



# *CITY COUNCIL*

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## ***Committee of the Whole***

**Monday, June 9, 2014**

**5:00 pm**

**Agenda**

*Although Council committee meetings are open to the public, public comment is not permitted at Council Committee of the Whole meetings. However, citizens are encouraged to attend and observe the meetings. Comment from citizens or professionals during the meeting may be solicited on agenda topics via invitation by the President of Council.*

*All electronic recording devices must be located behind the podium area in Council Chambers and located at the entry door in all other meeting rooms and offices, as per Bill No.27-2012.*

**I. Housing Amendment – T. Butler and R. Natale**

**II. Other Matters**

**III. Agenda Review**



# ***COMMITTEE of the WHOLE***

## ***CITY COUNCIL***

**MINUTES**  
**May 27, 2014**  
**5:00 P.M.**

**COUNCIL MEMBERS PRESENT:**

D. Sterner, S. Marmarou, D. Reed, C. Daubert, M. Goodman-Hinnershitz

**OTHERS PRESENT:**

L. Kelleher, S. Katzenmoyer, C. Snyder, C. Younger, D. Cituk, V. Spencer, T. Coleman, E. Schlegel, D. Weand, D. Vind

The Committee of the Whole meeting was called to order at 5:00 pm by Councilor Goodman-Hinnershitz.

**I. Animal Ordinance Amendment**

Mr. Coleman explained that the Board of Health has been looking at the number of dogs and/or cats. He stated that this amendment does not set a hard limit to the number six dogs and/or cats but requires registration only. There is no fee for the registration.

Ms. Goodman-Hinnershitz questioned how this tied into the County's licensing requirements. Ms. Katzenmoyer explained that the license number is requested on the registration form.

Ms. Goodman-Hinnershitz stated that this amendment is being introduced this evening.

Mr. Waltman arrived at this time.

Mr. Daubert expressed the belief that this will be very beneficial. He stated that he appreciates that there is no fee for registration.

Mr. Coleman stated that the Board of Health worked closely with the Animal Rescue League and also invited the Humane Society to comment. He stated that the Animal Rescue League will help publicize the need to register at their monthly events and as they make public contact.

Mr. Waltman questioned if it was the goal to track the number of pets in households. Mr. Coleman explained that the goal is to identify those properties with six or more dogs and/or cats. He stated that this will also assist the Animal Rescue League to identify those who need assistance with their animals.

Mr. Daubert stated that the amendment also clearly defines harboring.

Ms. Goodman-Hinnershitz stated that she was glad to hear that the Animal Rescue League was involved. She stated that more and more people are breeding pit bulls for income.

Mr. Marmarou suggested that college students often have pets that they leave behind when they move home. He stated that they will probably not register the animals.

Mr. Coleman explained that this amendment is not unconstitutional. He stated that the number six is not a limit but a threshold which requires registration when met.

Mr. Acosta arrived at this time.

Mr. Coleman left the meeting at this time.

## **II. Ipads**

Ms. Goodman-Hinnershitz requested follow up by IT to determine the problem with the ipads and the "bounce back" problems with emails. She noted that these problems cause some to question the integrity of the City's communications systems.

Ms. Kelleher stated that there have been problems the last three meetings.

Ms. Katzenmoyer stated that IT believed they had corrected the problem last week. She stated that they functioned fine when she loaded the agendas on Friday. She stated that she will follow up with IT.

### **III. Other Matters**

- CRIZ

Mr. Acosta stated that he met with Senator Schwank today about CRIZ. Senator Schwank believes that Senator Argall's version of CRIZ legislation will be the one to move forward. This version chooses three cities in 2014 and two in 2015 and then has a sunset clause. She noted her concern as there are nine cities competing for five approvals. She stated that the City's current political environment will not help Reading get approval. It is expected that one of the cities chosen will be Tamaqua.

Ms. Goodman-Hinnershitz stated that she will review the information before commenting.

Mr. Spencer stated that he has learned from Pennsylvania Municipal League that York and Erie have hired the same firm (Pugliese) used by Allentown and Bethlehem to obtain CRIZ status.

Mr. Acosta stated that York currently has bi-partisan leadership but that they are working well together. He stated that Senator Schwank has spoken with Reading's CRIZ board members and explained that the CRIZ designation is the cherry on top when development has already begun.

Mr. Spencer stated that Pugliese charges six figures for their work.

Mr. Waltman expressed his frustration at State legislation with spotty success. He suggested that instead of being the cherry, CRIZ should be the crust. He suggested that if not all cities win, then all cities lose. He suggested that this type of approach is killing cities and is causing increased prison and court costs.

Ms. Goodman-Hinnershitz expressed the belief that the State does not deal with root causes. She suggested that they use the "favorite son" approach and that the State is suffering.

Mr. Acosta expressed the belief that the CRIZ board has excellent members but that he is not confident that Reading will receive CRIZ designation.

Mr. Waltman suggested that if this is the case, Reading can spend its time and energy in more productive ways.

Mr. Acosta explained the political connections of Pugliese.

Ms. Goodman-Hinnershitz questioned if the applications are public. Mr. Acosta stated that they are not.

Mr. Waltman suggested that cities needing this type of solution mean that State policies are not working.

Mr. Spencer reminded all that at the beginning of the CRIZ process there were population requirements which have since been removed.

- Penn Street Properties

Ms. Kelleher stated that the Administration has requested the adoption of a resolution approving the Our City Reading proposal.

Mr. Acosta stated that Council does not have the details of the proposal.

Ms. Goodman-Hinnershitz noted the need for Council to prioritize its time. She stated that many items need attention this evening.

Mr. Acosta stated that the resolution is on the consent agenda. He suggested that it needs further discussion. He stated that many comments were made about the two proposals at the review meeting held. He questioned if this was the right thing for these properties and noted his concern about bringing low income housing to the project. He suggested that this be reviewed at the Strategic Planning Committee meeting next Monday.

Ms. Goodman-Hinnershitz suggested that it was not appropriate for a consent agenda item if it needs further discussion. She noted the need for more time to review the information. She stated that she prepares for Monday meetings during the preceding weekend and that she does not have time to review information provided the same day as a meeting.

Mr. Acosta noted the need for details.

Ms. Reed stated that the agenda deadline is noon the preceding Wednesday. She stated that Councilors who work have difficulty reviewing information submitted late. She noted the importance of the project and that review is needed.

Ms. Snyder explained that she requested the heading on the agenda but that the final document was not prepared until after the deadline. She stated that Council heard

presentations on both projects and hoped that this would allow minimal review by Council.

Mr. Acosta stated that changes have been made since Council heard the presentation from Our City Reading. He stated that there was discussion at the project review meeting about this project. He noted the importance of the project as it will set the tone for future development and the need for Council to defend their vote after it is taken. He explained that he is not speaking against this proposal but expressing a need for better understanding about the recommendation.

Mr. Murin arrived at this time.

Mr. Acosta requested details at the Strategic Planning Committee meeting along with a better definition of the low income housing that will be part of the project.

Ms. Snyder stated that the resolution allows for flexibility in design and tenants to be negotiated.

Mr. Acosta noted the need to adjust the boundary of Ricktown and questioned how this affected other downtown locations. Ms. Snyder stated that she will be out of town next week but that Mr. Agudo will attend the meeting to answer questions.

Mr. Acosta suggested that this item be withdrawn for further discussion.

#### **IV. Agenda Review**

Council reviewed this evening's agenda including the following:

- Resolution authorizing a temporary transfer of funds within the Fire Department for the purchase of a refurbished ambulance to avoid a late payment penalty

Mr. Acosta noted his understanding that this was already approved. Ms. Snyder stated that the work is complete and the bill has been received. She explained that the extra layover period due to the holiday is problematic to pay the invoice on time.

- Ordinance amending the Purchasing Policies

Mr. Younger stated that there has been a legal review and the policies are fine as written.

Ms. Kelleher distributed several updated ordinances for Council review. In addition, she distributed a resolution authorizing the updated MOU with RAWA regarding the collection of curbside collection program fees. She stated that the Administration has requested that this resolution be added to this evening's agenda.

Mr. Waltman requested the item be tabled. He stated that this resolution contradicts other potential actions of Council this evening.

Ms. Goodman-Hinnershitz noted her concern with the timing of this resolution and questioned why it was being brought forward at this time.

Mr. Acosta suggested that this resolution also be addressed at another meeting. He questioned the need for the resolution if RAWA was already collecting the fees.

Ms. Goodman-Hinnershitz noted her concern with liability for Council. She stated that Council requested information and should not have liability. Ms. Snyder stated that Mr. Younger has opined that Council does not need to approve the MOU. However, the RAWA articles of incorporation do require it.

Ms. Goodman-Hinnershitz noted the need for documentation. She stated that this is bad business practice and that the initial agreement for collection of the fees should have had Council approval.

Mr. Waltman noted the need to change the language of numbers one and two. He stated that budget approval was never deemed as ongoing approval. He stated that this is no basis and that if that was the case Council would approve the budget and never need to take any additional action. He stated that this basis is extremely far-reaching. He noted his difficulty approving the resolution when it contradicts other possible actions this evening.

Mr. Younger questioned if that was Mr. Waltman's only reason for delaying the resolution. Mr. Waltman stated that it was.

Mr. Acosta questioned when this resolution should be reviewed. Mr. Waltman suggested that it be reviewed at next Monday's Strategic Planning Committee meeting.

## **V. Water Authority**

Mr. Waltman stated that the RFP process has fallen apart. He stated that Council did contact RAWA and that they were unresponsive. He stated that there was no two year bridge offered by RAWA and expressed the belief that it is clear to him that the system

is far from public control. He stated that RAWA should consider themselves an extension of Council and that Council's goal is to strengthen public control of the asset. He stated that Council no longer approves RAWA budgets. He stated that their autonomy has grown since they have relocated outside City Hall.

Mr. Waltman suggested that current RAWA members resign so that new members can be appointed with more Council oversight. He noted the need to examine their billing and collections and improve public relations. He expressed the belief that most residents do not feel that RAWA is a part of City operations.

Mr. Waltman noted his concern with comments made on social media and in the press. He stated that the supermajority of Council supports going through the full RFP process. He stated that not all may like this approach but that there should be mutual respect and support. He stated that this asset is at risk.

Mr. Spencer questioned if Stevens & Lee was hired by Council because of a conflict of interest. Mr. Waltman stated that Charter Section 103 gives Council this power.

Mr. Spencer stated that the choice of legal firm should have gone through the RFP process. Mr. Waltman stated that Council tried to initiate an RFP and it was blocked. He stated that Council felt threatened.

Mr. Spencer stated that the Administration has the option not to pay invoices. Mr. Waltman stated that Council controls the budget and it will ensure that invoices are paid.

Ms. Reed stated that this discussion has gotten off topic.

Ms. Goodman-Hinnershitz stated that she has been contemplating dissolving RAWA for some time. She stated that there is a lot at stake and noted the need to increase public control of this asset.

Mr. Daubert questioned who would run the asset if RAWA is dissolved. Ms. Reed suggested that specific questions may be answered by reviewing the ordinance.

Mr. Weand reviewed the ordinance. He explained that the ordinance does several things:

- Terminates the lease agreement with RAWA - He stated that written notice must be received by RAWA no later than June 30 or else the lease automatically extends another year.

- Requires the resignation of current RAWA board members
- Dissolves the authority
- Takes the asset back from RAWA
- Transfers the asset to a new authority created by Council – Members of the new authority will be appointed by Council and it is hoped that they will be more cooperative than current RAWA members.
- RAWA will convey the asset to the new authority
- The City assumes RAWA debt and transfers the debt to the new authority.
- RAWA cannot interfere with the take back or file legal challenges; no funds can be spent to fight the actions of Council.
- The Mayor cannot interfere with the take back or file legal challenges; no funds can be spent to fight the actions of Council.
- Anyone who violates the above provisions is subject to a fine of \$600 per occurrence.

Mr. Weand stated that one member of RAWA has recently resigned. He stated that if the majority of members resign, Council may not need to dissolve RAWA and create a new authority if Council can gain control. He stated that there is still flexibility and that it may not be necessary to go through the entire process. He explained that if the City takes the asset back it will need a certificate from the PUC.

Mr. Daubert questioned the timeframe to create an authority. Mr. Weand stated that it will take 60 – 90 days. He stated that it is contingent on it not being a long court battle.

Mr. Daubert questioned what would happen if the processes went quickly and the City is not ready. Mr. Waltman suggested that this may be the best way. He stated that new members on the existing board with new controls would be more secure and provide more transparency and cooperation.

Ms. Goodman-Hinnershitz stated that if RAWA is reformed there needs to be better oversight. She noted the need for members not to make decisions without full knowledge of issues. She noted the need for members to have the time and a high level of commitment. Ms. Reed noted the need for expertise.

Ms. Goodman-Hinnershitz questioned if having a five member board would cause issues with a quorum. She stated that this could potentially lead to three board members making big changes. She questioned adding members to the Authority. Mr. Younger noted the need to amend the articles of incorporation.

Mr. Acosta questioned amending the articles of incorporation. Mr. Weand stated that he would need to research this issue. (*Note: Amendments to the articles of incorporation must be initiated by the authority.*)

Mr. Acosta stated that RAWA was created by Council and other boards are amended by Council. He questioned why RAWA could not be amended. Mr. Waltman suggested that this can be done at any time. Mr. Younger noted the need for further research.

Ms. Reed expressed concern about possible litigation. She suggested an executive session.

Mr. Spencer questioned if Mr. Weand and Mr. Vind were providing services to Council. Mr. Weand stated that they are.

Mr. Spencer stated that he would like a copy of the letter of agreement as it should be a public document.

## **VI. Executive Session**

Mr. Acosta announced that Council will be entering an executive session to discuss potential litigation. Council entered executive session at 6:10 pm and exited at 7 pm.

The meeting adjourned at 7:00 pm.

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

**BILL NO. \_\_\_\_\_ - 2014**

**AN ORDINANCE**

**AMENDING CHAPTER 308 HOUSING OF THE CODIFIED ORDINANCES OF THE CITY OF READING TO ELIMINATE THE TENANT LISTING REQUIREMENT AND PROVIDE FOR INJUNCTIVE RELIEF.**

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

SECTION 1: Chapter 308, Housing, of the Codified Ordinances is hereby amended to eliminate the tenant listing requirement and provide for injunctive relief.

SECTION 2: All relevant ordinances, regulations and policies of the City of Reading, Pennsylvania not amended per the attached 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 after passage.

Enacted \_\_\_\_\_, 2014

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

Attest:

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

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

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

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

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

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

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

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

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

# EXHIBIT A

CHAPTER 308

# HOUSING

## PART 1

### RENTAL AND VACANT PROPERTY

#### §308-102. Definitions.

**ACTIVELY MARKETED FOR SALE** – occurs only when a “for sale” sign has been placed on the property with accurate contact information and the owner has done at least one of the following:

- 1) engaged the services of a licensee under the act of February 19, 1980 (P.L. 15, No 9), known as the Real Estate Licensing and Registration Act, to place the property in a Multiple Listing Service or otherwise market the property;
- 2) placed weekly or more frequent advertisements in print or electronic media; or
- 3) distributed printed advertisements.

**BOARDING HOUSE** – a building or structure used to shelter persons who are not “relatives” of the operator, and who live in the building by pre-arrangement and for definite periods of time and compensation, and which may or may not provide meals for residents, and which does not involve individual dwelling units that are each occupied by a “family.” This term shall not include a commercial hotel/motel that serves transient visitors to the area, a personal care home, a nursing home, a dormitory or residence hall owned or operated by a college or university, or a Group Institution.

**BUSINESS PRIVILEGE LICENSE** - a license issued by the City of Reading Tax Division per City of Reading Codified Ordinance Chapter 24, Taxation, Special, Part 5, Business Privilege Tax, authorizing one to perform business including, for purposes of this Part, renting.

**BUSINESS PRIVILEGE TAX** - the tax payable to the City of Reading, Division of Tax, per City of Reading Codified Ordinance Chapter 24, Taxation, Special, Part 5, Business Privilege Tax, on, for purposes of this Part, the annual gross receipts derived from rental of a property or unit.

**CAPACITY TO RENT** - any dwelling unit that is fit for habitation by humans as determinable by applicable Building and Property Maintenance Codes [Chapter 5, Part 6], and is not the owner's primary residence and as is permitted by the City of Reading Zoning Ordinance [Chapter 27].

**CODES** - any State or local code or ordinance adopted, enacted or in effect in and for the City of Reading 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], and City of Reading Property Maintenance Code [Chapter 5, Part 6], Zoning Ordinance [Chapter 27], Recycling and Solid Waste Ordinance [Chapter 20, Part 1], and general nuisance ordinances.

**CODES OFFICIAL** - a City of Reading employee or authorized agent sworn to enforce the City of Reading Codes and Codified Ordinances.

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

**HABITABILITY** - any rental unit, building or dwelling that is suitable for human habitation and that is sanitary and free of vermin infestation and is in compliance with all City of Reading health and code regulations and Codified Ordinances.

**HOTEL UNIT** - any room or group of rooms located within a hotel or motel forming a single habitable unit used or intended to be used for living and sleeping only on a transient basis for a period of less than 30 days.

**HOUSING PERMIT** - A permit issued by the City of Reading Property Maintenance Division per the procedure established by this Chapter and the policies created in accordance therewith. This permit includes both rental and vacant properties.

**LEASE** - see "Rent."

**LET** - see "Rent."

**LOCAL RESPONSIBLE AGENT** - a person or agency retained or hired by a property owner to operate premises including, but not limited to, compliance with City of Reading Codified Ordinances and as a local contact.

**MULTIPLE DWELLING UNIT** - any dwelling containing two or more dwelling units.

**OCCUPANT/TENANT** - a person renting or letting a rental unit from the owner thereof.

**OWNER** - any person, agent, operator, 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.

**PERSON** - any individual, firm, corporation, association, partnership or entity.

**PROPERTY MAINTENANCE DIVISION** - a division of the City of Reading administration under the Managing Director charged with enforcing the City of Reading Codified Ordinances governing issues including, but not limited to, housing, property maintenance and trades.

**PUBLIC OFFICER** - anyone authorized to enforce the City of Reading Codified Ordinances.

**QUALITY OF LIFE** - issues affecting the manner in which one lives or resides and habitability of a premise as governed by the City of Reading Codified Ordinances.

**REGISTRATION** - filing of an appropriate application to register a property as a rental unit- or vacant property.

**RENT** - compensation for providing a shelter or lodging for occupation or habitation by humans to reside, monetary or non-monetary.

**RENTING** - the act of permitting a unit to be used to provide a living arrangement for one or more persons not the owner thereof whether or not for compensation.

**RENTAL UNIT** - a rooming unit or dwelling unit let for rent, a non-owner occupied rooming or dwelling unit, or a dwelling unit occupied by an owner and additional unrelated individuals. A rental unit shall not include a hotel unit. A rental unit includes dwelling units under lease-purchase agreements or long-term (greater than 6 months) agreements of sale.

**ROOMING UNIT** - an individual room within a "Boarding House" as said term is defined herein that is suitable for human lodging or occupancy.

**SALES AGREEMENT** - a contract for the sale of real estate, including a contract for a deed.

**STUDENT** - an individual who is enrolled or has made application and been accepted at a university, college or trade school and whose primary occupation is as a student or who is on a semester or summer break from studies at a college, university or trade school or any combination of such persons. The term "student" shall apply to both undergraduate and graduate students alike. The residents of a student home share living expenses and may live and cook as a single housekeeping unit but may also only share access to cooking facilities and not live and cook as a single housekeeping unit.

**STUDENT HOME** - a living arrangement for at least two students to a maximum of three students (as defined in this Part) unrelated by blood, marriage or legal adoption. The term student home shall not include dormitories, fraternity house or sorority house. The term student home shall be used interchangeable with the term student housing.

**STUDENT HOUSING** - see "student home."

**VACANT PROPERTY** - A residential, commercial or mixed use (residential and other permitted use) property shall be deemed to be a "vacant property" if it is a vacant property that is actively marketed for sale, a vacant property for rehabilitation, a vacant property that is a vacation/second residence and a vacant property that is code compliant.

**ZONING** - City of Reading Zoning Ordinance [Chapter 27].

**ZONING PERMIT** - A permit issued by the City of Reading Zoning Division per the City of Reading Zoning Ordinance [Chapter 27] authorizing and/or registering a unit as a rental.

### **§308-103. Housing Permit Required.**

No person or entity shall let, rent or cause to be vacant or occupied any non-owner occupied properties unless that person first applies for, renews and obtains a non-transferable Housing Permit issued by the City of Reading Property Maintenance Division per the procedure established by this code and policies created thereunder.

### **§308-104. Application for a Housing Permit.**

1. Applications for a Housing Permit shall be made in writing or by electronic application on forms prepared and provided by the City of Reading Property Maintenance Division and shall be accompanied by payment of the applicable fee. Such forms shall require, but shall not be limited to, the following information and shall be accepted and sworn to by the owner:

- A. The name, business address, date of birth, ~~and~~ telephone numbers, (business and mobile), and Driver's License or State Issued Identification numbers of all of the owner(s) of any dwelling unit. A Federal EIN (employee identification number) must be provided if the owner is a corporation, limited liability company, or partnership.
- B. The address of the premises at which the dwelling unit or rooming unit is located.
- C. A valid zoning permit number as directed by the City of Reading Zoning Office.
- D. Verification of trash and recycling participation with approved program.
- E. The Business Privilege License Number as provided by the City of Reading Citizens Services Center
- ~~F. A completed tenant listing, if applicable, on a form prepared and provided by the Property Maintenance Division providing the following information of all persons occupying the building for which the permit is sought, including children under 18 years of age, full name, unit, apartment or floor number/designation (where applicable), and term of lease including date of entry and departure. If the owner has reason to believe that such disclosure may jeopardize the personal safety and well being of a tenant or occupant and provides the Property Maintenance Division with such information and documentation to support such belief as may be reasonably required by the Property Maintenance Division, such disclosure shall not be required. If the unit is not rented at the time of application, the owner shall submit the tenant listing as prescribed above within 30 days of occupancy of the unit and in no event later than the next bi-annual date for such submission as required by this Part.~~

2. The registration of a rental or vacant property with the Property Maintenance Division shall be required within 15 days of the subject property becoming a "vacant property" or being marketed or used as a rental property as provided herein and shall be accompanied by the payment of the applicable registration fee.

3. Special provisions for properties with a valid "Housing Permit" issued prior to December 31, 2007 but lacking valid zoning permits for Multiple Dwelling or Rooming House use.

- A. Any property previously registered with the City of Reading Property Maintenance Division and holding a valid "Housing Permit" issued by the Reading Property Maintenance Division prior to December 31, 2007 and has remained current shall be required to apply to the Zoning Administrator for a zoning permit prior to submitting an Application for a Housing Permit. The Zoning Administrator shall make an initial determination as to whether the subject property is located within a zoning district where multi-family rental use is legally permitted as an allowed use or a use previously approved as a Conditional Use pursuant to subsection D of §27-1203 of the Zoning Ordinance, as amended.
  - (i) If the Zoning Administrator determines that the subject property is located within a zoning district where multi-family rental use is legally permitted in accordance with the foregoing provisions in Subsection A, it will be granted a zoning permit as a legally

permitted use under the applicable zoning, subject to subsection B hereunder, and it will be required to comply with all of the provisions of this Chapter and any other applicable chapters as verified upon inspection by the Property Maintenance Division.

- (ii) If the subject property had a valid “Housing Permit” as of December 31, 2007 but is determined to be located within a zoning district where multi-family rental use is not legally permitted in accordance with the foregoing provisions in Subsection A, it will be granted a zoning permit as a prior “non-conforming use” by the Zoning Administrator within the meaning of subsection B of §27-607 of the Zoning Ordinance and remain eligible for a Housing Permit provided it conforms to the remaining requirements of the City of Reading Codes and Codified Ordinances.
- B. The Zoning Administrator shall make a secondary determination as to whether the number of dwelling units present exceeds the number of units previously recorded for the premises in City records. A Housing Permit will be denied until the property is modified to comply with the number of units previously recorded.
  - C. A zoning permit issued by the Zoning Administrator in accordance with Sections A and B hereinabove shall satisfy the requirements of §11-104. 1. G. and the issuance of a Housing Permit shall be subject to compliance with the remaining provisions of §11-104. 1.

#### **§11-105. Annual Renewal of Housing Permit.**

1. Effective January 2, 2012, each Housing Permit shall be renewed by the registrant on or before the 1<sup>st</sup> of April in each and every calendar year regardless of when the original permit was issued in the previous year. If the 1<sup>st</sup> of April falls upon a Saturday, Sunday or holiday the deadline shall be the close of business on the next business day. Renewal of a Housing Permit shall be made in writing or by electronic application upon forms prescribed by the Property Maintenance Division. Submission of annual renewal forms shall be accompanied by payment of the specified renewal fee.
2. Annual Housing Permit Renewal forms shall require the owner, in addition to the information specifically required in other provisions of this Chapter, to provide the following: (a) disclose and/or confirm the number, name and age of residents of dwelling unit in each building and the number of tenants residing in each dwelling unit, (b) the operational status of fire and smoke alarms, the operational status of fire escapes and emergency exits, if applicable, and (c) any changes or alterations to the interior or exterior structural and/or mechanical components or systems of the building or any individual dwelling unit therein including repairs due to casualty loss, since the date of the issue of the Housing Permit or the last renewal thereof, whichever is later. The Annual Permit Renewal forms shall further require the owner to verify that false statements therein made are subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.
3. Submission of Annual Renewal Forms after the April 1<sup>st</sup> deadline shall be subject to a surcharge of Three Hundred Dollars (\$300) per parcel for each month or fraction thereof following the said deadline. The City of Reading may pursue an in personam action (legal proceeding against the person) for the collection of any outstanding surcharges owed.
4. Failure to submit an Annual Renewal Form as required herein before July 1<sup>st</sup> in each and every year may result in the immediate revocation of the Housing Permit.

5. In the event of revocation of the Housing Permit, the property owner must file an Application for Reinstatement upon a form prescribed by the Property Maintenance Division and the filing of said application shall be accompanied by payment of all outstanding fees and surcharges.

6. Notwithstanding the filing of an Application for Reinstatement nothing herein shall prevent the City of Reading from undertaking legal action to enforce any other provision of the City of Reading Codified Ordinances, including action to enjoin any continued occupancy of the property by tenants residing therein and/or action to abate any nuisance, dangerous condition or other threat to the health and safety of the tenants residing therein or the general public.

7. In the event the Housing Permit is revoked for a property that was previously approved for multi-family rental housing but designated a non-conforming use by the Zoning Administrator, failure of the owner to file an Application for Reinstatement of a Housing Permit within six months of the date of revocation of the Housing Permit as provided herein shall, in the absence of any showing of reasonable excuse or good cause, be considered an “abandonment” of such use in accordance with the provisions of §27-607 F and G of the Zoning Ordinance. The burden of proving reasonable excuse or good cause for a failure to file an Application for Reinstatement shall rest solely upon the property owner and the determination of the same can only be made upon a majority vote of City Council.

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

1. A Housing 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, 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 uninhabitable and/or condemned by the appropriate authority with jurisdiction.

2. The City may deny an application for a Housing Permit if the applicant (or in the case of a corporate or similar entity, its owners or affiliates) has a demonstrable history on three or more occasions of failing to address cited code violations, including lack of utilities, that present immediate threats to human health and safety within the compliance period specified by the Property Maintenance Division, currently has unresolved codes violations, or has any tax delinquencies.

3. The City of Reading Property Maintenance Division is hereby authorized to placard and condemn a property for which a Housing Permit has not been obtained from the Property Maintenance Division as required by this Part. Such action shall require the immediate vacation of the property or vacation within a specific and reasonable period of time as determined by the Property Maintenance Division in the exercise of its discretion

#### **§11-107. Revocation of a Housing Permit.**

1. The City of Reading Property Maintenance Division shall, have the authority to revoke or suspend the Housing Permit of any rental unit, building, rooming house, or dwelling that it determines within the reasonable exercise of its discretion to be uninhabitable by humans,

and in noncompliance with the City of Reading Codified Ordinances including, but not limited to, 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. A Housing Permit may also be revoked if it is determined that the permit was issued upon material misrepresentations, errors or omissions set forth in the application for original issue renewal as applicable.

2. The City may revoke a Housing Permit if the applicant (or in the case of a corporate or similar entity, its owners or affiliates) has a record of chronic codes violations, currently has unresolved codes violations, or has any tax delinquency.
3. A notice of a revocation of a Housing Permit shall set forth the reason for the revocation and shall be provided in writing to the last known owner of record.

#### **§11-108. Transfer of Ownership and Change of Address.**

1. It shall be the duty of each owner of a dwelling unit or rooming unit to notify the Property Maintenance Division of any change in ownership of the in compliance with the requirements of § 4-303 of Chapter 4 of the City of Reading Codified Ordinances, as amended.
2. A Housing Permit issued hereunder does not attach to the real estate title and does not pass or transfer to any person or entity who acquires ownership of the property upon which the dwelling unit or rooming unit is situated. The prospective new owner of a property upon which housing is permitted shall submit a completed application for a new Housing Permit to the Property Maintenance Division no later than 15 days after transfer of title. Said application for a new Housing Permit shall be compliant with the applicable rules set forth in this Chapter and issuance of a new Housing Permit shall be further conditioned upon inspection of the premises by the Property Maintenance Division and a determination of compliance of the premises with the applicable requirements of the City of Reading Codified Ordinances.
3. Any owner of a housing unit governed by this Part who relocates or changes mailing address shall file written notice of the same with the Berks County Assessment Office and the City of Reading Property Maintenance Division within ten (10) days of such relocation or change in mailing address. Failure to provide such notice shall result in the imposition of a \$150 penalty, which shall be payable within 15 days from the date of imposition.
4. The failure of a new owner to make timely application for a new Housing Permit as provided hereinabove shall render the property an illegal unit subject to the processes and penalties contained in §11-113, Failure to Obtain Housing Permit.

#### **§308-109. Inspection.**

##### **1. Initial Inspection.**

- A. If an initial application inspection is required pursuant to the provisions of this Chapter upon receipt of a fully completed application for a Housing Permit and receipt of payment of the applicable fee the Property Maintenance Division shall within 10 days of said receipt schedule an exterior and interior inspection of the dwelling unit or rooming unit to be

performed no later than 30 days from said receipt to determine if the dwelling unit or rooming unit is compliant with the applicable City of Reading Codes and Codified Ordinances. If the City inspector performing the inspection determines that the dwelling unit or rooming unit complies with the applicable City of Reading Codes and Codified Ordinances, the inspector shall so advise the owner and report the same in writing to the City of Reading Property Maintenance Division. Upon receipt of such written report of compliance and a determination that all other requirements have been met the Property Maintenance Division shall issue the Housing Permit.

- B. In the event the City's inspector determines that the dwelling unit or rooming unit is in violation of one or more of the applicable provisions of the City of Reading Codes and Codified Ordinances, the Property Maintenance Division shall be instructed not to issue the Housing Permit. Additionally, the City Official shall issue a notice of violation as provided in the appropriate Code. Further, if the violation is not corrected within the time frame established on the notice of violation the City Official shall commence the appropriate legal proceedings as permitted by the applicable Code. The owner shall notify the Property Maintenance Division of correction, remediation and/or abatement of the violation. Within 10 days of receipt of said notification from the owner, the Property Maintenance Division shall schedule a re-inspection of the dwelling unit or rooming unit to determine if the violations set forth in the notice of violation have been remedied, corrected and/or abated. If the Codes Official determines that the violations have been remedied, corrected and/or abated in accordance with the applicable City of Reading Codes and Codified Ordinances, the Code Official shall so advise the owner and Property Maintenance Division and in so doing authorize issuance of the Housing Permit. Occupancy of the dwelling unit or rooming unit is prohibited until a Housing Permit is issued.

## **2. Renewal Inspections**

- A. An inspection of a rental unit as defined in this Chapter shall be performed by Property Maintenance Division if necessitated by reported changes to a rental unit on the Annual ~~Rental~~ Housing Permit Renewal form or, in the absence of reported changes, on a revolving basis not less than every 2 years nor more than 5 years from the date of last inspection pursuant to the City of Reading Housing Property Inspection Program.
- B. If the Property Maintenance Division Official performing the inspection determines that the dwelling unit or rooming unit complies with the applicable City of Reading Codes and Codified Ordinances, the Official shall so advise the owner, make the appropriate entry in the official records for the said property maintained by the Property Maintenance Division and issue an official certificate of compliance.
- C. In the event the Property Maintenance Division Official performing the inspection determines that the dwelling unit or rooming unit is in violation of the applicable City of Reading Codes and Codified Ordinances, the Property Maintenance Division shall withhold the renewal of the Housing Permit until the violations are corrected and the property is determined to be in compliance with the applicable Codes and Codified Ordinances. In addition, the City Official shall issue a Notice of Violation as provided for in the applicable provision of the Code and Codified Ordinances. Failure of the property owner to correct the specified violations within the time frame established on the Notice of Violation shall result in the revocation of the Housing Permit and an authorized City Official shall commence the

appropriate legal proceedings to enforce the applicable Code and Codified Ordinances including but not limited to action to vacate the dwelling unit or rooming unit as operation thereof is prohibited without a valid Housing Permit. Nothing herein shall prevent the City from taking any other action authorized by §11-122 of this Chapter. In the event the property is vacated as a result of an order from the City Official it shall remain vacated until the Codes Official determines that the violations have remedied, corrected and/or abated. The owner shall notify the Property Maintenance Division of correction, remediation and/or abatement of the violation. Within 10 days of receipt of said notification from the owner, the Property Maintenance Division shall schedule a re-inspection of the dwelling unit or rooming unit to determine if the violations set forth in the notice of violation have been remedied, corrected and/or abated. If the Codes Official determines that the violations have been remedied, corrected and/or abated in accordance with the applicable City of Reading Codes and Codified Ordinances, the Code Official shall so advise the owner and Property Maintenance Division and in so doing authorize issuance of the Housing Permit.

3. **Routine Inspection.** The Property Maintenance Division shall perform routine inspections on all dwelling units and rooming units subject to the provisions of the applicable City of Reading Codes and Codified Ordinances.

4. **Complaint Inspections.** Nothing in this Part shall preclude the Property Maintenance Division/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 dwelling unit or rooming unit. Said inspections shall be in accord with the applicable Codes and Ordinances and regulations and policies established by the City of Reading Property Maintenance Division. A complaint of violation shall include but not be limited to a violation of a City of Reading Code or Ordinance, e.g., Property Maintenance Code [Chapter 5, Part 6] and/or disruptive conduct report.

5. **Search Warrant and Injunction.** If any owner, occupant or other person in charge of a 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, Property Maintenance Division, 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. *The Property Maintenance Division is further authorized to apply for an Injunction to a court of competent jurisdiction and seek injunctive relief as necessary.*

6. **Notice.** All notices scheduling an inspection shall be mailed via regular mail to the owner of record.

7. **Failure to Appear for Inspection.** If the owner or authorized agent cannot be available at the proposed time, said owner or authorized agent, 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 \$150 will be assessed against the owner failing to supply written notice or appear. If the property owner or authorized agent fails to appear for the second scheduled inspection an administrative fee of \$250 will be assessed against the property owner. If the property owner or authorized agent fails to appear for a third scheduled inspection or any combination of scheduled inspections, cancellations or failure to gain entry, the Property Maintenance Division shall assess an administrative fee of \$400 and may placard the subject property and/or promptly seek an administrative search or inspection warrant from a court of competent jurisdiction by supplying all necessary affidavits and testimony in support thereof.

### **§308-110. Housing Permit.**

Upon compliance by the owner of the dwelling unit or rooming unit of the requirements of this Part, the City of Reading Property Maintenance Division shall issue a Housing Permit on an official form containing the letterhead of the City of Reading Property Maintenance Division and a facsimile of the Official Seal which shall include but not be limited to the following:

- A. Name, mailing address and telephone number (business and mobile) of owner.
- B. Number of dwelling units-permitted
- C. Date of last application inspection.
- D. Date of last inspection.
- E. A place for date and initials of Code Official indicating performance of a routine or complaint inspection and whether or not violations were found.
- F. Date of issuance of permit.
- G. Date of required renewal of permit.
- H. Printed name of person issuing permit.

### **§308-111. Posting of the Housing Permit.**

The Housing Permit or an identical, clear and legible photocopy thereof shall be conspicuously posted and maintained in the front entryway, vestibule or other main entrance area of the dwelling unit or rooming unit so that the same is visible and observable from outside the building at the front of the property by City Code, Property Maintenance Division, or emergency personnel.

### **§308-112. Structural Changes**

Any change in the structural condition or integrity of a property shall be reported in writing to the Property Maintenance Division within 7 days of such change. Prior to any change in the structural condition or integrity of a property, the owner shall obtain any necessary permits from the Building and Trades Office.

### **§308-113 Failure to Obtain Housing Permit**

1. **Prohibition.** It shall be unlawful for the owner of any property to fail to obtain a Housing Permit as required in §11-103, Housing Permit Required.
2. **Surcharge.** In the event an authorized City official determines an owner failed to obtain a necessary Housing Permit, a non-compliance surcharge of \$1,000 per unit shall be imposed to the application fee and written notice of non-compliance shall be delivered personally, mailed to the owner by first class/certified mail or email at the last known address, as well as by posting written notice in the

form of a placard on the front entrance of the subject property notice. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service upon any executive officer of a corporation shall be a sufficient, but not the exclusive method of service upon the corporation. Service upon any partner of a partnership shall be a sufficient but not the exclusive method of service upon the partnership.

Said notice of non-compliance shall advise the owner of the non-compliance surcharge and the requirement to submit the Housing Permit application within 15 days from the date of the date of mailing and posting. Failure to submit a complete application within the prescribed time shall result in the assessment of a continuing non-compliance surcharge of \$300 per unit per month or portion thereof until such time as a complete application for a required Housing Permit is received by the Property Maintenance Division. The City of Reading may pursue an in personam action (legal proceeding against the person) for the collection of any outstanding surcharges owed.

3. **Review and Hearing.** Upon payment of the fees and surcharges set forth in subsection 2 above, a property owner may make written request to the Director of the Department of Community Development for: (a) review of any fees or surcharges (including the calculation thereof) imposed upon a finding of non-compliance, or (b) for a separate administrative hearing to challenge or dispute a finding of non-compliance and/or the calculation of any fees or surcharges imposed as a result thereof. The Director of the Department of Community Development or his designee shall conduct any requested review of fees and surcharges. In the event an administrative hearing is requested, the request shall be accompanied by a deposit of \$500 as security for the payment of costs in the event findings and calculations by the Property Maintenance Division is affirmed. The administrative hearing shall be conducted by one of the independent hearing officers separately appointed by City Council to conduct hearings for conditional use applications in housing matters. The assignment of an independent hearing officer in response to the request shall be made by the City Clerk. The property owner will be notified in writing of the administrative hearing date, which shall be within 30 days of the request, and a written statement of findings of facts and conclusions of law shall be issued by the hearing officer within 15 days of said proceeding. The unexcused failure of the owner to appear for said hearing will result in the denial and dismissal of the challenge or dispute. The cost of the administrative hearing shall be borne by the City in the event the findings and calculations by City personnel are not fully affirmed.

### **§308-114 Owner and Occupant Duties.**

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

- A. It shall be the duty of every owner 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 or entity to offer, conduct, operate, or cause to be rented any rental unit within the City of Reading without a valid and current Housing Permit.
- C. It shall be the responsibility of every owner to employ policies and manage the dwelling units under his/her control in compliance with the provisions of this Chapter, the City Codes and Codified Ordinances and applicable State laws.

#### **2. Tenant/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 premise 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.

#### **§308-115. Owners Jointly and 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 person 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.

#### **§308-116 - Fees for Housing Permits, Surcharges and Administrative Fees**

##### **1. Fee Schedule**

Fees required for an application for, and annual renewal of, a Housing Permit, as well as inspection-related and other applicable fees shall be established by City Council and included on the City's fee schedule.

##### **2. Waiver of Fees**

The permit fees established in subsection (1) above shall be waived if the owner or the spouse, son, daughter, mother, father, sister or brother of the owner occupy a single family property.

##### **3. Prosecution of Violation**

Notwithstanding the above, nothing will prevent the Property Maintenance Division from commencing a summary offense criminal action via the issuance of a non-traffic citation for sections of Chapter 11 in accord with the Pennsylvania Rules of Criminal Procedure in the court of appropriate jurisdiction and the violations shall be deemed a strict liability offense.

#### **4. Collections**

All delinquent fees under this part shall be turned over to a Collections Agency and are subject to collection costs.

#### **§308-117. Reserved**

#### **§308-118. Official Notices.**

All official notices, excluding notice of inspection, including, but not limited to, notices of violation relating to a dwelling unit or rooming unit shall be mailed to or personally served on the owner. All official notices, excluding notice of inspection which shall be in the manner set forth herein, shall be by first class mail to the address of record of the owner and posting of the dwelling unit or rooming unit. The address of record of the owner shall be that provided to the Property Maintenance Division and in the absence of the same the address provided by the County of Berks. Any owner change of address must be performed through the County of Berks Assessment Office. There shall be a rebuttable presumption that any notice required to be given under this Part shall have been received by owner if the notice was given in the manner provided. A claim of lack of knowledge by the owner of any violation hereunder or City of Reading Codes shall not be a defense to license nonrenewal, suspension or revocation proceedings as long as all notices prerequisite to institution of such action were given and deemed received in accord with the applicable provisions of this Part.

#### **§308-119. Placarding and Condemnation**

The City of Reading Property Maintenance Division is hereby authorized to placard and condemn thereby requiring the immediate vacation, or within the discretion of the Property Maintenance Division, vacation within a specific and reasonable amount of time for vacation of a property that is being rented and for which a Housing Permit has not been obtained or for which an inspection has not been performed or completed by the Property Maintenance Division as required by Section 109 of this Chapter.

#### **§ 308-120. Appeal**

##### **1. Administrative Appeal**

a. Except as provided in §11-113, Failure to Obtain Housing Permit, any person who is aggrieved by this Ordinance may appeal to the Director of Community Development or his/her designee by submitting a request for appeal in writing within fifteen (15) calendar days of the date of determination by the Property Maintenance Office.

b. The appeal hearing will be held before the Director of Community Development or his or her designee. The Administrator or his/her designee may uphold the appeal, deny the appeal or may modify the determination by the Property Maintenance Office as he/she sees appropriate.

##### **2. Subsequent Appeals**

Any subsequent appeal filed under this Ordinance, including a subsequent appeal to §11-113, Failure to Obtain Housing Permit, shall be filed to the Berks County Court of Common Pleas pursuant to 2 Pa.C.S. §751 and §752.

## PART II.

### DISRUPTIVE CONDUCT

#### §308-201. Definitions

**DISRUPTIVE CONDUCT** - any form of conduct, action, incident or behavior perpetrated, caused or permitted by any occupant or visitor of a rental unit that is so loud, untimely (as to hour of the day), offensive, riotous, or that otherwise disturbs other persons of reasonable sensibility in their peaceful enjoyment of their premises, or causes damage to said premises such that a report is made to a police officer and/or a public officer complaining of such conduct, action, incident, or behavior. It is not necessary that such conduct, action, incident or behavior constitute a criminal offense, nor that criminal charges be filed against any person in order for said person to have perpetrated, caused or permitted the commission of disruptive conduct, as defined herein. Provided, however, that no disruptive conduct shall be deemed to have occurred unless a public officer or a police officer shall investigate and make a determination that such did occur, and keep written records, including a disruptive conduct report, of such occurrences. The tenant and the owner, operator, responsible agent or manager shall be notified of any such occurrences, in writing.

**DISRUPTIVE CONDUCT REPORT** - a written report of disruptive conduct on a form to be prescribed therefore to be completed by a police officer or a public officer, as the case may be, who actually investigates an alleged incident of disruptive conduct and which shall be maintained by the Department of Police and Property Maintenance Division.

**TWELVE-MONTH PERIOD** - for purposes of this Part 12-month period shall be calculated by counting 12 months back from the most recent disruptive conduct report.

#### §308-202. 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 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 form. A copy of the Disruptive Conduct Report shall be given or mailed to the occupant and mailed to the owner within 10 working days of the occurrence of the alleged disruptive conduct.
- 2. Eviction.** After two disruptive conduct incidents in any 12-month period by an occupant documented by Disruptive Conduct Reports, the owner shall have 10 working days from the date of the written notice to begin eviction proceedings against the occupant(s) and pursue the same through any appeal to the Berks County Court of Common Pleas if reasonably requested by the Property Maintenance Division. This subsection is not intended to limit or inhibit the owner's right to initiate eviction action.
- 3. Suspension or Revocation of Housing Permit.** Failure of an owner or local authorized agent to take action required in subsection (3) above will result in the commencement of the process to suspend a Housing Permit in accordance with per the process established herein, notwithstanding any other requirements therefore.

4. **Reinstatement of Housing Permit.** The rental unit involved shall not have its Housing Permit reinstated until the applicable 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 Housing Permit shall not be reinstated until compliance with the requirements therefore have occurred.

5. **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.

6. **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 Property Maintenance 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.

### **§308-203. Housing Board of Appeals.**

1. **Appeals.** The occupant and/or owner may appeal the contents of said Disruptive Conduct Report. Additionally, any person aggrieved by the suspension, nonrenewal, denial or revocation of a Housing Permit may appeal. All appeals must be filed, in writing, with the Administrator of the Property Maintenance Division, with the appropriate filing fee, as per the City of Reading Fee Schedule, within 10 working days from the date of receipt of the disruptive conduct report or notice of suspension, nonrenewal, denial or revocation of a Housing Permit.

#### **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, Administrator of the Property Maintenance Division or their designee; the Chief of Police or his/her designee; an owner 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, 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.
  - 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.
  - H. **Removal of Members.** Any member may be removed for misconduct or neglect of duty or for other just cause by a majority vote of Council taken after the member has received 15 days advance notice of the intent to take such vote. Failure of a member to attend three consecutive regular meetings of the Board will constitute grounds for immediate removal from the Board by City Council. Failure of a member to attend at least 50% of the regular meetings of the Board in a calendar year will constitute grounds for immediate removal from the Board by City Council. The Chairperson of the Board shall inform the City Clerk in writing when a member has failed to comply with this attendance policy. Following such notification, City Council may vote to remove the member and seek applicants to fill the vacant position.
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 15 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.
- 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.
2. **Effect 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 Housing 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.
3. **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 re-inspect 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 Housing Permit pursuant to the provisions set forth in this Part.

#### **§308-204. 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.

#### **§308-205. Share Information.**

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

#### **§308-206. 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 Ordinances [Chapter 27].

### **PART III**

#### **VANCAT PROPERTY REGISTRATION**

##### **§308-301. DEFINITIONS.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

**ABANDONED REAL PROPERTY** - any real property located in the City, whether vacant or occupied, that is in default on a mortgage, has had a lis pendens filed against it by the Lender holding a mortgage on the property, is subject to an ongoing foreclosure action by the Lender, is subject to an application for a tax deed or pending tax assessors lien sale, or has been transferred to the Lender under a deed in lieu of foreclosure. The designation of a property as "abandoned" shall remain in place until such time as the property is sold or transferred to a new owner, the foreclosure action has been dismissed and any default on the mortgage has been cured.

**ACCESSIBLE PROPERTY/ STRUCTURE** - a property that is accessible through a compromised/breached gate, fence, wall, etc. or a structure that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

**APPLICABLE CODES** - to include, but not be limited to, the City's Codified Ordinances ("City Code") and the Pennsylvania Building Code.

**BLIGHTED PROPERTY** – includes but is not limited to:

- 1) Properties that have broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions and encourage trespassing; or
- 2) Properties whose maintenance is not in conformance with the maintenance of other neighboring properties causing a decrease in value of the neighboring properties; or
- 3) Properties cited for a public nuisance pursuant to the City Code; or
- 4) Properties that endanger the public's health, safety, or welfare because the properties or improvements thereon are dilapidated, deteriorated, or violate minimum health and safety standards or lacks maintenance as required by the City and Zoning Codes.

**ENFORCEMENT OFFICER** - any law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector or building inspector, or other person authorized by the City to enforce the applicable code(s).

**OWNER** - any person, legal entity or other party having any ownership interest whether legal or equitable, in real property. This term shall also apply to any person, legal entity or agent responsible for the construction, maintenance or operation of the property involved.

**PROPERTY MANAGEMENT COMPANY** - a local property manager, property maintenance company or similar entity responsible for the maintenance of abandoned real property.

Vacant - any building or structure that is not legally occupied.

### **§308-302. ESTABLISHMENT OF A REGISTRY**

Pursuant to the provisions of this Part, the City or designee shall establish a registry cataloging each Abandoned Property within the City, containing the information required within.

### **§308-303. REGISTRATION OF ABANDONED REAL PROPERTY**

- (a) Any mortgagee who holds a mortgage on real property located within the City of Reading shall perform an inspection of the property to determine vacancy or occupancy, upon default by the mortgagor. The mortgagee shall, within ten (10) days of the inspection, register the property with the City's Property Maintenance Division on forms or website access provided by the City, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is found to be vacant or occupied.
- (b) If the property is occupied but remains in default, it shall be inspected by the mortgagee or his designee monthly until (1) the mortgagor or other party remedies the default, or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, the mortgagee shall, within ten (10) days of that inspection, update the property registration to a vacancy status on forms provided by the City.
- (c) Registration pursuant to this section shall contain the name of the mortgagee and the server, the direct mailing address of the mortgagee and the server, a direct contact name and telephone number for both parties, facsimile number and e-mail address for both parties, the folio or tax number, and the name and twenty-four (24) hour contact phone number of the property management company responsible for the security and maintenance of the property.
- (d) A non-refundable annual registration fee shall be assessed as per the City of Reading Fee Schedule and shall accompany the registration form or website registration.
- (e) All registration fees must be paid directly from the Mortgagee, Servicer, Trustee, or Owner. Third Party Registration fees are not allowed without the consent of the City and/or its authorized designee.

- (f) This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.
- (g) Properties subject to this section shall remain under the annual registration requirement, and the inspection, security and maintenance standards of this section as long as they remain vacant or in default.
- (h) Any person or legal entity that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change.
- (i) Failure of the mortgagee and/or owner to properly register or to modify the registration form from time to time to reflect a change of circumstances as required by this Part is a violation of this Part and shall be subject to enforcement.
- (j) Pursuant to any administrative or judicial finding and determination that any property is in violation of this Part, the City may take the necessary action to ensure compliance with and place a lien on the property for the cost of the work performed to benefit the property and bring it into compliance.

**§308-303. MAINTENANCE REQUIREMENTS**

All abandoned real properties are subject to the requirements contained within the City's Property Maintenance Ordinance.

**§308-304. INSPECTIONS FOR VIOLATIONS**

Adherence to this article does not relieve any person, legal entity or agent from any other obligations set forth in any applicable code(s), which may apply to the property. Upon sale or transfer of title to the property, the owner shall be responsible for all violations of the applicable code(s) and the owner shall be responsible for meeting with the City's Property Maintenance Division for a Health and Safety Inspection.

**§308-305. PENALTIES; SCHEDULE OF CIVIL PENALTIES**

Any person who shall violate the provisions of this article may be cited and fined as provided in the City of Reading Fee Schedule.