-site signage, including quantity, dimensions, and materials.
  - k. **Street Closures and Detours:** A statement as to whether the Special Event will occupy all or only a portion of the width of the Streets, Sidewalks, or other public rights-of-way proposed for pedestrian and vehicular traffic control.
  - l. **Structures:** All temporary structures, including but not limited to booths, buildings, stages, bleachers, fences, tents, awnings, and canopies.
    - (a) If any temporary structure is equal to or larger than two hundred (200) square feet in diameter, a certificate confirming the use of flame-retardant material shall be provided by Applicant.
  - m. **Vendors:** List each vendor, including products and services offered. Texas law requires valid tax ID number for each vendor.
  - n. **Vehicles:** Types of vehicles used to support services to the Special Event and/or to be showcased in the event.
12. **Admission Fees:** The cost of admission, if any, and whether the event is a public or private event.
13. **Alcoholic Beverages:**
- a. Conditions and restrictions on the use of alcoholic beverages.
  - b. Submit a list all vendors who will be providing alcohol, along with copies of their TABC certificates.
14. **Animals:** A description of the types of animals anticipated to be part of the Special Event, if any. Refer to *Section 2.01.004* of the Animal Control Ordinance for requirements for proper control and handling of animals and animal waste during Special Events.
15. **Attendance:**
- a. The approximate number of persons who will be attending the Special Event each day for the duration of the Special Event Permit.
  - b. The approximate number of persons who will participate in the event as volunteers or workers.

16. **Insurance**: Proof of comprehensive general liability insurance in the amount of one million dollars (\$1,000,000.00), naming the City of Bastrop as additional insured. Also, include additional affected entities, i.e., BEDC.
17. **Miscellaneous**: Any special or unusual requirements that may be imposed or created by virtue of the nature or operation of the proposed Special Event activity, as well as any other information required by the Special Event Coordinator.
18. **Water/Wastewater**: If applicable, a plan for the disposal of waste water, including capture and containment, which plan shall be approved by the Water/Wastewater Department. All water generated must be disposed of through an approved sanitary sewage system that is constructed, maintained, and operated according to law.

#### **Sec. 4.06.007 Exceptions to Special Event Permit Requirement**

A Special Event Permit is not required for the following activities:

1. Funeral processions by a licensed mortuary.
2. House-moving and construction activities.
3. Activities of a governmental agency acting within the scope of its authority.
4. Lawful demonstrations on Sidewalks.
5. Students traveling to and from classes or participating in school district sanctioned educational activities, provided such conduct is under the immediate direction and supervision of the proper school authorities.
6. The lease of public property on a permanent or temporary basis, such as park pavilion rentals and long-term leases of City property by the City to individuals or groups.

#### **Sec.4.06.008 Fees, Time Limit, and Cost**

**Fees.** Due and payable at the time of filing Application if event occurs on City property.

1. **Processing Fee** will **NOT** be waived:
  - a. With proof of non-profit status (i.e., 501-C): One hundred dollars (\$100.00).
  - b. All others: Three hundred dollars (\$300.00).
2. **Security Deposit** will **NOT** be waived:
  - a. Five hundred dollars (\$500.00).
  - b. Refundable if the location of the Special Event is clean and free of litter and damage.

### **Time Limit for Filing and Changes.**

1. A timely Application for Special Event Permit shall be filed ***no less than sixty (60) days (two [2] months)*** and ***no more than one hundred and eighty (180) days (six [6] months)*** prior to the date on which the proposed Special Event shall occur.
2. The Special Event Coordinator, where good cause is shown, may, but is not required to, consider an Application filed ***less than sixty (60) days (two [2] months)*** prior to the proposed date of said event or activity *only if agenda deadlines and meeting dates for Special Event Review Committee, Parks Board (if applicable), and City Council can be met.*
3. Any proposed changes to the Application prior to the date of the event must be approved by the Special Event Coordinator with possible consultation with the City Manager, whose decision is final based on time constraints.

### **Sec. 4.06.009 Conditions for Issuance of a Special Event Permit**

The Special Event Coordinator may issue a Special Event Permit when:

1. An Application is successfully completed and filed in accordance with *Sections 5, 6, and 8*; and
2. All of the following conditions are satisfied:
  - a. The Special Event will not substantially interrupt the safe and orderly movement of vehicular and pedestrian traffic.
  - b. The Special Event will not require the diversion of police officers or department employees so as to significantly impact the Police Department's ability to respond appropriately to police-related calls and normal police activity throughout the remainder of the community.
  - c. The concentration of persons, animals, vehicles, or things at the staging and disbanding areas, as well as along the event or Street activity route, will not unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the Streets.
  - d. The Special Event is not being conducted for an unlawful purpose, nor will it violate any Ordinance of the City or any other applicable law.
  - e. The Special Event will not substantially interfere with any other Special Event for which a Special Event Permit has already been issued; nor shall it substantially interfere with the provision of City services in support of other scheduled events or unscheduled government functions.
  - f. The Special Event will not have any unmitigated adverse impact upon residential or business access and traffic circulation in the same general venue.

#### **Sec. 4.06.010 Denial or Revocation of a Special Event Permit**

The Special Event Coordinator, in consultation with the City Manager, may deny or revoke a Special Event Permit Application if the Applicant fails to satisfy or violates any of the requirements set forth in *Sections 5, 6, and 8* or the conditions set forth in *Section 9*; or

1. The Applicant has made or permitted the making of a false or misleading statement or omission of material fact on the Special Event Permit Application; or
2. The Applicant has violated this Ordinance or has had a Special Event Permit revoked within the preceding twelve (12) months.
3. The Applicant violates or has violated within the past twelve (12) months another City Ordinance or state law.

#### **Sec. 4.06.011 Notice of Decision**

If the Special Event Coordinator, upon consultation with Special Event Review Committee, rejects an Application, the Special Event Coordinator shall provide by facsimile transmission, e-mail, telephone, and/or U.S. mail directed to the Applicant within ten (10) business days after the date upon which the Application was filed, a notice of its action, stating the facts and conclusions which are the basis for the denial of the Permit.

#### **Sec. 4.06.012 Street Activity and Route Restrictions**

Special Events shall comply with the following restrictions. The Special Event Coordinator and/or City Manager may alter the time restrictions stated herein upon review of the Special Event's location, time, type, safety concerns, the City's capabilities, and proximity to residential properties.

1. Special Events held on public property within the City limits or on a publicly-maintained right-of-way may begin staging (setting up) at 6:00 a.m. and shall disband (shut down) at 10:00 p.m. Cleanup must be completed by midnight.
2. Special Events held primarily in a residential area may begin staging (setting up) at 10:00 a.m. and shall disband (shut down) by 8:00 p.m. Cleanup must be completed by 10:00 p.m.
3. For Special Events held primarily in a residential area and requiring Street closures, the appropriate safety/security measures must be approved by the Chief of Police and/or the City Manager for the duration of the Special Event and at the expense of the Applicant.
4. Noise levels for such Special Events shall not exceed maximum permissible sound levels in accordance with City noise decibel Ordinance. This includes but is not limited to air horns and other horn-blowing apparatus, whistles, and amplified music, speech, and other sounds.
5. Throwing any items, including but not limited to candy, gum, food, beads, confetti, balloons, and toys, from any and all kinds of moving vehicles, equipment, trailers,

bicycles, motorcycles, animals, etc. during Special Event parades is strictly prohibited. However, such items may be handed to individuals curbside.

6. Only licensed drivers may operate motorized vehicles and equipment during parades. This includes but is not limited to automobiles, tractors, trucks of all makes, all-terrain vehicles (ATV), and go-carts.

#### **Sec. 4.06.013 Temporary Signs for Special Events**

It is unlawful for any person to place, post, paint, erect, display, secure, or maintain any sign, banner, lighting, or advertising without the prior written approval of the Special Event Coordinator and the City's Planning and Development Department. In case of conflict with the City's sign regulations in the Code of Ordinances, the City's sign Ordinance shall control.

All Special Event signs, banners, flyers, or advertisements of any kind shall be contained within the boundaries of the event location and shall be removed within twenty-four (24) hours of the completion of the Special Event. A Special Event sign not removed in compliance with this section may be removed by the City at the expense of the Applicant to include costs incurred by the City for removal of same. If a Special Event sign, banner, flyer, or advertisement becomes a hazard to the public's safety or welfare due to inclement weather, inadequate maintenance, accidental damage, or other cause, the City shall remove the sign immediately at the sole cost of the Applicant. After removal by the City, the City may store, dispose, destroy, or otherwise handle the sign as it deems appropriate and shall have no liability to the Applicant or sign owner related to same. *All banners not picked up by the Applicant or designee within one (1) week after completion of said Special Event, may be disposed, destroyed, or otherwise handled as deemed appropriate with no liability on the part of the City.*

#### **Sec. 4.06.014 Public Conduct**

**Interference.** No person shall unreasonably hamper, obstruct, impede, or interfere with a Special Event, event assembly, or with any person, vehicle, or animal participating in a Special Event.

**Driving through Special Events.** No driver of a vehicle shall drive between the vehicles or persons comprising an event when such vehicles or persons are in motion and are conspicuously designated as a Special Event.

**Parking on Special Event Route(s).** The Chief of Police, City Manager, or designated representative shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a Street, highway, or part thereof constituting a part of the route of a Special Event.

**Noise.** No person, animal, music, sound, activity, vehicle, or equipment used during a Special Event will be permitted to produce noise levels that exceed the maximum permissible sound levels in accordance with the City noise decibel Ordinance.

#### **Sec. 4.06.015 Inspections**

1. Amusement rides and/or attractions associated with Special Events shall conform to statutory rules and regulations set forth in *Chapter 21, Article 21.53*, of the Texas

Insurance Code, designated the *Amusement Ride Safety Inspection and Insurance Act, As Amended*. Copies of inspection reports shall be required prior to use in the City limits and verified by authorized City personnel. Additionally, all erected rides will require inspection by authorized City personnel. Amusement rides in enclosed areas greater than one thousand (1,000) square feet are required to be “fire-sprinklered-ready” with an external fire department connection (FDC).

2. All temporary structures, including but not limited to booths, buildings, stages, bleachers, fences, tents, awnings, and canopies. If any temporary structure is equal to or larger than two hundred (200) square feet in diameter, a certificate confirming the use of flame-retardant material shall be provided by Applicant.
3. Special electrical and water/wastewater needs must be inspected prior to the event.

#### **Sec. 4.06.016 Animal Waste**

Refer to *Section 2.01.004* of the Animal Control Ordinance for requirements related to Special Event activities involving animals. Applicants are responsible for properly controlling and handling all animals and animal waste.

#### **Sec. 4.06.017 Insurance Required to Conduct Special Event**

1. An Applicant for a Special Event must provide proof of comprehensive general liability insurance in the amount of one million dollars (\$1,000,000.00) to protect the City against loss from liability imposed by law for damages on account of bodily injury and/or property damage arising from any aspect of the Special Event. Such insurance shall name the City of Bastrop, its officers, employees, agents, and, if required, any other public entity involved in the Special Event, as additional insured on a separate endorsement maintained for the duration of the Special Event. Notice of limitation, reduction, or cancellation of insurance coverage shall be provided immediately to the City of Bastrop by the carrier and the Applicant.
2. The insurance required by *Subsection 1* shall encompass all liability insurance requirements imposed for other permits required under other sections of this Ordinance and is to be provided for the benefit of the City and not as a duty, expressed or implied, to provide insurance protection for spectators or participants.
3. The insurance required by *Subsection 1* must be submitted to the Special Event Coordinator ***no later than two (2) weeks prior*** to the event. Before this time, a ***letter of intent to insure*** from the event’s insurance agency must be on file with the Application that states the City of Bastrop will be additionally insured. Failure to provide the insurance stated in *Subsection 1* or the letter of intent for insurance could result in the denial/revocation of the Special Event Permit.

#### **Sec. 4.06.018 Indemnification**

The Applicant for a Special Event Permit shall indemnify and hold harmless the City, its officers, employees, agents, and representatives against all claims of liability and causes of action resulting from injury or damage to persons or property arising out of the Special Event.

#### **Sec. 4.06.019 Conditions for Premises After the Special Event**

The Applicant is required to bring the premises back to the same or better condition; and failure to comply, will result in no future events to be held by the Applicant or organization.

**Sec. 4.06.020 Penalty for Violations of Ordinance**

A person commits an offense if he/she:

1. Knowingly commences or holds a Special Event without a Special Event Permit or with a permit that has expired or has been revoked; or
2. Knowingly violates any terms or provisions of this Ordinance.
3. Violations of this Ordinance shall be treated as strict liability offenses regardless of intent.
4. This Ordinance governs fire safety and public health, safety, and general welfare. Accordingly, any person, firm, corporation, or organization violating or failing to comply with any of the provisions of this Ordinance shall be subject to the penalty as provided for in *Section 1.06* of the City of Bastrop Code of Ordinances.

**Sec. 4.06.021 Event Location**

The following chart shows the steps that are to be followed for a Special Event Permit to be issued, depending upon the location.

| PROPOSED EVENT LOCATED<br>IN A CITY PARK  | PROPOSED EVENT LOCATED<br>ON ANY OTHER CITY PROPERTY   |
|---|--|
| Application fully completed and submitted to the Special Event Coordinator.   | Application fully completed and submitted to the Special Event Coordinator.  |
| Special Event Review Committee approves and submits the Application to the Parks Board.   | Special Event Review Committee approves and submits the Application to City Council.   |
| Applicant or designee attends the Parks Board meeting, regularly scheduled the 1 <sup>st</sup> Thursday of every month, unless otherwise noted. | City Council meets on the 2 <sup>nd</sup> and 4 <sup>th</sup> Tuesdays of the month. Applicant will be advised if attendance is necessary. |
| The Parks Board submits the Application to the City Council.  | The City Council approves the Special Event Permit with any changes that are recommended or denies the Permit.                             |
|   |  |

|   |  |
|---|--|
| <p>City Council meets on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesdays of the month. Applicant will be advised if attendance is necessary.</p> |  |
| <p>City Council approves the Special Event Permit with any changes that are recommended or denies the Special Event Permit.</p>                 |  |

**Sec. 4.06.022 Fees Schedule**

| <b>Fees for All Special Events</b>   |          |
|--|----------|
| Processing Fee <i>with proof of non-profit status</i>  | \$100.00 |
| Processing Fee <i>for all others</i>   | \$300.00 |
| <p><b><i>This fee will <u>not</u> be waived.</i></b><br/> <b><i>Due at time of filing Application.</i></b><br/> <b><i>Must be in the form of a Cashier's Check or a Money Order issued by U.S. Post Office.</i></b></p>  |          |
| Security Deposit for damages/cleanup   | \$500.00 |
| <p><b><i>This fee will <u>not</u> be waived.</i></b><br/> <b><i>Due at time of filing Application.</i></b><br/> <b><i>Must be in the form of a Cashier's Check or a Money Order issued by U.S. Post Office.</i></b></p>  |          |
| Inspection Fee <i>required for amusement rides, temporary structures, and special electrical and water/wastewater needs</i>  | \$50.00  |
| <p><b><i>Applicant is responsible for fee.</i></b><br/> <b><i>This fee will <u>not</u> be waived.</i></b><br/> <b><i>Due at time of filing Application.</i></b><br/> <b><i>Must be in the form of a Cashier's Check or a Money Order issued by U.S. Post Office.</i></b></p> |          |
| Re-inspection Fee <i>required for above-described items</i>  | \$75.00  |
| <p><b><i>This fee will <u>not</u> be waived.</i></b><br/> <b><i>Due at time of filing Application.</i></b><br/> <b><i>Must be in the form of a Cashier's Check or a Money Order issued by U.S. Post Office.</i></b></p>  |          |

| <b>Fees Include the Following Services Where Applicable</b> |
|---|
| Administrative time   |
| Ant and mosquito spraying as needed                         |
| Banner Permit   |
| Bathrooms cleaned and stocked with paper products           |
| Mowing and other preparations                               |
| Parade Permit   |
| Sound Permit fee  |
| Street closures with placement of cones and barricades      |
| Traffic and/or parking control                              |
| Trash receptacles and disposal of contents                  |

**NOTE:** If damages or cleanup fees exceed the \$500.00 Security Deposit Fee, the Applicant is responsible for procuring payment of said incurred costs. Invoice(s) will be sent to Applicant upon receipt of same.

If additional costs are incurred during the production of a Special Event, such as the rental of rugs, equipment, etc., the Applicant is responsible for procurement of payment of said incurred costs. Invoice(s) will be sent to Applicant upon receipt of same.

**Part 2:** This Ordinance shall repeal any of such other ordinances related to special events permitting, as well as provisions that may be inconsistent or in conflict with the provisions of any other ordinance of the Bastrop Code of Ordinance, in which event such conflicting provisions, if any, are superseded.

**Part 3:** If any provision of this Ordinance or application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions, or application thereof, of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are hereby declared to be severable.

**Part 5:** The Mayor is hereby authorized to sign this Ordinance and the City Secretary to attest. This Ordinance shall become effective and be in full force and effect in accordance with the provisions of the Charter of the City of Bastrop.

READ AND ACKNOWLEDGED ON FIRST READING ON THIS 26<sup>th</sup> DAY OF MAY 2009.

PASSED AND APPROVED ON SECOND READING ON THE 9<sup>th</sup> DAY OF JUNE 2009.

APPROVED:

ATTEST:

\_\_\_\_\_  
Mayor Terry Orr

\_\_\_\_\_  
Teresa Valdez, City Secretary

APPROVED AS TO FORM:  
Jo-Christy Brown.  
City Attorney

AN ORDINANCE

AN ORDINANCE AMENDING THE CITY OF READING CODIFIED ORDINANCES CHAPTER 1, SECTION 1 – ANIMAL CONTROL BY ADDING LIMITATIONS ON THE ALLOWABLE NUMBER OF ANIMALS PER HOUSEHOLD, ESTABLISHING AN EXOTIC ANIMAL PERMIT FEE, AMENDING THE LANGUAGE REGARDING AGGRESSIVE DOGS, ADDING DEFINITIONS, AND RENUMBERING SECTIONS AS REQUIRED, AS ATTACHED IN EXHIBIT A.

THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

**SECTION 1.** Amending the City of Reading Codified Ordinances Chapter 1, Section 1 – Animal Control by adding limitations on the allowable number of animals per household, establishing an exotic animal permit fee, amending the language regarding aggressive dogs, adding definitions, and renumbering sections as required as attached in Exhibit A.

**SECTION 2. Severability.** It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provisions of this Amendment to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Amendment shall continue to be separately and fully effective. The City Council hereby declares that it would have passed this Amendment and each section or part thereof, other than any part declared invalid, if it had advance knowledge that any part would be declared invalid.

**SECTION 3. Repealer.** Any specific provisions of the Codified Ordinances or any other City Ordinance or resolution that is in direct conflict within this Amendment are hereby repealed.

**SECTION 4. Numbering and Lettering.** Should any number or letter assigned to an amendment set forth herein conflict with or been previously assigned under a prior amendment to the Chapter 2, Section 1 – Animal Control, then the number or letter herein shall be automatically amended when codified to reflect the next available number or letter.

**SECTION 5.** All other provisions of the City of Reading Zoning Ordinance, Section 27-101 et seq. of the City of Reading Codified Ordinances shall remain unchanged and in full force and effect.

**SECTION 6. Effective Date of Ordinance.** This ordinance shall become effective ten (10) days after its adoption, in accordance with Section 221 of the City of Reading Home Rule Charter.

Enacted \_\_\_\_\_, 2009

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President of Council

Attest:

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City Clerk

(Animal Control Board & Council Staff)

Submitted to Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

Received by the Mayor's Office: \_\_\_\_\_

Date: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

Vetoed by Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**  
**CHAPTER 2**  
**ANIMALS**  
**PART 1**  
**ANIMAL CONTROL**

§2-101. Purposes

§2-102. Definitions

§2-103. Nuisances

§2-104. Keeping of Exotic Animals, Domestic Agricultural Animal, or Native Wildlife Animals

§2-105. Caring for Animals

**§2-106. Limitation on the Number of Animals**

§2-107. Sanitation

§2-108. Restraining and Confinement Generally

§2-109. Restraint of Guard Dogs

§2-110. Restraining of Dangerous or Aggressive Dogs

§2-111. Property Owners May Impound

§2-112. Return of Animal to Owner

§2-113. Disposition of Large Animals

§2-114. Dangerous Dog and/or Aggressive Dog Permits

~~§2-114. Permit Tags; Identification~~

§2-115. Impoundment

§2-116. Notice to Owner and Redemption

§2-117. Animal Control Board Established

§2-118. Animal Control Board; Powers and Duties

§2-119. Sanctions and Remedies

§2-120. Appeals

§2-121. Enforcement

§2-122. Violations and Penalties

**PART 2**  
**PIGEONS**

§2-201. Coop Size and Number of Pigeons

§2-202. Sanitary Maintenance; Loud Noises Prohibited

§2-203. Feeding Prohibited

§2-204. Human Disposition of Pigeons at Large

§2-205. Penalty

Cruelty to Animals - see 18 Pa.C.S.A. §511.

Dog Law of 1982 -1- 3 P.S. 45901 *et seq.*

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**PART 11**  
**ANIMAL CONTROL**

**§2-101. Purpose.**

The purpose of this Part is to promote the public health, safety and general welfare of the citizens of the City of Reading and to ensure the humane treatment of animals by regulating the care and control of animals within the City.

(Ord. 72-2005, 11/15/2005, §1)

**§2-102. Definitions.**

When used in this Part, the following words, terms, and phrases, and their derivations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

*ANIMAL -- Construed in a broad sense to include not only mammals, but also birds, reptiles and insects.*

**ANIMAL CONTROL OFFICER** – A City employee or agent authorized to enforce the City of Reading Codified Ordinances, an employee of the designated animal control authority or agent of the City, designated by the Mayor to administer and enforce the licensing/permit, inspection and enforcement requirements contained within this Part.

**ANIMAL HOSPITAL** - any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of animal diseases and injuries.

**ANIMAL NUISANCE** - any nuisance arising out of the keeping, maintaining or owning of, or failure to exercise sufficient control of, an animal.

**ANIMAL SHELTER** - any facility operated by the City or ~~humane society~~ designated animal control authority for the temporary care, confinement and detention of animals and for the humane euthanasia and other disposition of animals. The term shall also include any private facility authorized by the Mayor or his designee to impound, confine, detain, care for or destroy any animal.

**AT LARGE** - an animal is off the premises of the owner, and not on a leash or otherwise under the immediate control of a person physically capable of restraining the animal.

**ATTACK** - the deliberate action of a dog whether or not in response to a command by its owner, to bite, to seize with its teeth or to pursue any human, animate or inanimate object, with obvious intent to destroy, kill, wound, injure or otherwise harm the object of its action. All attacks shall be reported to the City of Reading Health Officer within 48 hours (see Chapter 10 Health and Safety Section 10-110).

**CRUELTY** - any act of omission whereby unjustifiable physical pain, suffering or death of an animal is caused or permitted, including failure to provide proper drink, air, space, shelter or protection from the elements, a sanitary and safe living environment, veterinary care or nutritious food in siphoned quantity. In the case of activities where physical pain is necessarily caused, such as medical and scientific research, food processing, customary and normal veterinary and agricultural husbandry practices, pest elimination, and animal training and hunting, "cruelty" shall mean a failure to employ the most humane method reasonably available.

**DESIGNATED ANIMAL CONTROL AUTHORITY** - agency that has a contract with the City of Reading for animal control.

**DOG, DANGEROUS** - any dog as defined in 3 P.S. 459-502-A(1).

~~**DOG, AGGRESSIVE** - as any dog that is a member of any canine breed in whole or in any part that accounts for 40% or more of the dog bite incidents whether on humans or animals reported to the City of Reading Police Department and/or the Humane Society, as determined by the Animal Control Board on annual basis each January based upon statistics for the preceding year provided that the total number of dog bite incidents reported of all breeds exceeds 30.~~

shall include any or all of the following, except police dogs or guard dogs acting under the supervision of a police officer or certified trained dog handler, or certified service dogs:

1. Any dog which bites, inflicts injury, assaults or otherwise attacks a human being or a domestic animal without provocation; or
2. Any dog which, without provocation, approaches in a threatening or terrorizing manner, any person or domestic animal upon the streets, sidewalks or any public grounds or places; or
3. Any dog which is trained to attack or cause injury or to otherwise endanger the safety of human beings or domestic animals, or any dog which has a history of attacking or propensity to attack people or domestic animals without provocation.
4. All bites and/or attacks shall be reported to the City's Health Officer within 48 hours (see Chapter 10 Health and Safety Section 10-110).

**DISPOSITION** - adoption, quarantine, voluntary or involuntary custodianship or placement, or euthanasia humanely administered to an animal. "Disposition" includes placement or sale of an animal to the general public, or removal of an animal from any pet shop to any other location.

**DOMESTIC COMPANION ANIMAL** - any non-wildlife or non-exotic species altered through controlled breeding for the primary purpose of human companionship and serving no widely recognized agricultural, farming use or working purposes.

**DOMESTIC AGRICULTURAL ANIMAL** - any non-wildlife or non-exotic species altered through controlled breeding for the primary purpose of agricultural use or farming purposes are strictly prohibited.

**EXEMPT EXOTIC ANIMAL** - any non-domestic animal not native to Pennsylvania routinely offered for sale by pet stores within Pennsylvania, non-poisonous reptiles not exceeding a maximum length of 60 inches at maturity, non-poisonous fish, and nonpoisonous amphibians not requiring State, Federal, or City permitting.

**GUARD or ATTACK DOG** - a dog trained to attack on command or to protect persons or property, and who will cease to attack upon command.

**HEEL** - the animal is directly behind or next to a person and obedient to that person's command.

**IMPOUNDMENT** - the taking into custody of an animal by any police officer, animal control officer, or any authorized representative thereof.

**KENNEL** - any premises wherein any person engages in the business of boarding, breeding buying, letting for hire, training for a fee or selling dogs or cats.

**MUZZLE** - a device constructed of strong, soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

**OFFICER -- Police officer and/or duly appointed Animal Control Officer.**

**OWNER** - any person having temporary or permanent custody of, sheltering or having charge of, harboring, exercising control over, or having property rights to, any animal covered by this Part. An animal shall be deemed to be harbored if it is fed or sheltered for 3 or more consecutive days.

**NATIVE WILDLIFE ANIMAL** - all non-domestic animals naturally occurring in the wild within the borders of Pennsylvania.

**PERSON -- Any individual, partnership, association, corporation, company, firm, institution, trustee, estate, trust, any private entity or public entity as well as all officers, agents, servants, employees or others acting for any of the same, and shall be taken as applying in the singular or plural as the case may require.**

**PUBLIC NUISANCE ANIMAL** - any animal that unreasonably annoys humans, endangers the life or health of person or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property.

The term "public nuisance animal" shall include, but not be limited to:

- (1) Any animal that is found running at large.
- (2) Any dog or cat in any section of a park or public recreation area unless the dog or cat is controlled by a leash or similar physical restraint.
- (3) Any animal that damages any property other than that of its owner.
- (4) Any animal that makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored shall be governed by the City of Reading Codified Ordinance Chapter 10, Part 2, "Noise Control," §10-204.
- (5) Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
- (6) Any animal in heat that is not confined so as to prevent attraction or contact with other animals.
- (7) Any animal, whether or not on the property of its owner, that without provocation, molests, attacks, or otherwise interferes with the freedom of movement of persons in a public right-of-way.
- (8) Any animal that chases motor vehicles in a public right-of-way.
- (9) Any animal that attacks domestic animals.
- (10) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored.
- (11) Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single residence or the inadequacy of the facilities.

**SANITARY** - a condition of good order and cleanliness to minimize the possibility of disease transmission.

**UNDER RESTRAINT** - an animal is secured by a leash, lead under the control of a person physically capable of restraining the animal and obedient to that person's commands, or securely enclosed within the real property limits of the owner's premises.

**VICIOUS or DANGEROUS ANIMAL** - any animal that attacks, bites, or physically injures human beings, domestic animals, or livestock without provocation or which, because of temperament or training, has a known propensity to attack, bite, or physically injure human beings, domestic animals, or livestock. Any wild animal or any animal that without provocation has bitten or attacked a human being or other animal shall be prima facie presumed vicious or dangerous. *All attacks and bites must be reported to the City's Health Officer within 48 hours (see Chapter 10 Health and Safety Section 10-110).*

## §2-103. Nuisances.

It shall be unlawful for any person to keep any animal on any property located within the incorporated limits of the City when the keeping of such animal constitutes a public nuisance or menace to public health or safety.

(Ord. 72-2005, 11/14/2005, §1)

**§2-104. Keeping of Exotic Animals, Domestic Agricultural Animal, or Native Wildlife Animal.**

It shall be unlawful for anyone to own, harbor or permit at large any exotic animal, domestic agricultural animal or native wildlife animal within the City without ~~the written permission of a~~ permit issued by the Animal Control Board. Such ~~permission~~ permit shall be given only if it is demonstrated to the satisfaction of the Board that the animal will not constitute a threat to public health or safety.

The application for such permit shall be on a form supplied by the City and shall be submitted to the City Clerks Office along with a fee in the amount of \$75.00. The fee shall be disbursed \$40.00 to the designated animal control authority and \$35.00 to the City to cover the costs of inspections and administration.

**§2-105. Caring for Animals.**

PA Code Animal Regulations - 18 Pa.C.S. §5511.

**§2-106. Limitation on the Number of Animals**

1. Purpose. The purpose of this section is to regulate the maintenance, keeping or possession of animals within the City of Reading in order to promote the health, safety and general welfare of its inhabitants.

Where the provisions of this chapter impose greater restrictions than those of any other statute, ordinance, regulation or resolution, the provisions of this chapter shall be controlling. Where the provisions of any other statute, ordinance, regulation or resolution impose greater restrictions than this chapter, the provisions of such other statute, ordinance, regulation or resolution shall be controlling.

2. Limitation on Number of Animals.-- Except for species of fish, it shall be unlawful to keep more than six (6) animals six (6) months of age or older on any premises, regardless of the number of owners; provided, however, that this section shall not apply to any premises for which a kennel license has been obtained pursuant to the Dog Law of the Commonwealth of Pennsylvania, as the same may from time to time be supplemented or amended, nor shall this section apply if a permit has been issued and is in effect pursuant to this ordinance.

**3. Application for Permit of More Than Six (6) Animals.**

A. The application for a permit for the keeping of more than six (6) animals shall have attached thereto a registered veterinarian's health certificate for each animal to be covered by the permit, shall be verified by an affidavit and shall set forth the following:

1. The type and number of animals to be covered by the permit.
2. The purpose of keeping such animals.
3. The period for which the permit is requested.
4. A description of the quarters in which the animals will be kept, including plans and specifications thereof, where appropriate, and the facilities for sanitation and disposal of animal wastes.
5. The circumstances, if any, under which the animals will be removed from their quarters.
6. Biographical information about the applicant and any other person to be placed in charge of the animals, with particular emphasis on the knowledge of such persons about the animals in question and the experience of such persons in handling the animals in question and earlier charges and/or citations for violation of statutes and/or ordinances governing animals, and/or health and/or safety.
7. Such additional information as the Animal Control Board may require.

4. In addition to such verified information, the Animal Control Board shall consider all other relevant conditions, including but not limited to:

- A. The odor emanating or likely to emanate from the premises to persons off the premises.
- B. The noise emanating or likely to emanate from the premises to persons off the premises.
- C. The attitudes of the applicant's neighbors to the proposed permit.
- D. The security with which the pets or creatures will be restrained.

5. Animal Control Board; Powers and Duties; Issuance of Permit.

A. The Animal Control Board shall have the power to review or cause to be reviewed each application for a permit and may either approve or reject such application or require modification of the application. When the Animal Control Board has approved the application, it shall issue the permit. The permit shall be personal and not transferable and shall be issued for a calendar year or part thereof. The Animal Control Board shall also have the power to revoke the permit for cause.

B. If the permit application is denied or the permit is revoked, the applicant shall have 30 days to comply with the limitations and provisions of this section. Within 45 days of the denial of the application or the revocation of the permit, the Animal Control Authority or Police Officer shall conduct an inspection of the property to determine if the applicant or permittee is in compliance with the regulations contained herein. If the Animal Control Authority or Police Officer determines that the applicant or permittee has not complied (or at any time fails to remain in continuous compliance) with the terms of this ordinance, the applicant or permittee shall be subject to immediate fine and penalties as stated in Section 2-122 herein.

C. The Animal Control Board shall also have the power, to make such rules and regulations as it shall deem necessary to carry out the purposes of this ordinance. The Animal Control Board shall be responsible to determine whether any person is violating any provisions of this ordinance. In making such determinations as to whether to approve

or reject an application for a permit or an application for renewal of a permit, the Animal Control Board shall consider whether any one or more of the following approved standards are not complied with:

1. All animals and animal quarters shall be kept in a clean and sanitary condition. Adequate ventilation shall be maintained.
2. The permittee shall use every reasonable precaution to assure that the animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any means.
3. Animals which are enemies by nature or are temperamentally unsuited shall not be quartered together or so near each other as to cause the animals fear, or to be abused, tormented or annoyed.
4. The permittee shall maintain the premises so as to eliminate offensive odors or excessive noise.
5. The permittee shall not permit any condition causing disturbance of the peace and quiet of his/her neighbors.
6. Animals must be maintained in quarters so constructed as to prevent their escape. The permittee assumes full responsibility for recapturing any animal that escapes from his/her premises. The permittee shall make adequate provisions and safeguards to protect the public from the animals.
7. Every person shall conform to all present and future laws of the Commonwealth of Pennsylvania and the United States of America, the ordinances of the City of Reading and the rules and regulations that may accompany this chapter in any way connected with animals, specifically including anticruelty laws.
8. Any and all animals must be kept healthy and free from sickness and disease at all times. Should an Animal Control Officer or any Police Officer question the health of any animals, he/she shall have the authority to require an examination by a doctor of veterinary medicine, such examination to be at the expense of the owner.
9. The permittee shall be responsible and liable for the actions of all persons employed by or otherwise associated with him/her as such actions relate to permittee's obligation to comply with this chapter.
10. Every owner and occupant of a structure or property shall be responsible for the extermination of insects, rodents, vermin or other pests in all areas of the premises.

D. If the conditions presented by the application for a permit or for renewal of a permit constitute an actual or potential nuisance and/or a hazard and/or a danger to the public health, safety and welfare, the application for a permit or for renewal of a permit shall be denied.

E. An Animal Control Officer and police officers of the City of Reading are authorized hereby to enter upon any premises within the City for the purpose of investigating a possible violation of this chapter. If access is denied by the property owner, the Animal Control Officer and/or Police Officers are authorized to submit an application for a search warrant to the appropriate judicial authority.

F. The holder of a permit issued pursuant to this ordinance shall have an ongoing duty to comply with the requirements of the approved standards set forth in this ordinance.

G. Fees. The applicant for a permit hereunder shall, at the time of his/her application, pay to the City of Reading \$50.00 for the first calendar year or part thereof, renewable thereafter for a fee of \$25.00 each calendar year or part thereof.

H. Annual Renewal of Permit(s). All such permits for the keeping of more than six (6) animals must be renewed annually upon resubmittal of an application of the type required by this ordinance

### **§2-107. Sanitation.**

1. All persons shall be responsible for the sanitary maintenance of the premises on which any animals are housed, maintained or kenneled.
- ~~2. The number of animals housed or maintained within a structure, or upon any premises, shall be limited only to those animals that can be adequately maintained in a clean and sanitary condition as determined by the Health Officer.~~
3. Animal shelters, or areas in which animals are maintained, shall be permitted only as approved by the Health Officer. Animal shelters shall not be constructed or located in such a manner that it creates a health hazard or nuisance to the adjoining property owners.
4. People owning, harboring or keeping an animal within the City shall NOT permit any waste matter from the animal to collect and remain on the property of the owner or custodian, or on the property of others so as to cause or create an unhealthy, unsanitary, dangerous or offensive living condition on the owner's or custodian's property, or to abutting property of others.
5. Excess animal food shall not be allowed to accumulate in such a manner as to create a food source for bacteria, insects or rodents.
6. No person shall maintain, transport or carry any animal or pet in any eating and drinking establishment, food manufacturing or food service facility, except trained ~~guide dogs for the blind~~ certified service dogs
7. Owners of leashed or unleashed animals shall be responsible for the removal and disposal of fecal matter deposited by his animal anywhere within the City.

### **§2-108. Restraining and Confinement Generally.**

1. It shall be unlawful for the owner of any dangerous dog and/or aggressive dog to fail to keep such dangerous dog and/or aggressive dog under restraint or to permit such dangerous dog and/or aggressive dog to run at large upon the streets and public ways of the City.
2. Any dog, while on a street, sidewalk, public way or in any park, public square, or other public space, or upon any private property without the consent of the owner, shall be secured by a leash or chain of sufficient tensile strength to restrain the particular dog, or shall be at heel and securely muzzled.
3. No owner or custodian of any animal shall fail to exercise proper care and control of such animal to prevent the same from becoming a public nuisance.

4. Every female dog in heat shall be confined to the residence of the owner or keeper in such a manner that such female dog cannot come into contact with another animal except for planned breeding.

#### **§2-109. Restraint of Guard Dogs.**

1. Every owner of a guard or attack dog shall keep such dog confined in a building, compartment or other enclosure. Any such enclosure shall be completely surrounded by a fence at least 6 feet in height and shall be topped with an antilimbing device constructed of angle metal braces with at least three strands of equally separated barbed wire stretched between them.
2. All antilimbing devices shall extend inward at an angle of not less than 45 degrees nor more than 90 degrees when measured from the perpendicular.
3. The areas of confinement shall all have gates and entrances thereto securely closed and locked, and all fences property maintained and escape proof.
4. The provisions of this Section shall not apply to dogs owned or controlled by government law enforcement agencies.

#### **§2-110. Restraining of Dangerous Dogs or Aggressive Dogs.**

Every dangerous dog or aggressive dog shall be confined by its owner or authorized agent of its owner to the residence of the owner or keeper *in accordance with Pennsylvania Title 3 Agriculture Chapter 8 Dog Law § 459-502* . Such residence shall be conspicuously posted with a placard provided by the issuing office. Whenever off the premises of its owner, the dog shall be securely muzzled and restrained with a chain having a minimal tensile strength of 300 pounds and not more than 3 feet in length or caged. Every person harboring a dangerous dog or aggressive dog is charged with an affirmative duty to confine the animal in such way that children do not have access to such animal.

*1. Upon licensing a vicious or dangerous dog, the owner shall display, in a conspicuous manner, a sign on his or her premises warning that there is a vicious dog on the premises. The sign shall be visible and legible from the sidewalk and street.*

*2. If the animal is kept outdoors, the owner shall properly confine the dog in a pen or structure with secure sides and a secure top. The pen shall be no less than six (6) feet high and contain no less than fifty (50) square feet of ground space. All pens shall comply with city zoning guidelines so as not to be offensive to the neighboring residents.*

*3. Every person harboring a dangerous dog or aggressive dog is charged with an affirmative duty to confine the animal in such way that children do not have access to such animal.*

*4. No person owning or harboring a dangerous or vicious dog shall permit such dog to go beyond the confined area of such person's premises unless the dog is securely leashed and muzzled. The leash shall not be longer than three (3) feet. Retractable or flexi-leads are not allowed. The leash shall be controlled by an adult or by a person physically capable of controlling the dog.*

*5. Once a dog is deemed to be dangerous; it shall be neutered or spayed so as not to propagate vicious characteristics inherent in the progeny of the dangerous dog.*

### **§2-111. Property Owners May Impound.**

Any person finding an animal at large upon his property may remove the same to any animal shelter that will take possession of the animal. If no such shelter is available, the property owner may hold the animal in his own possession, and as soon as possible, notify the Animal Control Officer. The property owner shall provide a description of the animal and the name of the owner if known. The Department shall dispatch an animal control officer to take possession of the animal.

### **§2-112. Return of Animal to Owner.**

If the name of the owner or custodian of an animal found at large is known or can be obtained with reasonable dispatch, the Animal Control Officer shall make attempts to notify the owner.

### **§2-113. Disposition of Large Animals.**

Any animal control officer or other designated person on call who removes a large animal such as a horse, cow, mule or any other animal not acceptable by any animal hospital or shelter shall be authorized to call a trucking firm or company which shall convey the animal to a farm or other appropriate facility that has an agreement with the City to accept such animals. The disposition of any animal removed to a facility other than an animal hospital or shelter shall be handled in the same manner as though the animal were confined in an animal hospital or shelter. The City and Animal Shelter are authorized, under the terms of this Part, to bill the owner of the animal for any charges incurred.

### **§2-114. Dangerous Dog and/or Aggressive Dog Permits.**

- ~~1. **Permit Required.** No person shall own, keep, or harbor any dangerous and/or aggressive dog over the age of 3 months within the City unless such dog has a permit as provided in this Part.~~
  - ~~2. **Application.** Application for such permit shall be made available by the owner on a form to be provided by the City and made available at the designated animal control authority for any dangerous and/or aggressive dog over 3 months of age; providing, that any owner moving to the City for the purpose of establishing residence or becoming a resident as a result of annexation, and otherwise required to obtain a permit, shall have until 10 days after moving or annexation to obtain such a permit. [Ord. 20-1999]~~
  - ~~3. **Proof of Rabies Vaccination Required.** All owners applying for a permit must show to the satisfaction of the licensing authority that the animal for which the permit is being obtained has been inoculated against rabies within the last year.~~
  - ~~4. **Proof of Sterilization.** Any owner claiming that their dog has been spayed or neutered must show to the satisfaction of the licensing authority that such operation has been performed.~~
  - ~~5. **Dangerous Dog and/or Aggressive Dog Permits.** An annual permit fee of \$50 if spayed or neutered or \$500 if not spayed or neutered shall be paid by the owner of any dangerous dog or aggressive dog, as defined in §2-102.~~
  - ~~6. Permit fees shall not be required for seeing eye dogs, government police dogs or registered therapy dogs. Any owner claiming any of these exemptions has the burden of proving to the satisfaction of the Animal Control Board that the dog in question is entitled to such an exemption.~~
- ~~(Ord. 72-2005, 11/14/2005, §1)~~

**§2-114. Permit Tags; Identification.**

1. Upon payment and acceptance of the permit fee, the licensing authority shall issue a durable and color-coded permit tag (or collar), stamped with the year of issuance and an identification number for the animal for which the permit has been obtained. Any permit issued for keeping of a dangerous dog or aggressive dog shall take effect on the date of issuance, shall be valid for a period of 1 year beginning on February 1 of the current year and ending on January 31 of the succeeding year, with the cost of same as defined in §2-114 pro-rated by month and valid for the remaining months of the calendar year as defined above. Every dog for which the owner is required to obtain a permit must wear a valid permit tag (or collar) at all times when the animal is off the premises of its owner.

2. No person may use a permit for any animal other than the animal for which the permit was issued. It shall also be unlawful for any person to remove from the neck of any dog the permit tag (or collar) issued pursuant to this Section or alter such tag in any manner.

(Ord. 72-2005, 11/14/2005, §1)

1. Any person owning a dangerous or aggressive dog must register the dog with the animal control agency contracted by the City of Reading to enforce the provisions of this ordinance and pay a fee of one hundred dollars (\$100.00) for such registration to the designated Animal Control Authority.

The owner must provide proof at the time of registration that:

A. The home-owner's insurance policy for the residence in which the dangerous dog is housed contains a rider or a liability clause for dangerous dogs;

B. The dog's rabies vaccination status is current;

C. The dog is licensed for the current year; and

D. The dog is micro-chipped with a permanent ID.

E. Every dog for which the owner is required to obtain a permit must wear a valid permit tag at all times when the animal is off the premises of its owner. The permit tag shall be issued the Animal Control Authority and be made of highly visible material with the words "dangerous dog" prominently displayed upon it.

**APPEAL PROCEDURE**

Within fourteen (14) days of the date of the notice of the police or animal control officer's decision that a dog is dangerous, the owner of the dog may appeal the decision to the Animal Control Board. The owner of the dog shall send notice of his/her intent to appeal by certified mail to the Animal Control Board, with copies to the Chief of Police and Clerk of City. If such an appeal is filed, a hearing shall be commenced within three (3) weeks of its filing. Within five days of the close of the appeal hearing, the Animal Control Board shall determine whether to uphold or reverse the decision of the police or health officer.

The determination of the Animal Control Board shall be final and binding. The dog shall be kept either in a secure enclosure or shall be impounded at an animal shelter during the appeal process.

Any and all costs for the impounding of the dog shall be borne by the owner unless otherwise determined by the Animal Control Board. .

**§2-115. Impoundment.**

1. In addition to any other remedies provided in this Part, an Animal Control Officer or a Police Officer may seize, impound and humanely confine ~~to an animal shelter or hospital~~ any of the following animals *in accordance with Pennsylvania Title 3 Agriculture Chapter 8 Dog Law :*

- A. Any dog without a valid permit tag or license.
- B. Any animal at large.
- C. Any animal constituting a public nuisance or considered a danger to the public.
- D. Any animal that is in violation of any quarantine or confinement order of a Health Officer.
- E. Any unattended animal that is ill, injured or otherwise in need of care.
- F. Any animal that is reasonably believed to have been abused or neglected.
- G. Any animal that is reasonably suspected of having rabies.
- H. Any animal that is charged with being potentially dangerous, aggressive or displays aggressive behavior where an Animal Control Officer, the Animal Control Board, or the Mayor determines that there is a threat to public health and safety.
- I. Any animal that a court of competent jurisdiction has ordered impounded or destroyed.
- J. Any animal that is considered unattended or abandoned, as in situations where the owner is deceased, has been arrested or evicted from his regular place of residence.
- K. Any exotic animal, domestic agricultural animal, or native wildlife animal without a valid permit.

2. An Animal Control Officer or Police Officer may also, or in lieu of impoundment, issue to the owner a citation.

**§2-116. Notice to Owner and Redemption.**

1. Upon impoundment of an animal, the ~~Humane Society~~ *designated Animal Control Authority* shall immediately attempt to notify the owner by telephone or certified mail. The owner shall also be advised that the failure to claim the animal within a specified period of time may result in the disposition of the animal.

2. An owner reclaiming an impounded animal shall pay a fee of \$25 for each day the animal has been impounded. The daily rate charged for any subsequent impoundment occurring within 12 months shall be double that which was charged for each day of confinement during the first impoundment.

3. Any animal not reclaimed by its owner within 48 hours shall become the property of the City and shall be placed for adoption in a suitable home or euthanized in a manner prescribed by the ~~Humane Society~~ *designated Animal Control Authority.*

4. Any dangerous dog or aggressive dog impounded shall not be redeemed by the owner or adopted by any other person until all applicable permit fees imposed by this Part shall be paid and proof thereof shall be presented to the ~~Humane Society~~ *designated Animal Control Authority.*

### **§2-117. Animal Control Board Established.**

1. There is hereby established a City Animal Control Board.
2. The Mayor shall appoint five members plus two alternates subject to confirmation by City Council. The two alternate members shall represent the community at large and shall be empowered to sit on the Board in the absence of a Board member. In the event of the absence of one Board member, the alternate with the greatest length of service in the position will serve. In the absence of two Board members both alternates will serve.  
In the absence of both alternates, the Mayor may designate a temporary alternate at large.

One of the five regular appointees shall be designated as chairperson by the Mayor, subject to confirmation by Council.

- A. Two members shall be appointed as representatives of the community at large.
  - B. Two members shall be appointed representatives of animal humane societies and animal shelters.
  - C. One member shall be appointed as a representative of private veterinarians or veterinary hospitals.
  - D. Two alternates shall be appointed as representatives of the community at large.
3. The term of each member shall be 3 years, or until a successor takes office.

### **§2-118. Animal Control Board; Powers and Duties.**

1. The Animal Control Board is authorized to prepare written rules and regulations to govern its operations and the conduct of hearings before it. The rules and regulations shall become effective upon the approval, by resolution, of the City Council. Three copies of the Board's rules and regulations shall be available for inspection by the public in the Office of the City Clerk.
2. The Board shall also have the authority to do the following:
  - A. Receive requests for permission to own exotic animals, domestic agricultural animals, and native wildlife animals; conduct an investigation it deems proper and hold hearings in conjunction with such investigation. The Board may grant, in writing, special permission for the keeping of exotic animals, domestic agricultural animals, and native wildlife animals and impose any condition on such permission that it deems necessary to protect the animal, owner, and the general public.
  - B. Make determinations of aggressive dogs as defined under "Definitions," §2-102.
3. The Board shall meet at the call of the Chairperson to take the following actions:
  - A. Prepare and present the Animal Control Board budget to the Director of Finance.
  - B. Recommend to the City Council changes in the law regarding the control of animals.

### **§2-119. Sanctions and Remedies.**

1. Obedience training for the animal(s) in question.
2. Muzzling of an animal while off the property of the owner.
3. Confinement of an animal indoors.
4. Confinement of an animal in a secure enclosure.
5. Reduction of the number of animals kept at any one location.
6. Removal of an animal from the custody of the animal's owner or custodian in cases of neglect or cruelty.

7. The sterilization of an animal.
8. A ban on maintaining other animals in the City.
9. Any other measure or sanction designed to eliminate a violation, prevent future violations, or protect the health and safety of the public.
10. Any fees previously paid nonrefundable.

#### **§2-120. Appeals.**

Any person aggrieved by any decision of an Animal Control Board may appeal the same to the Berks County Court of Common Pleas.

#### **§2-121. Enforcement.**

Animal Control Officers or other designees of the Mayor shall be the enforcement officials for this Part. These officials, along with Police Officers, shall have the authority to act on behalf of the City and the Animal Control Board in investigating complaints, impounding and destroying animals, issuing citations, and taking other lawful actions as required to enforce the provisions of this Part. It shall be a violation of this Part to interfere with any Animal Control Officer or other enforcement official in the performance of his duties.

#### **§2-122. Violations and Penalties.**

1. It shall be violation of the Part to:
  - A. Fail to comply with any provision of this Part.
  - B. Fail to comply with any lawful order of the Animal Control Board, an Animal Control Officer, or Police Officer unless such order is lawfully stayed or reversed.
2. Any person who shall violate any provision of this Part shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs; and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days.
3. Notwithstanding any other penalties imposed by this Section of this Part, any person who violates any provision of this Part and said violation involves a dangerous dog or aggressive dog (as defined in §2-102 herein), shall be subject to a minimum fine of \$500 to a maximum of \$1,000 plus costs and other fees and penalties included within the terms of this Part and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. All fines collected shall be forwarded to the ~~Berks County Humane Society~~ designated Animal Control Authority to cover administrative expenses.  
(Ord. 72-2005, 11/14/2005, §1)

## **PART 22**

### **PIGEONS**

#### **§2-201. Coop Size and Number of Pigeons.**

No person, firm or corporation shall keep, maintain or harbor any pigeons within the City in a suitable house or coop which is more than 800 cubic feet in size and not more than 100 pigeons shall be kept by any one person, firm or corporation at any time. Pigeon houses or coops may also have an attached enclosed runway, but all structures for keeping the pigeons shall be constructed so as to keep the pigeons properly confined and prevent their flying about.

**§2-202. Sanitary Maintenance; Loud Noises Prohibited.**

Any pigeon houses, coops or runways shall be maintained in such proper sanitary conditions as to avoid offensive odors and no pigeons shall be kept which create any loud and excessive noises.

**§2-203. Feeding Prohibited.**

No person shall intentionally feed pigeons at large.

**§2-204. Humane Disposition of Pigeons at Large.**

Pigeons at large and not branded may be captured and destroyed by any humane means by any representative of the Property Improvement Division of the ~~Department of Community Development~~ of the Police Department, by the City's animal control authority or by any property owner of the City upon whose property may such pigeon shall be found at large.

**§2-205. Penalty.**

Any person, firm or corporation who shall violate this Part shall be, upon conviction thereof sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days.

(Ord. 31-1965, 7/7/1965, §5; as amended by Ord. 14-2001, 5/29/2001)

## Amend Reading DCR Ordinance to:

### 1. Create Level 1 and Level 2 DCR

- Level 1 DCR – current regulations and add quality of life violations such as uncut grass/weeds, failure to remove animal waste, indoor furniture outside, improper trash set out, improper snow/ice removal, failure to comply with Animal regulations, etc.
- Level 2 DCR – disruptive conduct resulting in a criminal violation/citation that would be heard at the Magisterial District Judge or Court of Common Pleas level
- Two Level 1 DCR's within a year requires eviction of tenant and revocation of housing registration and/or non-renewal of housing registration
- One Level 2 DCR requires eviction of the tenant and revocation of housing registration and/or non-renewal of housing registration  
Note: Kutztown Level 2 DCR is applied regardless of the outcome of citation hearing or process

### 2. Codes is required to maintain a list of occupants who have earned DCRs and publish that list on the City's website so landlords can review and rent to tenants without DCR issues. Also list the properties that have had DCRs and/or Codes violations so tenants can select properties without issues.

*8. Maintenance of List of Disruptive Conduct Report Tenants and Occupants and Evicted Occupants. The Codes Enforcement Office shall maintain a list of the names of all occupants and tenants against whom a disruptive conduct report is issued as a result of this Part. The Codes Enforcement Division shall also maintain a list of all occupants and tenants evicted as a result of this Part. The names shall remain on the list for a period of 5 years. [Ord. 43-2008]*

### 3. Request that Albright require students who have earned two level 1 DCRs or one Level 2 DCR to move back on campus for a one year period.

### 4. Restrict landlords who have had their housing permit revoked or denied from transferring the property to a family member or under the veil of corporate ownership

*H. Any discipline or enforcement action imposed under this chapter which is in any manner related to violations of the Performance Codes shall be applicable to the premises in question notwithstanding any change in the owner or its ownership of the premises. Any discipline or enforcement action imposed under this chapter with respect to any premises for reasons other than violation of any of the Performance Codes shall terminate, with respect to its applicability to such premises, upon any conveyance and/or change in owner or its ownership of the premises to a new owner, provided that:*

*(1) The new owner, if an individual, shall not be related to the existing owner by blood, marriage, adoption or other decree of legal custody; and*

*(2) The new owner, if a legal entity (other than an individual), shall not be owned, wholly or partially, by the existing owner.*

## **READING DCR ORDINANCE**

### **§11-106. Denial of Application for Rental Housing Permit.**

A rental permit shall not be issued or renewed to any applicant if said rental unit, building or dwelling is not in compliance with the City of Reading Codified Ordinances including, but not limited to, International/City of Reading Building Code [Chapter 5, Part 1B], Existing Building Code [Chapter 5, Part 1C], Plumbing Code [Chapter 5, Part 2], Mechanical Code [Chapter 5, Part 5], Electrical Code [Chapter 5, Part 4], Fire Code [Chapter 5, Part 3], and Residential Code [Chapter 5, Part 8], Property Maintenance Code [Chapter 5, Part 6], Solid Waste and Recycling Ordinance [Chapter 20, Part 1], Health Code [Chapter 10, Part 1] and Zoning Ordinance [Chapter 27], or has failed an inspection, is in pending litigation for egregious violations of the aforesaid Codified Ordinances or has been declared uninhabitable and/or condemned by the appropriate authority with jurisdiction.

*(Ord. 28-2007, 7/23/2007, §1)*

### **§11-107. Revocation of Rental Permit.**

At the discretion of the issuing authority, the City of Reading, Codes Enforcement Division, the municipality shall have the authority to revoke or suspend the rental housing permit of any rental unit, building, rooming house, or dwelling that is uninhabitable by humans, is in egregious noncompliance with the City of Reading Codified Ordinances including, but not limited to, International/City of Reading Building Code [Chapter 5, Part 1B], Existing Building Code [Chapter 5, Part 1C], Plumbing Code [Chapter 5, Part 2], Mechanical Code [Chapter 5, Part 5], Electrical Code [Chapter 5, Part 4], Fire Code [Chapter 5, Part 3], and Residential Code [Chapter 5, Part 8], Property Maintenance Code [Chapter 5, Part 6], Solid Waste and Recycling Ordinance [Chapter 20, Part 1], Health Code [Chapter 10, Part 1] and Zoning Ordinance [Chapter 27], or has failed an inspection, is in pending litigation.

### **§11-114. Owner and Occupant Duties.**

#### **1. Owner's Duties.**

A. It shall be the duty of every owner, operator, responsible agent or manager to keep and maintain all 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 rental units.**

B. 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 rental unit within the City of Reading without having a rental registration or a rental license.

C. **The owner, operator, responsible agent or manager shall include the amendment attached hereto as the addendum to rental agreement in each lease of a rental unit taking effect on or after May 1, 2007. Said amendment is hereby considered to be a part of every lease of a rental unit in the City of Reading executed on or after May 1, 2007.**

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

## 2. Occupant Duties.

A. The occupant(s) shall comply with all obligations imposed unto by this Part and by the City of Reading Codified Ordinances including, but not limited to, Chapter 2, Animals, Chapter 3, Bicycles, Chapter 5, Code Enforcement, Part 6, Property Maintenance Code, Chapter 6, Conduct, Chapter 10, Health and Safety, Chapter 15, Motor Vehicles and Traffic, Chapter 20, Solid Waste, and Chapter 21, Streets and Sidewalks, as well as all State laws and regulations.

B. The occupant(s) shall conduct themselves and require other persons including, but not limited to, guests on the premises and within their 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.

C. The occupant(s) shall not engage in, nor tolerate, nor permit others on the premises to cause damage to the rental unit or engage in disruptive conduct, or other violations of this Part, City codes or applicable State laws.

D. 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 perpetrators of the disruptive conduct and all other obtainable information, including the factual basis for the disruptive conduct described on the prescribed.

(Ord. 28-2007, 7/23/2007, §1)

### §11-115. Owners Severally Responsible.

If any regulated dwelling unit or rooming unit is owned by more than one person, in any form of joint tenancy, as a partnership, corporation or otherwise, each persons shall be jointly and severally responsible for the duties imposed under the terms of this Part and shall be severally subject to prosecution for the violation of this Part.

### §11-120. Denial or Nonrenewal of a Rental Permit for Failure to Comply with Application, Chapter and/or Failure to Pass Inspection.

1. **Timing.** A decision to deny or not renew an application for a rental permit for the reasons set forth herein shall be made within 15 working days of receipt of the application with payment of appropriate fee as indicated on the time stamp by the Codes Enforcement Division. This time period shall be extended to 15 working days after performance of an inspection where an inspection is required.

#### 2. Basis for Denial or Nonrenewal under this Part.

A. A rental permit shall be denied and/or nonrenewed upon failure of the owner to comply with the application requirements set forth in this Part.

B. An application for an initial or renewed permit shall also be denied upon proof of failure of owner or local responsible agent to comply with the requirements of this Part including, but not limited to, the posting requirements, submission of tenant listing, failure to appear for more than one schedule inspection, failure to appear for a scheduled court hearing and noncompliance with owner's duties.

C. A rental permit shall not be issued or renewed upon the failure of dwelling unit or rooming unit to pass an initial or a renewal inspection as required by §11-109(1) and (2) of this Part.

D. A rental permit shall not be issued or renewed to any applicant if said rental unit, building or dwelling is not in compliance with the City of Reading Codified Ordinances including, but not limited to, International/City of Reading Building Code [Chapter 5, Part 1B], Existing Building Code [Chapter 5, Part 1C], Plumbing Code [Chapter 5, Part 2], Mechanical Code [Chapter 5, Part 5], Electrical Code [Chapter 5, Part 4], Fire Code [Chapter 5, Part 3], and Residential Code [Chapter 5, Part 8], Property Maintenance Code [Chapter 5, Part 6], Solid Waste and Recycling Ordinance [Chapter 20, Part 1], Health Code [Chapter 10, Part 1] and Zoning Ordinance [Chapter 27], or has failed an inspection, is in pending litigation for violations of the aforesaid Codified Ordinances or has been declared unfit for human habitation and/or condemned by appropriate authority with jurisdiction or an owner or his/her local responsible agent fails to appear in court for a hearing regarding a violation of the aforesaid Codes of the City of Reading.

[*Ord. 55-2008*]

**3. Notice.** Notification of the decision to deny or not renew an application for an initial or renewal of a rental permit shall be issued by the Codes Enforcement Division Manager or his/her designee within 15 working days of receipt of the application. The notification shall specify the reason for denial or refusal to renew an application for a rental permit citing the requirement therefore. Said notice shall be in accord with the requirements therefore of this Part. [*Ord. 55-2008*]

**4. Right to Cure.** At the discretion of the Codes Enforcement Manager or his/her designee notification of the denial or nonrenewal of a rental permit may provide the owner an opportunity to cure the basis for the denial or nonrenewal. If said opportunity is provided, the notification must specify the time period provided for curing of the basis for the denial or refusal to renew a rental permit. Upon failure of the owner or local responsible agent to cure the basis for the denial within the time period given, the decision of the Codes Enforcement Division Manager or his/her designee to deny or not renew a rental permit shall stand and the sole recourse shall be an appeal. Nothing in this Section is to be interpreted to override the requirements and right to resolve failure to pass inspection as required above as part of the initial and renewal inspection process.

[*Ord. 55-2008*]

**5. Appeal.** The denial of an initial or renewal application for a rental permit for the reasons set forth above may be appealed to the Housing Board of Appeals by submission of such a request with payment of the appropriate fee made in writing to the Manager of the Codes Enforcement Division within 10 days of receipt of notification of such denial. [*Ord. 55-2008*]

(*Ord. 28-2007, 7/23/2007, §1; as amended by Ord. 55-2008, 9/22/2008, §1; and by Ord. 65-2008, 10/13/2008, §1*)

## **§11-121. Suspension or Revocation of Rental Permit.**

### **1. Warning Notice Required Prior to Suspension of Rental Permit.**

A. Prior to suspension or revocation of a rental license, the Code Official shall provide written notice of violation to the owner of any dwelling unit or rooming unit.

B. The written notice of violation shall inform the owner of the rental property, dwelling unit or rooming unit and the owner's responsible local agent that a written correction plan shall be submitted to the Code Official within 5 days after receipt of the notice of violation. Failure to submit an acceptable correction plan will result in suspension or revocation of all applicable housing permits.

C. The notice of violation shall inform the owner of the rental property, dwelling unit or rooming unit that the owner may request an informal meeting with the Code Official to discuss the

violations within 5 days of the receipt of the notice of violations. Owners requesting a meeting may request that the owner's responsible local agent represent the owner and act on the owner's behalf.

D. This subsection shall be issued in conjunction with and not in lieu of the requisite notices of violations regarding under City of Reading Codes including, but not limited to, the Property Maintenance Code [Chapter 5, Part 6].

E. The notice of violation/warning and notice of suspension or revocation shall be served in accord with the official notice requirements set forth in this Part.

Additionally such notices shall be also be served via certified mail return receipt requested with date of receipt determined by date of execution of return receipt. Provided, that should the certified mail be returned as unclaimed and first class mail issued in conjunction with the certified mail not be returned there will be a rebuttable presumption that but for the recipient's refusal of the certified mail, notice was received within five mail (Monday - Saturday) days of date of mailing.

F. **Form.** A notice of a violation shall be in accordance with all of the following:

- (1) Be in writing.
- (2) Include a description of the real estate sufficient for identification.
- (3) Include a statement of the violation or violations and why the notice is being issued.
- (4) Include a statement of the requirement that a correction or rehab plan be submitted within the time provided for in this Part.
- (5) Inform the property owner of the right to request a meeting to discuss the notice.

## **2. Suspension or Revocation Procedures.**

A. The Code Official shall notify the owner of the suspension or revocation of a rental license for a dwelling unit or rooming unit by written notice sent by first class mail and certified mail or delivered in person should the certified mail be returned as unclaimed and first class mail issued in conjunction with the certified mail not be returned there will be a rebuttable presumption that but for the recipient's refusal of the certified mail notice was received within five mail (Monday - Saturday) days of date of mailing. The notice shall advise the owner of the property address of the dwelling unit or rooming unit, the effective dates of the suspension or revocation, the reason for the suspension or revocation, the effect of the suspension or revocation, penalties that can be imposed for violation of the suspension and appeal rights and procedures.

B. The Code Official shall set forth the effective date of the suspension or revocation in such manner so that suspension or revocation commences on the first day following expiration of the 10 days to file an appeal of the Code Official's determination.

C. No rental permit shall be renewed for 6 months for the first suspension or revocation and 12 months for each subsequent suspension or revocation within a 5-year period beginning on the effective date of the suspension or revocation.

D. During the time a rental license is suspended or revoked, if any additional violations occur against the dwelling unit or rooming unit, the rental license suspension or revocation may be extended up to an additional 12 months.

**3. Effect of Suspension.** Upon the commencement of suspension or revocation, the dwelling unit or rooming unit shall be secured by the owner, and no person, firm, or corporation shall operate or rent/ lease to another for residential occupancy any dwelling unit or rooming unit during such time that the rental license for such unit is suspended or revoked. The transfer of the ownership of a rental property by an owner to an entity in which such owner holds an ownership or equity interest will not void the existing violations relating to such rental property or void any existing suspension or revocation relating to such rental property. [*Ord. 55-2008*]

4. **Defense.** When tenants and/or occupants are culpable for violations resulting in a suspension notice, the owner may request reinstatement of the housing permit upon eviction of the tenants, provided the owner is current with submission of tenant listings as required by this Part.

5. **Appeal Procedure for Suspension or Revocation Initiated by the Code Official.** An appeal of a suspension or revocation of a rental permit shall be made by submitting the appropriate fee and a request for an appeal to the Housing Board of Appeal in writing to the Manager of Codes Enforcement Division within 10 days of receipt of the notice of suspension or revocation.

6. **Basis for Suspension or Revocation.** A rental permit shall be suspended or revoked at the discretion of the Manager of the Codes Enforcement Division or his/her designee if egregious, severe, life-threatening, health and welfare or repetitive, continued violations of the offenses set forth in subsection (7) exist at the dwelling unit or rooming unit without any attempt to cure or remedy the problem or submission of a timely rehab plan and lack of response to notices of violations issued by the appropriate authority.

7. **Offenses.** For purposes of this Part, offenses are those as set forth, but not limited to, the following ordinances or statutes:

A. *Occupancy.* Refers to regulations relating to occupancy of rooming units, dwelling units and dwellings as contained in Chapter 5 (Code Enforcement) and Chapter 27 (Zoning) of the Codified Ordinances of the City of Reading.

B. *Refuse.* Refers to regulations relating to garbage, rubbish and refuse, under the City of Reading Codified Ordinances including, but not limited to, the Property Maintenance Code, Chapter 5, Health Code, Chapter 10 and Solid Waste and Recycling Ordinance, Chapter 20.

C. *Property Maintenance (Interior and Exterior).* Refers to regulations as governed by the City of Reading Property Maintenance Code in Chapter 5 of the City of Reading Codified Ordinances.

D. *Sidewalks.* Refers to regulations relating to snow and ice removal contained in the Streets and Sidewalks, Chapter 21 of the City of Reading Codified Ordinances.

E. *Noise.* Refers to regulations relating to Noise Disturbance, and Conduct, Chapter 6 of the City of Reading Codified Ordinances.

F. *Vegetation.* Refers to regulations relating to Brush, Grass and Weeds, per the City of Reading Codified Ordinances including, but not limited to, the Property Maintenance Code, Chapter 5, and Health Code, Chapter 10.

G. *Disorderly Conduct.* Refers to enforcement by the City of Reading Police Department of §5503, Crimes Code, Act of Dec. 6, 1972, P.L. 1482, No. 334, 18 Pa.C.S.A. §5503, and Chapter 6, Conduct, of the City of Reading Codified Ordinances.

H. *Dogs.* Refers to regulations relating to Animals and Health under Chapters 2 and 10 of the City of Reading Codified Ordinances.

I. *Fire Prevention Code.* Refers to regulations to the City of Reading Fire Prevention Code as provided for in Chapter 5, Code Enforcement, and Chapter 7, Fire Prevention and Protection, of the City of Reading Codified Ordinances.

J. Zoning violations and related offenses per Chapter 27 of the City of Reading Codified Ordinances.

K. Violation of Chapter 5 of the City of Reading Codified Ordinances regarding Code Enforcement including, but not limited to, the City of Reading Building Code [Chapter 5, Part 1B], Existing Building Code [Chapter 5, Part 1C], Plumbing Code [Chapter 5, Part 2], Mechanical Code [Chapter 5, Part 5], Electrical Code [Chapter 5, Part 4], Fire Code [Chapter 5, Part 3], and Residential Code [Chapter 5, Part 8].

L. Failure to appear in court and related offenses.

M. Any other offense that renders the dwelling, unit, or room inhabitable.

At the discretion of the issuing authority, the City of Reading Codes Enforcement Division, the municipality shall have the authority to revoke or suspend the rental housing permit of any rental unit, building, rooming house, or dwelling that is uninhabitable by humans, is in egregious noncompliance with the City of Reading Codified Ordinances including, but not limited to, International/City of Reading Building Code [Chapter 5, Part 1B], Existing Building Code [Chapter 5, Part 1C], Plumbing Code [Chapter 5, Part 1], Mechanical Code [Chapter 5, Part 5], Electrical Code [Chapter 5, Part 4], Fire Code [Chapter 5, Part 3], and Residential Code [Chapter 5, Part 8], Property Maintenance Code [Chapter 5, Part 6], Solid Waste and Recycling Ordinance [Chapter 20, Part 1], Health Code [Chapter 10, Part 1] and Zoning Ordinance [Chapter 27], or has failed an inspection, is in pending litigation for violations of the aforesaid Codified Ordinances and/or has been condemned by the authority with jurisdiction

**8. Immediate Suspension or Revocation.** Placarding and condemning of a property per the City of Reading Property Maintenance Code [Chapter 5, Part 6] shall result in immediate suspension or revocation of a rental permit. Notwithstanding any other provision of this Part, the permit shall be reinstated upon performance of an inspection, payment of the appropriate fee for removal of the placard per the Property Maintenance Code [Chapter 5, Part 6] and submission with the appropriate fee and approval of an application for a rental permit.

**9. Suspension and Disruptive Conduct.** Nothing in this Section shall be interpreted to preclude enforcement under the disruptive conduct Section [§11-123] set forth herein.

**10. Reinstatement of Rental Permit Subsequent to Suspension or Revocation.** To obtain reinstatement of a rental permit subsequent to a suspension or revocation and period therefore, an owner must resubmit an application and undergoing the process for an initial application including, but not limited to, undergoing an inspection and payment of the appropriate fee.

**11. Notice.**

**A. Form.** A notice of a suspension or revocation of a rental permit shall set forth the information required herein and be in a form accordance with all of the following:

- (1) Be in writing.
- (2) Include a description of the real estate sufficient for identification.
- (3) Include a statement of the violation or violations and why the permit is being suspended or revoked.
- (4) The time period for the suspension or revocation of the permit.
- (5) Inform the property owner of the right to appeal.

(*Ord. 28-2007, 7/23/2007, §1; as amended by Ord. 55-2008, 9/22/2008, §1; and by Ord. 65-2008, 10/13/2008, §1*)

**§11-122. Violation and Penalties.**

**1. Violations.** It shall be unlawful for any person, as either owner or local responsible agent of a rental dwelling unit or rooming unit for [which] a rental permit is required, to operate without a valid, current permit issued by the City of Reading authorizing such action. It shall also be unlawful for any person, either owner or local responsible agent, to allow the number of occupants of dwelling unit or rooming unit to exceed the maximum limit as set forth on the license or to violate any other provision of this Part, including, but not limited to, failure to timely submit a tenant listing and renew a rental permit. Further, it shall be unlawful for any occupant to violate this Part.

**2. Prosecution of Violation.** If the above violations are not corrected, the Manager of the Codes Enforcement Division or his/her designee or code official shall institute the appropriate proceeding at law or in equity, to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions

of this Code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate. Notwithstanding the above, nothing will prevent the Manager of Codes Enforcement Division or his/her designee or code official from commencing a summary offense criminal action via the issuance of a nontraffic citation in accord with the Pennsylvania Rules of Criminal Procedures in the court of appropriate jurisdiction and the violation shall be deemed a strict liability offense.

3. **Collections.** All bills or accounts governed by this Part which are not paid by May 1 of each year or within 60 days of application from date of application/original date of billing shall be turned over to a collection agency for receipt.

4. **Penalties.** Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not less than \$75 and not more than \$500 plus costs and restitution. In default of payment of said fine and costs to a term of imprisonment of not more than 90 days. Each day that violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. Such penalties shall be exclusive of the doubling of the permit fee for untimely payment and submission thereof to collections as well as suspension or revocation of permit for failure to pay.

5. **Nonexclusive Remedies.** The penalty and collection provisions of this Section and the license nonrenewal, suspension and revocation procedures provided in this Part shall be independent, nonmutually exclusive separate remedies, all of which shall be available to the City of Reading as may be deemed appropriate for carrying out the purposes of this Part. The remedies and procedures provided in this Part for violation hereof are not intended to supplant or replace to any degree the remedies and procedures available to the City in the case of a violation of any other City of Reading Code or Codified Ordinances, whether or not such other code or ordinance is referenced in this Part 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 Part.

(Ord. 28-2007, 7/23/2007, §1)

### **§11-123. Disruptive Conduct.**

1. **Investigation and Report of Disruptive Conduct.** 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 as defined herein. The information filed in said report shall include, if possible, the identity of the alleged perpetrators 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 and local responsible agent within 10 working days of the occurrence of the alleged disruptive conduct.

2. **Appeals.** The occupant, owner or local responsible agent shall have 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 Manager of the Codes Enforcement Division. An appeal of the second disruptive conduct report within a 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 second disruptive conduct report. [Ord. 43-2008]

3. **Eviction.** After two disruptive conduct incidents in any 12-month period by an occupant documented by disruptive conduct reports, the owner or local responsible agent shall have 10 working days from the date of his/her receiving the notice to begin eviction proceedings against the occupants. The owner or local responsible agent shall diligently pursue the eviction of the

occupants as required herein. Diligent pursuit of the eviction of said occupants shall include, but not be limited to, prosecution of the eviction proceeding, participation with follow through any appeal and obtain possession of the property. This subsection is not intended to limit or inhibit the owner or local responsible agent's right to initiate eviction actions prior to the second disruptive conduct incident.

[Ord. 43-2008]

**4. Suspension or Revocation of Rental Permit.** Failure of an owner or local responsible agent to take action required in subsection (3) above will result in the commencement of the process to suspend a rental permit per the process established herein, notwithstanding any other requirements therefore.

**5. Reinstatement of Rental Permit.** The rental unit involved shall not have its rental permit reinstated until the reinstatement fee is paid and the disruptive occupants have been evicted, the Housing Board of Appeals has ruled in the occupant's favor, the Housing Board of Appeals 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 thereby preventing their eviction. Notwithstanding this subsection, if there are violations assessed against the owner per the provisions of this Part which require suspension or revocation, a rental permit shall not be reinstated until compliance with the requirements therefore have occurred. [Ord. 55-2008]

**6. Reoccupation.** The disruptive occupants, upon eviction, shall not re-occupy any rental unit on the same premises involved for a period of at least 1 year from date of eviction.

**7. Report Against All Occupants.** The content of the disruptive conduct report shall count against all occupants of the rental unit. The content of the disruptive conduct report shall not count against all occupants of the rental unit if the complaint is initiated by one of the rental unit occupants. More than one disruptive conduct report filed against the occupants of a rental unit in a 24-hour period shall count as a single disruptive conduct report for the purpose of the preceding subsection. [Ord. 43-2008]

**8. Maintenance of List of Disruptive Conduct Report Tenants and Occupants and Evicted Occupants.** The Codes Enforcement Office shall maintain a list of the names of all occupants and tenants against whom a disruptive conduct report is issued as a result of this Part. The Codes Enforcement Division shall also maintain a list of all occupants and tenants evicted as a result of this Part. The names shall remain on the list for a period of 5 years. [Ord. 43-2008]

**9. 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 rental permit resulting therefrom may appeal to the Housing Board of Appeals. Such appeal must be filed with the appropriate fee with the Manager of the Codes Enforcement Division in writing, within 10 working days from the date of receipt of the disruptive conduct report or notice of revocation.

(Ord. 28-2007, 7/23/2007, §1; as amended by Ord. 43-2008, 8/25/2008, §§1 and 2; by Ord. 55-2008, 9/22/2008, §1; and by Ord. 65-2008, 10/13/2008, §1)

## **§11-124. Housing Board of Appeals.**

**1. Appeals.** Any person aggrieved by any decision of a police officer or public officer in regard to a disruptive conduct report or the suspension, nonrenewal, denial or revocation of a rental permit may appeal to the Housing Board of Appeals. Such appeal must be filed, in writing, with the Manager of the Codes Enforcement Division, with the appropriate filing fee within 10 working days from the date of receipt of the disruptive conduct report or notice of revocation.

[Ord. 43-2008]

**2. Organization.**

A. **Membership.** The Housing Board of Appeals shall be a body of seven members consisting of: the Managing Director or his/her designee who shall serve as Chairperson; a Councilperson, Codes Enforcement Division Manager or their designee; the Chief of Police or his/her designee; an owner or local responsible agent of a rental unit(s) in Reading; an occupant of a rental unit residing in the City of Reading; and a member of a community group recognized by the City of Reading.

B. **Alternates.** There shall be three alternate members: an owner or local responsible agent, an occupant of a rental unit residing in the City of Reading and a member of a community group recognized by the City of Reading.

C. **Appointment.** All members of the Board shall be appointed by the Mayor with the advice and consent of the Council of the City of Reading, with the exception of the Council Member, who shall be appointed by the Council President.

D. **Term.** A member or alternate member shall serve a term of not more than 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 1, 2 and 3 years.

E. **Powers of Designee and Alternates.** 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.

F. **Oaths and Subpoenas.** The Board shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties. [*Ord. 43-2008*]

G. **Quorum and Majority Vote.** Four 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. [*Ord. 43-2008*]

3. **Powers.** The Board shall have the following powers:

A. **Promulgate Rules and Regulations.** 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.

B. **Hear and Decide Appeals.** 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 Part.

C. **Grant Modification or Variance.** 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.

D. **Grant Extension of Time.** To grant a reasonable extension of time for the compliance, as described in the City's Property Maintenance Code [Chapter 5, Part 6] and other applicable sections of the City of Reading Codified Ordinances of any order where there is a demonstrated case of hardship and evidence of bona fide intent to comply within a reasonable time period.

E. **Timeliness.** 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 10 working days after the appeal hearing.

F. **Oaths and Subpoenas.** The Board shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties.

[Ord. 43-2008]

**G. Authority.** 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 Housing Board of Appeals, in its determination, shall be bound by this Part and shall not ignore the clear provisions and intent of this Part. [Ord. 43-2008]

**4. Records Open to Inspection.** 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.

**5. Affect of Appeals.** Any decision or order issued under, per and in accord with this Part, shall be held in abeyance upon the timely filing of an appeal thereof with the Housing Board of Appeals. Said abeyance shall include, but not be limited to, revocation, suspension, denial or nonrenewal of a rental permit until the appeal is resolved. An appeal of the two disruptive conduct reports within a 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 second disruptive conduct report. [Ord. 43-2008]

**6. Enforcement upon Resolution of Appeal of Housing Board.** If this appeal is of a second disruptive conduct report and the decision of the police officer or public officer has been affirmed, within 10 working days and time for compliance as required by the decision of the Housing Board of Appeals, the public officer shall reinspect to determine compliance as to whether the occupant has voluntarily moved from the premises or the owner has initiated eviction proceedings. If, when so required by a second disruptive conduct report, the occupant has not voluntarily moved or the owner has not initiated eviction proceedings, and for compliance as required by the decision of the Board has expired, the public officer shall institute revocation of the rental permit per the provisions set forth in this Part.

[Ord. 43-2008]

**7. Fee and Costs.** The fee for filing of an appeal to the Housing Board of Appeals shall be \$75. Failure to submit the appropriate fee with the request for an appeal shall result in automatic denial of the appeal. In addition to said fee, the Appellant shall be responsible for all costs incurred to conduct a hearing beyond that covered by the fee. [Ord. 43-2008] (Ord. 28-2007, 7/23/2007, §§1, 2; as amended by Ord. 43-2008, 8/22/2008, §§1 and 2; and by Ord. 65-2008, 10/13/2008, §1)

**§11-125. Appeal to Court of Common Pleas.**

Any person, including the police officer or public officer for the City, aggrieved by any decision of the Housing Board of Appeals, may appeal to the Court of Common Pleas of Berks County. Such appeal shall be made by a duly verified petition in accord with the Pennsylvania Rules of Civil Procedure and shall set forth the factual and legal basis upon which the decision of the Board is alleged to be incorrect or illegal, in whole or in part. Said petition shall be filed with the Court of Common Pleas within 30 days after service of the decision. Notice of the appeal shall be served upon all parties to the appeal before the Housing Board of Appeals, including the Board and City of Reading, at the time of its filing. An appeal to the Court of Common Pleas of a decision of the Housing Board of Appeals shall not hold automatically stay enforcement of the Board's decision.

(Ord. 28-2007, 7/23/2007, §1; as amended by Ord. 43-2008, 8/22/2008, §1; and by Ord. 65-2008, 10/13/2008, §1)

**§11-126. Share Information.**

The City of Reading Codes Enforcement Division is authorized to share any and all information obtained under this Code with other Departments and Divisions of the City of Reading.

(Ord. 28-2007, 7/23/2007, §1)

**§11-127. Compliance with Other City of Reading Ordinances**

Every owner of every dwelling, in addition to the provisions set forth herein, shall comply with the provisions (sections) of all other applicable City Ordinances including, but not limited to, the International/City of Reading Building Code [Chapter 5, Part 1B], Existing Building Code [Chapter 5, Part 1C], Plumbing Code [Chapter 5, Part 2], Mechanical Code [Chapter 5, Part 5], Electrical Code [Chapter 5, Part 4], Fire Code [Chapter 5, Part 3], and Residential Code [Chapter 5, Part 8], Property Maintenance Code [Chapter 5, Part 6], Solid Waste and Recycling Ordinance [Chapter 20, Part 1], Health Code [Chapter 10, Part 1], and Zoning Ordinance [Chapter 27].

**KUTZTOWN DCR ORDINANCE**

*municipality.*

§ 135-2. Definitions and word usage.

A. The following definitions shall apply in the interpretation and enforcement of this chapter:

**AGENT**

A person representing and acting on behalf of an owner.

**APARTMENT**

A dwelling unit occupied by one family and containing at least one bathroom and separate eating and cooking facilities with bath.

**BOARDINGHOUSE**

A one-family dwelling occupied by the owner thereof (and his family, if applicable), portions of which building the owner lets rooms for lodging.

**CLOSED DCR**

A closed DCR shall be a DCR as to which the owner or agent:

(1) With respect to a Level 1 DCR, responds by complying with the procedures set forth in § [135-6E\(3\)](#) of this chapter within 10 business days of receipt of a written notice of a Level 1 DCR.

(2) With respect to a Level 2 DCR, responds by complying with the procedures set forth in § [135-6E\(4\)](#) of this chapter within 20 business days of receipt of a written notice of a Level 2 DCR, and the Code Enforcement Officer has made a determination that the remedial plan proposed by the owner or agent pursuant to § [135-6E\(4\)](#) has been performed by the owner or agent in all material respects. The owner or agent may request the Code Enforcement Officer to make such determination at the time of approval of the remedial plan or at any time thereafter. An owner or agent shall not be deemed to have failed to substantially perform a remedial plan as a result of the refusal of any judicial authority to order the eviction of any occupant, so long as the owner or agent has diligently pursued

any eviction proposed in the owner or agent's remedial plan by appropriate legal proceedings to the Court of Common Pleas.

### **CODE ENFORCEMENT OFFICER**

Any person specifically designated as such by the Council of the Borough of Kutztown to enforce this chapter, and shall include the duly authorized representatives of said Code Enforcement Officer.

### **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 regulated unit that is so loud, untimely (as to hour of the day), offensive, riotous or that otherwise disturbs other persons of reasonable sensibility in their peaceful enjoyment of their premises such that a report is made to police and/or to the Code Enforcement Officer complaining of such conduct, action, incident or behavior. It is not necessary that such conduct, action, incident or behavior constitutes 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 OR DCR**

A Level 1 DCR and/or a Level 2 DCR, as the context may require.

### **DISRUPTIVE CONDUCT REPORT LEVEL 1 OR LEVEL 1 DCR**

A written report of disruptive conduct on a form to be prescribed therefor, in accordance with § [135-5](#) of this chapter, to be completed by the Code Enforcement Officer or police officer, as the case may be, who actually investigates an alleged incident of disruptive conduct and which shall be maintained by the Code Enforcement Officer. Disruptive conduct reports shall be separate from any other action taken by the police and shall be considered public documents. A DCR shall be deemed a Level 1 DCR when no criminal citation or prosecution is issued in response to the disruptive conduct and other legal action in the judicial system is not pursued by the Borough Police Department or Code Enforcement Officer.

### **DISRUPTIVE CONDUCT REPORT LEVEL 2 OR LEVEL 2 DCR**

A written report of disruptive conduct on a form to be prescribed therefor, in accordance with § [135-5](#) of this chapter, to be completed by the police officer who actually investigates an alleged incident of disruptive conduct and which shall be maintained by the Code Enforcement Officer. A DCR shall be deemed a Level 2 DCR when the disruptive conduct results in the issuance of an actual criminal citation, a criminal offense is actually charged or other legal action is pursued in the judicial system by the police or Code Enforcement Officer. A Level 2 DCR may also be issued by the Code Enforcement Officer as provided in §§ [135-7C](#) and

[135-6E\(3\)](#) of this chapter. Level 2 DCR's shall be those DCR's in which owner and occupants shall accrue penalties, if applicable, under this chapter.

**DWELLING**

Any building or structure (except temporary housing) which is wholly or partly used or intended to be used for living or sleeping by human occupants.

**DWELLING UNIT**

Any group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living or sleeping.

**FAMILY**

As used in this chapter, the term "family" shall be defined as:

- (1) One or more persons related by blood, marriage, adoption or other decree of legal custody living together as a single housekeeping unit and using cooking facilities and certain rooms in common;
- (2) Not more than three persons unrelated, as set forth in Subsection (1) above, living together as a single housekeeping unit and using cooking facilities and certain rooms in common; provided, however, that no related dependent of such unrelated persons shall be counted in determining the number of unrelated persons living together; or
- (3) More than three unrelated handicapped persons living permanently together as a single housekeeping unit and using cooking facilities and certain rooms in common; provided, however, that such persons shall be under the supervision of a nonhandicapped resident of the dwelling and provided, further, that the dwelling is owned and operated by a Pennsylvania nonprofit corporation

[135-6. Responsibilities of owner and agents.](#)

A. Whosoever, as owner or agent, lets or holds out to let any unit subject to the provisions of this chapter shall supply the Code Enforcement Officer with the following information:

- (1) The street address and mailing address (if different from the street address) of each such unit.
- (2) The number of units for let in any dwelling, rooming house or boardinghouse, which number shall in no event exceed the number of such units provided for on the housing license issued to the owner or agent on behalf of the owner.
- (3) The name of each person occupying each such unit.
- (4) The period of time for which the unit is let.

B. Such information shall be supplied to the Code Enforcement Officer annually in writing, in such form as may be prescribed in accordance with § [135-5](#) of this chapter. Such information pertaining to any unit shall also be supplied in writing to the Code

Enforcement Officer, in such form as may be prescribed in accordance with § [135-9](#) of this chapter, within 10 days after the occupancy of any such unit changes.

C. The owner of any unit required to obtain a housing license pursuant to the requirements of this chapter shall designate a person to serve as the owner's agent. The owner or agent shall be legally responsible for operating each unit in compliance with all provisions of this chapter and the Performance Codes, the housing license issued relating to the maximum number of persons that may occupy such regulated unit and all other provisions of this chapter. The agent shall reside either within such premises where the regulated unit is located or within a five-mile radius thereof. The owner of the regulated unit may also serve as the agent if such owner resides within the premises where the regulated unit is located or within a five-mile radius of the territorial boundary of the Borough of Kutztown or if such owner resides more than five miles from the territorial boundary of the Borough of Kutztown but has a place of business within the Borough of Kutztown and is present at the place of business during normal business hours. For purposes of this section, "normal business hours" shall mean the period of time commencing at 9:00 a.m. and continuing through and including 5:00 p.m., prevailing time, Monday through Friday, except legal holidays, throughout the calendar year. In the absence of the owner, the agent shall be responsible for providing access to such regulated unit so as to permit the Code Enforcement Officer to make inspections thereof. The agent shall be an individual not less than 18 years of age. The name, address and phone numbers of the owner or agent shall be posted in a conspicuous place within the regulated unit.

D. The owner of any regulated unit shall, within 10 days of becoming such owner and thereafter annually, furnish in writing the following information to the occupants and to the Code Enforcement Officer:

- (1) The name, home and business addresses and home and business phone numbers of each owner.
- (2) The name, home and business addresses and home and business phone numbers of the agent.

E. Regulation of occupant conduct and activities.

(1) The owner or agent of any regulated unit shall be responsible for assuring that the conduct and activities of the occupants of every regulated unit which the owner or agent owns in the Borough of Kutztown, which conduct or activity takes place at such regulated unit or its premises, is in compliance with this chapter. In order to achieve those ends, every owner or agent of a regulated unit shall take appropriate contractual and enforcement action to cause the conduct and activities of the occupants thereof to comply with this chapter.

(2) Where an owner or agent does not manage the use of common areas of the premises and the behavior of occupants and guests in the common areas by appropriate contractual and enforcement action, the owner or agent shall be directly

responsible for the behavior of occupants and guests in common areas of the premises as if the owner or agent were an occupant.

(3) Within 10 business days after the receipt of written notice from the Code Enforcement Officer that a Level 1 DCR has been issued as a result of an occupant of a regulated unit having violated a provision of this chapter, the owner or agent shall notify the occupants of the regulated unit of the issuance of the Level 1 DCR and its contents, utilizing a form letter provided with such written notice, such form letter to be in such form as is approved in accordance with § [135-5](#) of this chapter. A copy of such form letter issued by the owner or agent to the occupants shall be delivered to the Code Enforcement Officer within such 10 business day period. Failure by the owner or agent to comply with the foregoing provisions of this § [135-6E\(3\)](#) shall constitute sufficient grounds for the issuance to the owner or agent by the Code Enforcement Officer of a Level 2 DCR.

(4) Remedial plan.

(a) Within 20 business days after the receipt of a written notice from the Code Enforcement Officer that a Level 2 DCR has been issued as a result of an occupant or owner or agent of a regulated unit having violated a provision of this chapter, the owner or agent shall file with the Code Enforcement Officer a remedial plan, on such form as is approved in accordance with § [135-5](#) of this chapter, which shall, at a minimum, state the following:

[1] Set forth what action the owner or agent has taken to remedy the violation;

[2] What steps the owner or agent has taken to prevent a reoccurrence of the violation; and

[3] Set forth specific steps the owner or agent will take in the future if the violation reoccurs.

(b) The Code Enforcement Officer shall review the report, and, if the Code Enforcement Officer determines that adequate steps have been taken or are proposed to be taken and the remedial plan is adequate to address future violations, the Code Enforcement Officer shall, within 10 business days after receipt of the remedial plan, approve the remedial plan or reject the remedial plan and issue written notice thereof to the owner or agent. The owner or agent shall, on his or her initiative, enforce the remedial plan. Failure to enforce the remedial plan diligently shall be a violation of this chapter. If the Code Enforcement Officer determines that the remedial plan should not be approved and rejects the remedial plan, written notice thereof shall be issued to the owner or agent, and within 10 business days of receiving such notice the owner or agent shall refile a remedial plan which addresses the deficiencies found by the Code Enforcement Officer. The owner or agent may appeal the Code Enforcement Officer's rejection of the remedial plan to the Housing License Appeals Board.

(5) This section shall not be construed as diminishing or relieving, in any way, the responsibility of the occupants, responsible parties and/or their guests for their conduct or activity, nor shall it be construed as an assignment, transfer or projection over or onto any owner or agent of any responsibility of the occupants, any responsible parties or their guests for their conduct or activity, nor shall it be construed as an assignment, transfer or projection over or onto any owner or agent 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 or agent to indemnify or defend the occupants, any responsible party or their guests when any such action or proceeding is brought against the occupant based upon the occupant's conduct or activity, nor to, in and of itself, impose any liability for negligence based upon any act or omission of the owner or agent. Nothing herein is intended to impose any additional civil/criminal liability upon owner or agent other than that which is imposed by other laws or judicial decisions or that which is imposed by this chapter. This section is not intended to, nor shall its effect be, to limit any other enforcement remedies which may be available to the Borough of Kutztown against an owner or agent, occupant or guest thereof.

F. Agreements for regulated units. Regulated units shall only be let pursuant to an agreement or lease.

(1) All rental agreements and/or leases for the Rental of regulated units shall be in writing and shall be supplemented with the addendum attached hereto as Appendix A. *Editor's Note: Appendix A is included at the end of this chapter.* No oral agreements or leases and no oral modifications of agreements or leases are permitted. All information required to be given to occupants and responsible parties by the owner or agent, pursuant to this chapter and/or the Pennsylvania Landlord and Tenant Act, *Editor's Note: See 68 P.S. § 250.101 et seq.* shall be furnished before the signing of the agreement or lease. The owner or agent shall provide the occupant and responsible party with copies of the rental agreement or lease and addendum upon execution. Appendix A shall not be submitted to the Borough of Kutztown unless requested pursuant to § [135-6\(F\)\(4\)](#) hereinbelow.

(2) The owner or agent and the occupant may include in a lease or rental agreement terms and conditions not prohibited by this chapter or other applicable ordinances, regulations and laws, including compensation, if applicable, term of the lease or rental agreement and other provisions governing the rights and obligations of the parties. Except as otherwise provided for in this chapter, no lease or rental agreement may provide that the occupant or owner agrees to waive or forego rights or remedies provided under this chapter. Any provision prohibited by this § [135-6F](#) included in a lease or rental agreement shall be void and unenforceable.

(3) Commencing with the effective date of this chapter, this chapter shall be available for purchase in the Borough Code Office and may be made available by other appropriate means, such as electronically at the Borough's website. Where a rental agreement or lease has been entered into prior to the effective date of this chapter,

the owner or agent shall make the occupant aware of this chapter within 60 days thereafter.

(4) The owner or agent shall secure a written acknowledgement from the occupant at the time of signing the rental agreement or lease that the occupant has received the information required by this chapter on a form approved in accordance with § 135-5 of this chapter and which shall contain an acknowledgement of receipt of the information by the occupant and any responsible party. Upon request by the Code Enforcement Officer, the owner or agent, within 10 business days of the request, shall furnish to the Code Enforcement Officer copies of said acknowledgement and/or copies of the rental agreement(s) or lease(s) the owner or agent has entered into for regulated units.

G. The owner or agent shall ensure that the regulated unit and the premises upon which the regulated unit is located comply at all times with the Performance Codes.

H. The owner or agent shall reply promptly to reasonable complaints and inquiries from occupants.

I. The owner or agent shall comply with all provisions of the Landlord and Tenant Act of the Commonwealth of Pennsylvania.

J. All notices served upon the owner or agent by the Code Enforcement Officer or the Housing License Appeals Board shall be conspicuously posted by the owner or agent within the unit to which the notice applies.

#### § 135-7. Responsibilities of occupants; disruptive conduct.

A. Peaceful enjoyment. The occupants of a regulated unit shall each conduct themselves and require other persons, including, but not limited to, guests on the premises and within the regulated unit with the occupant's consent and consistent with agreements and leases in effect, 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 premises by the persons occupying the same.

B. Illegal activities. The occupant shall not engage in, nor tolerate nor permit others on the premises to engage in, any conduct declared illegal under the Pennsylvania Crimes Code (18 Pa. C.S.A. § 101 et seq.) or Liquor Code (47 P.S. § 1-101 et seq.) or the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-101 et seq.).

C. Disruptive conduct. It shall be a violation of this chapter for any occupant or any other person to engage in disruptive conduct, as defined in this chapter, on the premises of a regulated unit. When police or the Code Enforcement Officer investigate an alleged incident of disruptive conduct occurring in or about a regulated unit, the investigating officer shall complete a disruptive conduct report upon a finding that the reported incident did, in his or her judgment, constitute disruptive conduct as defined in this chapter. Each disruptive conduct report shall be conspicuously marked by the

investigating officer to indicate whether it is a Level 1 DCR or a Level 2 DCR. The information filled in on said report shall include, to the extent 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, as 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. A Level 2 DCR may also be issued by the Code Enforcement Officer for the reasons set forth in § [135-6E\(3\)](#) of this chapter. In all cases, the Code Enforcement Officer shall mail a copy of the disruptive conduct report to the owner or agent of the regulated unit in question within five business days of the occurrence of the alleged disruptive conduct, notwithstanding whether the person making the investigation on behalf of the Borough of Kutztown is the Code Enforcement Officer or the police. The Code Enforcement Officer may also mail a copy of the disruptive conduct report to other appropriate parties.

D. In addition to all obligations imposed upon occupants by this chapter, occupants of regulated units shall comply with all other applicable codes and ordinances of the Borough of Kutztown and all other applicable laws of the Commonwealth of Pennsylvania and the United States of America.

E. The occupant of a regulated unit shall comply with all lawful provisions of the rental agreement and/or lease entered into between owner or agent and occupant.

F. The occupant of a regulated unit shall not intentionally cause, nor permit nor tolerate others to cause, damage to the premises. Conduct which results in damages to a property may be considered a violation of this chapter and the Performance Codes and may be subject to a disruptive conduct report.

G. The occupant of a regulated unit shall permit inspections of the premises by the Code Enforcement Officer at reasonable times and upon reasonable notice.

H. It shall be a violation of this chapter for any person to remove or deface any notice, placard or document required to be posted within a regulated unit, and it shall be unlawful for any person to occupy the regulated unit unless all notices, placards and documents are posted as required by this chapter.

#### [§ 135-10. Violations and penalties.](#)

A. Any person who violates or fails to comply with any of the provisions of this chapter or any order, notice, rule or regulation issued or made in connection herewith shall, upon conviction thereof, pay a fine of not less than \$50 nor more than \$1,000 and, in default of the payment thereof, shall undergo imprisonment in the Berks County Prison for a period not exceeding 30 days.

B. Every violation of this chapter shall constitute a separate offense, and each day such violation exists shall constitute a separate offense. In the event that any regulated unit is occupied by more than the maximum number of persons allowed by and listed on the housing license issued in accordance with § [135-3](#) of this chapter, then each day of occupancy by each such person in excess of such maximum number of occupants shall constitute a separate

offense under this chapter. It shall be a violation of this chapter to let a unit subject to regulation under this chapter after nonrenewal, suspension and/or revocation of a housing license pursuant to § [135-10C](#) through [E](#) of this chapter.

C. Disciplinary actions. Subject to the procedure set forth in § [135-9A](#) of this chapter, the Code Enforcement Officer may initiate the disciplinary actions set forth in this § [135-10C](#) against an owner or agent with respect to a regulated unit for any of the reasons set forth in § [135-10D](#) of this chapter:

(1) Formal warning: the formal written notification of at least one violation of this chapter. Upon satisfactory compliance with this chapter and any conditions imposed by the Code Enforcement Officer and/or the Housing License Appeals Board, formal warnings shall be removed when the owner applies for housing license renewal when required by this chapter.

(2) Nonrenewal: the denial of the privilege to apply for housing license renewal for a regulated unit after expiration of the license term. The owner shall be permitted to maintain occupants in the regulated unit in question until the end of the current license term but the Code Enforcement Officer shall not accept applications for renewal of the housing license until the expiration of the time set by the Housing License Appeals Board.

(3) Suspension: the immediate loss of the privilege to let the regulated unit for a period of time set by the Code Enforcement Officer or the Housing License Appeals Board. The Code Enforcement Officer may suspend only until the matter can be scheduled for the next possible Housing License Appeals Board meeting, at which meeting the Housing License Appeals Board shall consider the propriety of the suspension and set the period of time for its duration, if it is to be continued. The owner or agent, after the expiration of the suspension period, may apply for housing license renewal for the regulated unit without the need to show cause why the owner or agent's privilege to apply for an housing license should be reinstated. Upon suspension, the owner or agent shall take immediate steps to evict the occupants of the regulated unit in question.

(4) Revocation: The immediate loss of the privilege to let the regulated unit for a period of time set by the Code Enforcement Officer or the Housing License Appeals Board and the loss of the privilege to apply for renewal of the housing license at the expiration of said time period. The Code Enforcement Officer may revoke only until the matter can be scheduled for the next possible Housing License Appeals Board meeting, at which meeting the Housing License Appeals Board shall consider the propriety of the revocation and set the period of time for its duration, if it is to be continued. Upon the loss of the privilege to let, the owner or agent shall take immediate steps to evict the occupants of the regulated unit in question.

D. Grounds for imposing discipline.

(1) Actions subject to discipline.

(a) Any of the following may subject an owner to discipline as provided for in § [135-10C](#):

[1] Failure to abate a violation of the Performance Codes and/or this chapter applicable 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 chapter.

[3] Failure to take such actions as may be required or necessary to cause any open DCR to be deemed a closed DCR by the Code Enforcement Officer by the end of the license year in which the DCR was issued, including, but not limited to, failure to respond to notice of a DCR or failure to perform an approved remedial plan in any material respect. Such failure occurring with respect to one or more open DCRs in each of two license years, when at least two of such open DCRs were issued within a period of 60 months, shall without more, constitute sufficient grounds for nonrenewal as of the commencement of a license year and/or for suspension or revocation. If a DCR is received within the last 20 business days of the license year, the owner shall have 20 business days from the date of receipt of the notice of the issuance of DCR to cause the Open DCR to be deemed a closed DCR, regardless of the date of the end of the license year.

[4] Failure to remedy and prevent further violations of this chapter, other than with respect to disruptive conduct.

(b) For purposes of this subsection, there need be no criminal conviction before a violation can be found to exist.

(2) No discipline involving nonrenewal, suspension and/or revocation shall be permitted unless the discipline has been preceded by the issuance of a formal warning involving the same grounds for discipline at least 10 days prior to the taking of the new disciplinary action. A formal warning shall be issued when there exists one or more open DCRs in each of two license years and at least two of such open DCRs were issued within a period of 60 months.

#### E. Criteria for application of discipline.

(1) With respect to the issuance of a Level 2 DCR, the Code Enforcement Officer, when considering which of the discipline options to utilize as set forth in this section, and the Housing License Appeals Board, when deciding any discipline matter under this section, shall consider the following:

(a) The effect of the violation on the health, safety and welfare of the occupants of the regulated unit and other residents of the premises.

(b) The effect of the violation on the neighborhood.

(c) Whether the owner has a record of prior violations of this chapter and other ordinances of the Borough of Kutztown or has received notices of violations as provided for in this chapter, whether or not related to the regulated units in question. In this regard, no closed DCR (and any enforcement actions related thereto) shall be considered.

(d) Whether the owner has been subject to prior discipline under this chapter. In this regard, no closed DCR (and any enforcement actions related thereto) shall be considered. The prior issuance of a formal warning in connection with the open DCR shall be considered.

(e) The effect of disciplinary action on the occupants.

(f) The action taken by the owner or agent to remedy the violation and to prevent future violations, including any approved remedial plan submitted by the owner or agent in response to a Level 2 DCR with respect to any open DCR.

(g) The suitability of the policies and rental agreement or lease terms employed by the owner or agent to manage the regulated unit to enable the owner or agent to comply with the provisions of this chapter.

(h) When an open Level 2 DCR is under consideration, the nature of the associated criminal enforcement and/or other legal actions, the nature of the owner's violations of this chapter and the degree of the owner's unresponsiveness.

(2) In addition to applying discipline as set forth in this section relating to a Level 2 DCR, the Code Enforcement Officer may recommend and the Housing License Appeals Board may impose upon the existing license [or subsequent license(s) with respect to the Performance Codes] reasonable conditions related to the regulated unit in question for the purpose of fulfilling the goals of this chapter.

F. Procedure for formal warning, Nonrenewal, suspension or revocation of license.

(1) Following a determination that grounds exist for a formal warning or for nonrenewal, suspension or revocation of a housing license, the Code Enforcement Officer shall notify the owner or agent of the action to be taken and the reason therefor. Such notification shall be in writing, addressed to the owner or agent, and shall contain the following information:

(a) The address and identification of the particular regulated unit(s) affected.

(b) A description of the violation which has been found to exist.

(c) A statement that the owner or agent will receive a formal warning, or that the housing license for the affected regulated unit(s) will be subject to suspension or revocation or nonrenewal for the next license year beginning August 1. In the case of a suspension or revocation, the notice shall state the date upon which such suspension or revocation will commence, and in the case of a suspension the notice shall also state the duration of the suspension.

(d) A statement that, due to the nonrenewal, suspension or revocation (as the case may be) of the housing license, the owner or agent or any person acting on the owner's behalf is prohibited from letting or permitting occupancy of the affected regulated unit(s) from and during the period said disciplinary action is in effect.

(e) A statement informing the owner or agent of the owner's right to appeal the decision to issue a formal warning or to subject the housing license in question to suspension, revocation or nonrenewal to the Housing License Appeals Board, as provided in this chapter.

(2) The procedures applicable to this § [135-10F](#) shall be the same those of § [135-9A](#) of this chapter, excepting § [135-9A\(1\)](#) and [\(2\)](#).

G. In addition to any other remedy, discipline or enforcement action provided for in this chapter, the Borough of Kutztown may enforce this chapter by pursuing a civil action, including an action in equity or other equitable injunctive relief, including therewith:

(1) The decision by the Borough of Kutztown to pursue any such action shall not be deemed an election of remedy so as to preclude other enforcement, disciplinary or other remedies available to the Borough of Kutztown for enforcement of this chapter; and

(2) In the Borough of Kutztown's pursuit of any such action, a prima facie showing of a violation of any final, unappealable enforcement or disciplinary action or final, unappealable Housing License Appeals Board order shall be sufficient to satisfy any legal requirement that the Borough of Kutztown demonstrate irreparable harm as a prerequisite to obtaining injunctive relief.

H. Any discipline or enforcement action imposed under this chapter which is in any manner related to violations of the Performance Codes shall be applicable to the premises in question notwithstanding any change in the owner or its ownership of the premises. Any discipline or enforcement action imposed under this chapter with respect to any premises for reasons other than violation of any of the Performance Codes shall terminate, with respect to its applicability to such premises, upon any conveyance and/or change in owner or its ownership of the premises to a new owner, provided that:

(1) The new owner, if an individual, shall not be related to the existing owner by blood, marriage, adoption or other decree of legal custody; and

(2) The new owner, if a legal entity (other than an individual), shall not be owned, wholly or partially, by the existing owner.

A N O R D I N A N C E

AMENDING CHAPTER 11 HOUSING OF  
THE CITY OF READING CODIFIED ORDINANCES

THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1: Chapter 11 entitled Housing is amended as follows:

**§11-105 RENEWAL OF RENTAL REGISTRATION**

It shall be the responsibility of the owner of the dwelling unit or rooming unit to request and submit an application for renewal of a Rental Registration. Rental Registrations for 2008 and 2009 will be jointly issued and processed by the City of Reading Property Maintenance Division. The owner of every dwelling unit or rooming unit must renew his/her/their Rental Registration for each such dwelling unit or rooming unit for 2008 and 2009 by ~~September 1, 2009~~ December 1, 2009. An application for renewal of a rental registration for 2008 and 2009 with the requisite fees may be submitted between ~~July 1, 2009 and August 31, 2009~~ October 1, 2009 and November 30, 2009. All renewal applications for 2008 and 2009 received after the first of ~~September, 2009~~ December 2009 shall be subject to revocation of the rental permit and/or doubling of the fee set forth herein. In addition, failure to pay/renew a rental registration by ~~December 1, 2009~~ the first day of business January 2010 will result in submission of the bill and account for a rental registration to collections for recovery. The owner of every dwelling unit or rooming unit must renew his/her/their/its Rental Registration for each such dwelling unit or rooming unit for 2010 by April 1, 2010. An application for renewal of a rental registration for 2010 with the requisite fees may be submitted between February 1, 2010 and March 31, 2010. All renewal applications for 2010 received after the first of April, 2010 shall be subject to revocation of the rental registration and/or doubling of the fee set forth herein. In addition, failure to pay/renew a rental registration by April 1, 2010 will result in submission of the bill and account for a rental registration to collections for recovery. Commencing for renewal of a Rental Registration for 2011 and each year thereafter, the owner of every dwelling unit or rooming unit must renew his/her/their/its Rental Registration for each such dwelling unit or rooming unit for said year by the first business day after the first of January of said year. An application for renewal of a rental registration for 2011 and each subsequent year with the requisite fees may be submitted between November 1 and December 31 of the applicable year. All renewal applications for 2011 and subsequent years received after the first business day in January of the applicable year shall be subject to revocation of the rental registration and/or doubling of the fee set forth herein. In addition, failure to pay/renew a rental registration by March 1 of the applicable year will result in submission of the bill and account for a rental registration to collections for recovery. To renew a rental registration the owner must complete an application for renewal on the form prepared and provided by the Property Maintenance Division and pay the applicable fee. Except as set forth in this Part, on a not less than 3 nor more than 5 year basis, renewal of a rental registration is not subject to an inspection. An application for renewal of a rental registration may be denied resulting in non-renewal of the registration as set forth herein. Failure of the owner to renew a permit will be considered a surrendering and revocation of the rental registration and will require vacation of all occupants/tenants of the dwelling unit or rooming. To obtain a rental registration after its surrender and revocation, the owner will have to submit a

new initial application and undergo the requirements thereof. Any waiver of such requirements is at the discretion of the Property Maintenance Division Administrator or his/her designee.

**SECTION 2:** All relevant ordinances, regulations, remaining sections of Chapter 11 Housing - Rental Ordinance and policies of the City of Reading, Pennsylvania not amended hereby shall remain in full force and effect.

**SECTION 3:** If any section, subsection, sentence or clause of this ordinance is held, for any reason, to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

**SECTION 4:** This Ordinance shall become effective in ten (10) days, in accordance with Charter Section 219.

Enacted \_\_\_\_\_, 2009

\_\_\_\_\_  
Council President

Attest:

\_\_\_\_\_  
City Clerk

(LAW)

Submitted to Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

Received by the Mayor's Office: \_\_\_\_\_

Date: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

Vetoed by Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

**BILL NO. \_\_\_\_\_-2009**  
**A N O R D I N A N C E**

AMENDING THE CITY OF READING CODIFIED ORDINANCES BY CREATING A NEW PART 20 - VACANT BUILDING REGISTRATION - IN CHAPTER 10 HEALTH AND SAFETY ENFORCEMENT

**THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1.** The City of Reading Code of Ordinances is hereby amended by creating a new Part 20 Vacant Building Registration in Chapter 10 Health and Safety as attached in Exhibit A

**SECTION 2.** All other sections, parts and provisions of the City of Reading Code of Ordinances shall remain in full force and effect as previously enacted and amended.

**SECTION 3.** In the event any provision, section, sentence, clause, or part of this Ordinance shall be held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such invalidity, illegality, or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses, or parts of this Ordinance, it being the intent of City Council that the remainder of the Ordinance shall be and shall remain in full force and effect.

**SECTION 4.** This Ordinance shall take effect ten (10) days after adoption in accordance with City of Reading Home Rule Charter, as amended, Sections 219 and 221.

Enacted \_\_\_\_\_, 2009.

\_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_  
City Clerk

(Councilor Waltman & Council Staff)

(PMD and LAW)

Submitted to Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

Received by the Mayor's Office: \_\_\_\_\_

Date: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

Vetoed by Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT A

### PART 20

#### VACANT BUILDING REGISTRATION

##### §10—2001. PURPOSE AND ENFORCEMENT.

A. The purpose of this part requiring the registration of all vacant buildings and structures and the payment of registration fees is to assist the City in protecting the public health, safety and welfare, to monitor the number of vacant buildings and structures in the City, to assess the effects of the condition of those buildings on nearby businesses, buildings, structures, properties and the neighborhoods in which they are located, particularly in light of fire safety hazards and unlawful, temporary occupancy by transients, including illicit drug users and traffickers, and to require of the owners of such vacant buildings and structures to register and the pay related fees, and to promote substantial efforts to rehabilitate such vacant buildings and structure. The provisions of this part are applicable to the owners of such vacant buildings as set forth herein and are in addition to and not in lieu of any and all other applicable provisions of the Codified Ordinances of the City of Reading and all relevant codes and/or regulations adopted therein.

##### §10—2002. DEFINITIONS

For the purposes of this section, where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies. The following words shall have the meanings respectively ascribed to them as follows:

**Boarded** a building, structure or dwelling unit subject to the provisions of this part if in place of one or more exterior doors, other than a storm door, or of one or more windows, there is a sheet or sheets of plywood or similar material covering the space for such door or window.

**Dwelling unit** means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**Notice** written notice of a violation or requirement under this section mailed, pursuant to first class mail, to the last known address of the owner of the property in question.

##### **Public Nuisance:**

(a) Any building or structure which because of physical condition or use is regarded as a public nuisance and has been declared a public nuisance in accordance with the local housing, building, plumbing, fire and related codes.

(b) Any building or structure which because of physical condition, use or occupancy is considered an attractive nuisance to children.

(c) Any building or structure which because it is dilapidated, unsanitary,

unsafe, insect or vermin infested or lacking in the facilities and equipment required by the City of Reading Codified Ordinances and has been designated by the City as a public nuisance.

(d) Any structure which is a fire hazard or is otherwise dangerous to the safety of person or property.

(e) Any structure from which water, plumbing, heating, sewage or other facilities have been disconnected, destroyed, removed or rendered ineffective so that the property creates a hazard to neighboring properties.

(f) Any building or structure which for reason of neglect or lack of maintenance, has become a place for accumulation of trash and debris or a haven for rodents and other vermin.

(g) Any building or structure which lacks or has rendered inoperable fire protection system as required by the applicable City of Reading Codified Ordinance.

(h) Any building or structure which as a result of its dilapidated, unsanitary, unsafe, insect or infested condition creates a damage or a risk of damage to a neighboring property.

**Occupied** any building or structure where one or more persons actually conducts a lawful business or resides in all or any part of the building as the licensed business-occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, non-transient basis, or any combination of the same. For purposes of this part, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual telephone, electric, gas, heating, water and sewer services; trash collection services; a valid City business license, or the most recent, federal, state, or City income tax statements indicating that the subject property is the official business or residence address of the person or business claiming occupancy; or proof of up to date tenant list

**Open** a building or structure whereat any one or more exterior doors, other than a storm door, is broken, open and, or closed, but, without a properly functioning lock to secure it, or if one or more windows is broken or not capable of being locked and secured from intrusion or any combination of the same.

**Owner** any person, agent, operator, partnership, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

**Vacant** a building or structure shall be deemed to be vacant if no person or persons actually, currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the

building as the legal or equitable owner(s) or tenant occupant(s), or owner-occupants, or tenant(s) on a permanent non-transient basis.

### **§10—2003. APPLICABILITY**

The requirements of this article shall be applicable to every building and structure in the City of Reading and each owner of any building whether governmental, commercial, residential or institutional or owned by non-profit or a for-profit organization in which the building in total shall have been vacant for more than 45 consecutive days. Registration shall be required for all vacant buildings and structures, whether vacant and secure, vacant and open or vacant and boarded and shall be required whenever any building has remained vacant for 45 consecutive days or more. This part shall not apply to any building owned by the United States, the Commonwealth, the City of Reading, County of Berks nor to any of their respective agencies or political subdivisions.

### **§10—2004. REGISTRATION STATEMENT**

Each such owner shall cause to be filed a notarized registration statement on a form prepared and provided by the Property Maintenance Division of the City of Reading, which shall include but not be limited to the street address and parcel number of each such vacant building, the names and addresses of all owners, as hereinafter described, and any other information deemed necessary by the Property Maintenance Division, Building and Trades Division, and the Department of Fire and Rescue Services. For purposes of this part, the following shall also be applicable:

- (a) If the owner is a corporation, the registration statement shall provide the names and residence addresses of all officers and directors of the corporation and shall be accompanied by a copy of the most recent relevant filing with the Pennsylvania Department of State.
- (b) If an estate, the name and business address of the executor of the estate;
- (c) If a trust, the name and address of all trustees, grantors and beneficiaries;
- (d) If a partnership, the names and residence addresses of all partners with an interest of ten (10) percent or greater;
- (e) If any other form of unincorporated association, the names and residence addresses of all principals with an interest of ten percent or greater;
- (f) If an individual person, the name and residence address of that individual person.

The Registration Statement and, where applicable, Registration Fee(s) as required by sub-section §10—2006 of this section shall be billed by the Property Maintenance Division and such Registration Statement and, where applicable, Registration Fee(s), shall be filed with and/or paid to the Property Maintenance Division for the subject year no later than the last business day of said year, on or before December 31, or if December 31 falls on Saturday or Sunday by the

preceding Friday, of each year. For purposes of this ordinance, registration application initially shall be due on September 1, 2009

#### **§10—2005. DUTY TO AMEND REGISTRATION STATEMENT**

If the status of the registration information changes during the course of any calendar year, it is the responsibility of the owner, responsible party or agent for the same to contact the Property Maintenance Division within thirty (30) days of the occurrence of such change and advise the department in writing of those changes.

#### **§10—2006. FEES**

The owner of the vacant property as of December 31<sup>st</sup> of each calendar year shall be responsible for the filing of his/her Registration Statement and, where applicable, registration payment of the non-refundable registration fee. Said fee shall be \$100 per year per building and structure which has not been declared a public nuisance by the City of Reading Property Maintenance Division, Department of Fire and Rescue Services or Building and Trades Division of the Department of Community Development and the exterior of said building or structure is compliant with the applicable codes and ordinances.

Upon a determination that a building or structure is a public nuisance or becomes non code compliant on the exterior, the fee for Registration of a Vacant Building or Structure shall be:

- \$500 for buildings or structures that have been vacant for one to two years;
- \$1,000 for buildings or structures that have been vacant for two to three years;
- \$2,000 for buildings or structures that have been vacant for three to five years;
- \$3,500 for buildings or structures that have been vacant for five to ten years; and
- \$5,000 for buildings that have been vacant for ten years.

The fee shall increase by \$500 for each year beyond the ten years that the building has been vacant.

An owner may appeal a determination of a public nuisance or exterior non code compliant to the Building and Fire Board of Appeals as set forth herein. Once a building or structure has been declared a public nuisance or non code compliant, upon correction of the basis for such determination, an owner may apply to the Property Maintenance Division for removal of the nuisance or non code compliant determination and reduction of the fee to \$100 per year.

#### **§10—2007. DELINQUENT REGISTRATION FEES AS A LIEN**

After the owner is given notice of the amount of the Registration Fee due, except for those owners that have properly perfected an appeal pursuant to §10-2012 above, and the owner fails to pay the amount due within thirty (30) days, said amount shall constitute a debt due and owing to the City, and the City may either enter a lien on the property or turn it over to a collection agency for receipt as provided by law

#### **§10—2008. ONE TIME WAIVER OF REGISTRATION FEE**

A one-time, one year waiver of the registration fee may be granted by the Property Maintenance Division upon application of the owner and upon review and advice of the Solicitor's Office, within 15 calendar days of the date of the bill for the registration fee, if the owner:

1. Demonstrates with satisfactory proof to the Property Maintenance Division, Building and Trades Division and/or Department of Fire and Rescue Services that he/she has submitted valid architectural plans, based on city's permits and planning application procedures, and otherwise has shown good faith efforts to efficiently rehabilitated, demolish, or otherwise substantially repair or improve said vacant building; or
2. Demonstrates with satisfactory proof to the Property Maintenance Division, Building and Trades Division and/or Department of Fire and Rescue Services that he/she is actively marketing the property for sale/lease. Actively marketing will be defined as an owner who has placed a "for sale" or a "for lease" sign on the property with accurate contact information, which is also provided to the Property Maintenance Division, Building and Trades Division and/or Department of Fire Services, and has done at least one of the following:
  - (a) Engaged the services of a real estate licensee, whose name, address, telephone number and email will be provided to the Property Maintenance Division, Building and Trades Division and Department of Fire and Rescue Services, in the Multiple Listing Service (MLS);
  - (b) Placed weekly advertisements in print or electronic media;
  - (c) Distributed printed advertisements.

#### **§10-2009. DECISION ON APPLICATION FOR WAIVER**

Within thirty (30) days after the waiver application is received by the Property Maintenance Division, and upon review by the Property Maintenance Division, Building and Trades Division and/or Department of Fire and Rescue and advice of the Solicitor's Office, the Property Maintenance Division shall grant or deny the waiver in writing, and dispatch the written decision by mail to the owner. If the owner properly submitted an application for a one-time waiver to the Property Maintenance Division and that application was denied, the owner may seek an appeal from the Building and Fire Board of Appeals by filing an appeal request in writing within twenty (20) calendar days of receipt of the denial.

#### **§10—2010. LOCAL AGENT**

If none of the persons listed in §10-2004 above is shown at an address within Berks County, the Registration Statement also shall provide the name and address of a person who resides within Berks County appointed by the owner as the local agent. The owner and responsible local agent shall be jointly and severally legally responsible compliance with the City of Reading Codes and Codified Ordinances and the laws of the Commonwealth of Pennsylvania. The local responsible agent shall be responsible for, including but not limited to, providing the Code Official with access to the building or structure for the purpose of making inspections, is authorized to accept service of process on behalf of the owners, receive notification in the event of an emergency

affecting the public health, safety or welfare and for purposes of service of any and all notices or registration statements as herein authorized and in connection herewith.

## **§10—2011. INSPECTIONS**

**Annual Inspection.** An annual inspection of a Registered Vacant Building shall be performed by the Property Maintenance Division for Residential Structures and Building / Trades Division and/or Fire Prevention Division for Commercial Structures, or as necessary, to determine if it complies with the minimum requirements, as determined by the code official, of applicable Property Maintenance Code, Building and Trades Codes and Fire Prevention Code. If violations of these Codes are identified the Property Maintenance Code shall issue a notice of violation as per the requirements of those codes and give notice to the owner to comply with the codes with a time to cure. If the violations are not corrected within the time given, the property shall be declared a public nuisance.

**Complaint Inspections.** Nothing in this Part shall preclude a Code Official from performing an inspection upon receipt of a complaint of violation of the City of Reading Codes and Codified Ordinances existing at the building or structure. Said inspections shall be in accord with the applicable Codes and Ordinances and regulations and policies established by the City of Reading.

**Right of Entry.** The Code Officials are authorized and directed to make inspections at any reasonable hour to determine compliance with the aforementioned codes. For this purpose, the Property Maintenance Division, Building and Trades Division and Department of Fire and Rescue Services, its officers or representatives are authorized to enter and examine any building, structure, yard or part of either and every owner, operator or occupant shall allow the inspectors, officers or representatives of the Property Maintenance Division and Department of Fire and Rescue Services free access.

**Search Warrant.** If any owner, local agent or other person in charge of a building or structure subject to the provisions of this Part refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to every part of the structure or premises where inspection authorized by this Part is sought, the administrative authority, appropriate Code Official, shall promptly apply for an administrative search or inspection warrant to a court of competent jurisdiction and shall supply all necessary affidavits and testimony to indicate that there is a reasonable or probable cause to conduct an inspection.

**Notice.** All notices scheduling an inspection shall be mailed via regular mail to the owner of record with a copy mailed via regular mail to the local responsible agent.

**Failure to Appear for Inspection.** If the owner or his/her local responsible agent cannot be available at the proposed time, said owner or representative shall provide no less than 24-hour written notice to the Property Maintenance Division. Upon failure to give such written notice or upon failure to gain entry, an administrative fee of \$50 will be assessed against the owner or

representative of the owner failing to supply written notice or appear. For each rescheduling beyond the second rescheduling an administrative fee of \$100 shall be assessed in all cases. Failure to pay administrative fees shall at the discretion of the Code Official constitute a violation of this or the applicable Code including but not limited to the City of Reading Property Maintenance Code. Failure of an owner or his/her local responsible agent to appear for a scheduled inspection shall be considered probable cause for obtaining a search warrant to inspect the premises.

**Special Requested Inspection.** Whenever the owner, mortgagee, purchaser or other interested party requests a special inspection of a property regulated by this Article, or certification that a property is in compliance with this Article or other applicable City ordinances pertaining to structural condition; when such a request is being made in connection with the sale, conveyance, transfer, financing or refinancing of such property; then such person shall first pay a fee of \$200 to the City to defray the expenses of making such inspection.

#### **§10—2012. SERVICE CUT OFFS**

(e) Upon registration of a property the Property Maintenance Division and/or Fire Marshall shall see to it that all service utilities are disconnected as per Property Maintenance Code 108.2.1 Service Utilities.

#### **§10—2013. APPEAL RIGHTS.**

**A. Registration Fees.** The owner shall have the right to appeal the imposition of the registration fees to the Building and Fire Board of Appeals upon filing an application in writing to the Property Maintenance Division no later than twenty (20) calendar days after the date of the billing statement. On appeal, the owner shall bear the burden of providing satisfactory objective proof of occupancy as defined in §10-2002 above.

**B. Public Nuisance and Exterior Non Code Compliant.** The owner shall have the right to appeal the determination that a building or structure is a public nuisance or the exterior is non code compliant to the Building and Fire Board of Appeals upon filing an application in writing to the Property Maintenance Division no later than twenty (20) calendar days after notification of said determination. On appeal, the owner shall bear the burden that the property is not a public nuisance and the exterior is code compliant.

**C. Fee.** The fee for filing of an appeal to the Building and Fire Board of Appeals shall be \$100. Failure to submit the appropriate fee with the request for an appeal shall result in automatic denial of the appeal. In addition to said fee, the Appellant shall be responsible for all costs incurred to conduct a hearing beyond that covered by the fee.

#### **§10—2014. ADMINISTRATION AND ENFORCEMENT**

Administration and enforcement of this section shall remain under the control of the Property Maintenance Division, Building and Trades Division and/or the Department of Fire and Rescue Services.

## §10—2015. VIOLATIONS AND PENALTIES.

**A. Violations.** The failure or refusal for any reason of any owner, or agent of an owner acting on behalf of the owner, to file a Registration Statement, to pay any fees required to be paid pursuant to the provisions of this part, or to appear for an inspection, shall constitute a violation. The violation shall be deemed a strict liability offense

**B. Prosecution of Violations.** The Fire Marshal, Chief Building Official and/or Property Maintenance Division Administrator or his/her designee.

shall have the authority to institute the appropriate proceeding at law or in equity, to restrain, correct or abate such violation of the provisions of this Part or of the order or direction made pursuant thereto. Such authority shall include but not be limited to the Fire Marshal, Chief Building Official and/or Property Maintenance Division Administrator or his/her designee. institution of summary criminal proceedings via the issuance of a nontraffic citation in accord with the Pennsylvania Rules of Criminal Procedures in the court of appropriate jurisdiction, as a means of enforcement of this section and shall, when acting within the scope of employment hereunder, have the powers of a police officer of the City; provided, however, that under no circumstances shall they have the power of arrest.

**C. Penalties.** Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for the first two continual and uncorrected failure or refusal to register, or for each failure or refusal to pay and not exceeding five thousand dollars (\$5,000) for the third and any subsequent continual and uncorrected failure or refusal to register or for each subsequent failure or refusal to pay or imprisonment for any term not exceeding (90) ninety days. Each day that violation of this Part continues or each section of this Part which shall be found to have been violated shall constitute a separate offense.

## §10—2016. COMPLIANCE WITH OTHER CODES

In no instance shall the registration of a vacant building and the payment of registration fees be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other City of Reading Code or Ordinance.

## §10—2017. NONEXCLUSIVE REMEDIES.

The penalty and collection and lien provisions of this Part shall be independent, nonmutually exclusive separate remedies, all of which shall be available to the City of Reading as may be deemed appropriate for carrying out the purposes of this Part. The remedies and procedures provided in this Part for violation hereof are not intended to supplant or replace to any degree the remedies and procedures available to the City in the case of a violation of any other City of Reading Code or Codified Ordinances, whether or not such other code or ordinance is referenced

in this Part 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 Part.

#### **§10-2018 BLIGHTED PROPERTY REVIEW**

Nothing in this Part, shall be meant or utilized to override or circumvent a property under consideration, review and in the process of the City of Reading Blighted Property Review Committee. A property be under order of the City of Reading Blighted Property Review Committee to be rehabilitated yet continue to be required to register as a Vacant Building or Structure pursuant to this Part.

