Establishment of a Registration and Licensure Program for All Residential Rental Properties, All Institutional Occupancies, and Daycare Facilities

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HAZLETON, and it is hereby ordained and with the authority of the same as follows:

SECTION 1. INTENT

It is the purpose of this Ordinance and the policy of the City of Hazleton, in order to protect and promote the public health, safety, and welfare of its citizens, to establish rights and obligations of owners and occupants relating to tenant occupied residential rental units, institutional facilities, and daycare facilities. As a means to those ends, this Ordinance provides for a system of inspections, issuance and renewal of occupancy licenses, and sets penalties for violations. It also sets forth requirements of all owners of tenant occupied residential units to designate an agent for service of process, and prescribes duties of owners and agents.

SECTION 2. DEFINITIONS AND INTERPRETATION

The following words, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except in those instances where the context clearly indicates otherwise. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular shall include the plural, and words in the masculine shall include the feminine and the neuter.

a. AGENT - Individual of legal majority who has been designated by the Owner as the agent of the Owner or manager of the Property under the provisions of this Ordinance.

b. CITY - City of Hazleton.

c. CITY CODE – the Building Code (Property Maintenance Code of 1996, as amended or superseded) officially adopted by the governing body of the City, or other such codes officially designated by the governing body of the City for the regulation of construction, alteration, addition, repair, removal, demolition, location, occupancy, and maintenance of buildings and structures.

d. DAYS - are defined as calendar days unless otherwise specified.

e. OFFICE – the Office of Code Enforcement for the City of Hazleton.

f. DWELLING UNIT – a single habitable unit, providing living facilities for one or more persons, including permanent space for living, sleeping, eating, cooking, bathing, and sanitation, whether furnished or unfurnished. There may be more than one Dwelling Unit on a Premises.
g. **DORMITORY** - a residence hall offered as student or faculty housing to accommodate a college or university, providing living or sleeping rooms for individuals or groups of individuals, with or without cooking facilities, and with or without private baths.

h. **INSPECTOR** - any person authorized by law, ordinance, or resolution to inspect buildings or systems (e.g., zoning, housing, plumbing, electrical systems, heat systems, mechanical systems, and health) necessary to operate or use buildings within the City of Hazleton. An Inspector would include those identified in Section 10 – Enforcement.

i. **FIRE DEPARTMENT** – the Fire Department of the City of Hazleton or any member thereof, and includes the Fire Chief or his designee.

j. **HOTEL** – a building or part of a building in which living and sleeping accommodations are used primarily for transient occupancy, may be rented on a daily basis, and desk service is provided, in addition to one or more of the following services: maid, telephone, bellhop service, or the furnishing or laundering of linens.

k. **LET FOR OCCUPANCY** – to permit, provide or offer, for consideration, possession or occupancy of a building, dwelling unit, rooming unit, premise or structure by a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement or contract for the sale of land.

l. **MOTEL** – a building or group of buildings which contain living and sleeping accommodations used primarily for transient occupancy, may be rented on a daily basis, and desk service is provided, and has individual entrances from outside the building to serve each such living or sleeping unit.

m. **OCCUPANT** – a person age 18 or older who resides at a Premises.

n. **OPERATOR** – any person who has charge, care, or control of a Premises which is offered or let for occupancy.

o. **OWNER** – any Person, Agent, or Operator 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 of competent jurisdiction.

p. **OWNER – OCCUPANT** – an owner who resides in a Dwelling Unit on a regular permanent basis, or who otherwise occupies a non-residential portion of the Premises on a regular permanent basis.
q. **PERSON** – any person, partnership, firm, association, corporation, or municipal authority or any other group acting as a single unit.

r. **POLICE DEPARTMENT** – the Police Department of the City of Hazleton or any member thereof sworn to enforce laws and ordinances in the City, and includes the Chief of Police or his designee.

s. **PREMISES** – any parcel of real property in the City, including the land and all buildings and structures in which one or more Rental Units are located.

t. **RENTAL UNIT** – means a Dwelling Unit or Rooming Unit which is let for occupancy and is occupied by one or more Tenants.

u. **ROOMING UNIT** – any room or groups of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

v. **TENANT** – any Person authorized by the Owner or Agent who occupies a Rental Unit within a Premises regardless of whether such Person has executed a lease for said Premises.

w. **ZONING ORDINANCE** – Zoning ordinance as officially adopted by the City of Hazleton, File of Council Ordinance # 95-26 (as amended).

**SECTION 3. APPOINTMENT OF AN AGENT AND/OR MANAGER**

a. Each Owner who is not an Owner-Occupant of a Residential Rental Unit, or who does not reside in the City of Hazleton or within a ten (10) mile air radius of the City limits, shall appoint an Agent who shall reside in the City or within a ten (10) mile air radius of the City limits.

b. When the Owner and/or Agent registers the property with the City of Hazleton the Owner and/or Agent has to provide proof of residency according to Section 3(a). A valid Pennsylvania driver’s license with the Owner and/or Agents current address will provide satisfactory information as to the place residency of the Owner and/or Agent. In lieu of a valid Pennsylvania drivers license, a valid business license operated by the Agent with an address that is within a 10 (ten) mile air radius will satisfy this requirement.

c. The address provided to the City by the Owner and/or Agent responsible for managing and maintaining the property must be an actual physical address. No post office boxes will be accepted as proof of residency according to Section 3a.

d. If the Owner moves outside of the ten (10) mile air radius of the City limits, the Owner must notify the City within 30 (thirty) days. Within those 30 (thirty) days, the Owner must appoint an Agent, notify the City the name of the new Agent, and the Agent must provide proof of residency within those 30 (thirty) days to the City as outlined in Sections 3a, 3b and 3c.
e. If the appointed Agent resigns or is removed from duty by the Owner for any reason, the Owner has 30 (thirty) days from the date of separation of services to appoint a new Agent. The Owner has to then notify the City with the name of the new Agent, and the Agent is responsible for providing proof of residency within those 30 (thirty) days to the City, as outlined in Sections 3a, 3b, and 3c.

SECTION 4. DUTIES OF THE OWNER AND/OR AGENT

a. The Owner has the duty to maintain the Premises in good repair, keep it in a clean and sanitary condition, and to maintain the Premises in compliance with the current Codes, Building Codes and Zoning Ordinance of the City of Hazleton. The Owner may delegate implementation of these responsibilities to an Agent.

b. The duties of the Owner and/or Agent shall be to receive notices and correspondence, including service of process, from the City of Hazleton; to arrange for the inspection of the Residential Rental Units; do or arrange for the performance of maintenance, cleaning, repair, pest control, snow and ice removal, and ensure continued compliance of the Premises with the current Codes, Building Codes and Zoning Ordinance in effect in the City of Hazleton, as well as arrange for garbage removal.

c. The name, address, and telephone number of the Owner and Agent, if applicable, shall be reported to the Code Enforcement Office in writing upon registering the Rental Units. The address must be a physical address and not a post office box. Owner is responsible to inform the Code Enforcement Officer of a change in agent or agent contact information within two (2) weeks of any change.

d. No Dwelling Unit shall be occupied, knowingly by the Owner or Agent, by a number of persons that is in excess of the requirements outlined in 2003 International Property Maintenance Code, Chapter 4, Light, Ventilation, and Occupancy Limits, Section PM-404.5, Overcrowding, or any update thereof.

SECTION 5. REGISTRATION AND LICENSE REQUIREMENTS

a. No Person shall be allowed to occupy a Residential Rental Unit, Institutional Facility, or Daycare Facility within the City for which an application for license has not been made and filed with the Code Enforcement Office, and for which there is not an effective license. Initial application and renewal shall be made upon forms furnished by the Code Enforcement Office for such purpose and shall specifically require the following minimum information:

   (1) If a Residential Rental Unit, the name, mailing address, street address and phone number of the Owner, and, if the Owner is not a natural person, the name, address and phone number of a designated representative of the Owner.

   (2) If an Institutional Facility, the name, mailing address, street address, and phone number of the Owner, and if the Owner is not the Operator of such Facility, the
name, mailing address, street address, and phone number of the Owner or Corporate Entity that is operating said Facility.

(3) If a Daycare Facility, the name, mailing address, street address, and phone number of the Owner, and if the Owner is not the Operator of such Facility, the name, mailing address, street address, and phone number of the Owner or Corporate Entity that is operating said Facility.

(4) Name, mailing address, street address and phone number of the Agent of the Owner, if applicable.

(5) The street address of the Premises being registered.

(6) The number and types of units within the Premises (Dwelling Units or Rooming Units).

(7) If a Daycare Facility, the maximum number of children that will be allowed to occupy the facility at once.

The Owner or Agent shall notify the Code Enforcement Office of any changes of the above information within two (2) weeks of such change.

b. The initial application for occupancy licensing shall be made by personally filing an application with the Code Enforcement Office. Thereafter, any new applicant shall file an application before the Premises is leased for occupancy, or within thirty (30) days of becoming an Owner of a currently registered Premises. One application per property is required, and each property will receive its own license.

c. Upon receipt of the initial application of any renewal thereof and the payment of applicable fees as set forth in Section 7 below, as well as the completion of any inspections required under this Ordinance, the Code Enforcement Office shall issue a Rental Occupancy License to the Owner within thirty (30) days of receipt of payment.

d. Whenever the Inspector or Code Enforcement Officer determines that the unit is in violation of the Rental Inspection Checklist, it shall serve notice as required and may notify the owner or responsible agent in writing that unless the notice of violation is complied with, the license may be revoked. After the expiration of the time for compliance as stated on the notice of violation, an inspection shall be made to determine compliance. If violations still exist, a re-inspection shall be made. A fee for such re-inspection shall be imposed in accordance with the provisions hereof. If the violation has not been corrected and no appeal is pending, the Code Official may revoke the license and, in such event, shall serve written notice upon the owner or agent of such action. The license may also be revoked for failure to properly designate a responsible agent; for failure to pay the annual fee; for failure to pay water, sewer, garbage fees, or City taxes with respect to the unit; and/or for failure to comply with any other provision of this Ordinance. If a license is revoked and the unit is vacant, it shall remain vacant until such time as the license is reinstated. Re-inspection shall be made by the Code Enforcement Officer within a
reasonable time after the owner or responsible agent notifies the City that the violation causing the revocation of the license has been cured. The license shall be reinstated if the reason for the revocation is secured and a reinstatement fee of two hundred ($200.00) dollars is paid.

e. Any person whose license has been revoked or his application for license for a unit has been denied may appeal the decision to Hazleton City Council by delivering to the City Clerk a notice of appeal within ten (10) days of receipt by the applicant or licensee of notice of the decision. The applicant or licensee will be given the opportunity for a hearing. The decision of the City Council or the City Official’s denial which is not appealed in accordance with this paragraph is deemed a final determination by the City. A timely filed appeal will act as a supersedeas and occupancy of the rental property may continue pending the appeal, unless the defective condition is such as to cause imminent risk of harm to the occupants.

f. Each new license issued hereunder, and each renewal occupancy license, shall expire on December 31st of each year. Subsequent occupancy license renewal applications shall be sent to the owner or designated agent on or before December 1st of each year. Renewal applications and inspection fees may be returned by mail or in person to the Code Enforcement Office. A renewal occupancy license will not be issued unless the application and inspection fee has been remitted and the unit has been inspected in pursuant to the inspection guidelines set forth in this Ordinance.

SECTION 6. DESIGNATION OF FACILITIES

a. Residential I - Shall include all buildings or portions of buildings that contain between one and four dwelling units meant to be occupied exclusively for residential purposes on a long-term basis for more than a month at a time.

b. Residential II - Shall include all buildings or portions of buildings that contain an area that is designated to be occupied by a person who pays a consideration for living within the household and does not occupy such space as an incident of employment. The person who occupies this space will be known as a Boarder.

c. Residential III - Shall include all buildings or portions of buildings that contain more than four dwelling units meant to be occupied exclusively for residential purposes on a long-term basis for more than a month at a time.

d. Residential IV - Shall include all buildings or spaces occupied, as a rule, transiently, for a period of less than one month, as the more or less temporary living space of individuals or families who are lodged, with or without meals, including, but not limited to the following:

(1) Hotels (transient);
(2) Motels (transient); and
(3) Rooming or Boarding houses (transient).
e. Residential V - Shall include all buildings or spaces occupied and providing services as an adult or child daycare facility.

f. Institutional - Shall include the use of a building or structure, or a portion thereof, in which people are cared for or live in a supervised environment, having physical limitations because of health or age, or in which people are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. This group shall include, but not be limited to, the following:

(1) Adult homes, where occupants are capable of self-preservation;
(2) Alcohol and drug abuse rehabilitation centers;
(3) Assisted living facilities;
(4) Halfway houses; and
(5) Residential care facilities

SECTION 7. FEES.

a. Every owner or responsible agent of property shall register the property with the City on a form provided by the City. The applicant shall pay an annual occupancy license fee according to the following:

(1) Residential I - $25.00 flat fee
(2) Residential II - $25.00 flat fee
(3) Residential III - $50.00 (5-10 dwelling units), and $100.00 (more than 10 dwelling units)
(4) Residential IV - $50.00 (1-5 dwelling units), and $100.00 (more than 5 dwelling units)
(5) Residential V - $50.00 flat fee
(6) Institutional - $75.00 flat fee, plus $5.00 per person (based on occupancy load)

Exception: Halfway houses or other types of law enforcement facilities - $250.00, plus $50.00 per bed (based on occupancy load)

b. Every person applying for a license under this Ordinance shall supply such information as the Code Enforcement Department requires and shall pay the annual occupancy license fee as established by resolution of Council, on or before January 31st of the year for which it is issued or the annual license fee shall be increased in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Date After Initial Mailing</th>
<th>Fee Increase After Initial Mailing</th>
</tr>
</thead>
<tbody>
<tr>
<td>45-60 days</td>
<td>10% additional charge</td>
</tr>
<tr>
<td>61-75 days</td>
<td>25% additional charge</td>
</tr>
<tr>
<td>Date After Initial Mailing</td>
<td>Fee Increase After Initial Mailing</td>
</tr>
<tr>
<td>----------------------------</td>
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</tr>
<tr>
<td>76-90 days</td>
<td>50% additional charge</td>
</tr>
<tr>
<td>After 90 days (91 days or more)</td>
<td>100% additional charge</td>
</tr>
</tbody>
</table>

Failure to pay the annual occupancy license fee on or before March 15th of the year for which it is issued shall be considered a violation of this provision and section of the Ordinance and shall subject the Owner and/or Agent to the penalties set forth in Section 12 of this Ordinance.

c. An inspection fee established by Resolution of Council shall also be charged. All Residential and Institutional occupancies will be inspected according to the schedule to determine that there are no violations of the Codes of the City of Hazleton. The inspection shall include all units in the property.

d. Inspection fees shall be as follows:

1. Residential I and II - $70.00 for the first dwelling unit, $70.00 per hour per inspector for additional units, rounded to the next half hour
2. Residential III - $70.00 per dwelling unit (5-10 units), $250.00 flat fee plus $50.00 per hour per inspector (more than 10 units), rounded to the next half hour
3. Residential IV - $50.00 per dwelling unit (1-10 units), $250.00 flat fee plus $70.00 per hour per inspector (more than 10 units)
4. Residential V - $50.00 per hour per inspector, one hour minimum, rounded to the next half hour
5. Institutional - $50.00 per bed (1-10 beds), $500.00 flat fee plus $50.00 per hour per inspector (more than 10 beds), rounded to the next half hour
e. A re-inspection fee equal to the original inspection fee shall be assessed for any units that are found to be out of compliance. If it is a partial re-inspection for Residential III, IV, or Institutional occupancies, a rate of $50.00 per dwelling unit will be assessed. If a dwelling unit remains out of compliance for reasons previously identified to the Owner/Agent, a fine of $100.00 will be assessed.

SECTION 8. INSPECTIONS

a. It shall be the duty of all owners, agents, and occupants to notify their tenants and provide access to the City Officials who are authorized to enforce this Ordinance, to all units subject to inspections hereunder, and failure to permit such acts shall be deemed a violation of this Ordinance.

b For the purposes of enforcing this Ordinance, the Code Enforcement Official or his designee may seek to obtain an administrative warrant issued by a competent authority for the purpose of compelling and inspection.

c. If requested, the Inspector or Code Enforcement Official or his authorized representative shall disclose proper credentials of the respective offices for the purpose of inspecting any and all structures and property in the performance of their duties under this chapter.

d. In addition to the inspections referenced above, the Inspector or Code Enforcement Officer shall also inspect units upon any of the following occurrences:

(1) Prior to the initial occupancy of newly constructed units, newly erected units, or substantially rehabilitated units; and
(2) Prior to the sale of any unit or other structure in which it is located.

e. The Inspector or Code Enforcement Official may also inspect units upon any of the following occurrences:

(1) Upon receipt of complaints; and/or
(2) For any reasonable cause.

f. Application, inspection, issuance, and re-inspection. The Inspector or the Code Enforcement Official may make inspections of any Residential or Institutional unit(s) or building(s) set forth in this Ordinance upon application for an occupancy license. In the events its dwelling is in compliance with this Code, the license applied for shall be issued upon 1) payment of the license fee; 2) confirmation that a proper responsible agent has been designated, if required; and 3) there are no outstanding water, sewer, garbage or municipal taxes owed to the City related to such property or unit. The licensee shall maintain and make copies of all written leases under which each unit is occupied and available for inspection upon request of the Code Enforcement Official. Such written leases shall indicate the name of the occupants of each unit and the term of the lease. In the event that the unit is not in compliance with the Codes of the City of Hazleton, the Code Enforcement Official shall notify the applicant in writing and shall specify the non-compliance with the Code. Upon abatement of the violations, the Code Enforcement
Official shall inspect the property and/or unit, upon the unit passing the inspection issue the license applied for. If any violation still exists, re-inspections shall be scheduled.

g. If the Inspector or Code Enforcement Official, upon completion of the inspection, finds that the applicable codes have not been met, the Inspector or Code Enforcement Official shall issue notices and, if appropriate, may commence enforcement actions under the procedures set forth in the Code which have been violated or under any other applicable Ordinance of the City.

SECTION 9. DISPLAY OF LICENSE

a. Each owner, manager, or responsible agent shall display the license in the unit for which it was issued. The license shall include:

(1) The name, mailing address, and telephone number of the owner or the responsible agent or manager.
(2) The date and expiration of the license.
(3) The license number.
(4) The number of occupants.

b. In addition to the information on the license, the following information must also be posted in each unit:

(1) The evenings on which trash and recycling are to be placed curbside for collection.
(2) The telephone number to call to register complaints regarding the physical condition of the unit.
(3) The telephone number for emergency police, fire, and medical services.
(4) A summary of the owner’s duties as set forth herein.
(5) The number of occupants.

SECTION 10. ENFORCEMENT

a. The following persons are hereby authorized to enforce this Ordinance:

(1) Police Chief;
(2) Any Police Officer;
(3) Code Enforcement Officers;
(4) Fire Chief;
(5) Deputy Fire Chiefs;
(6) Health Officers; and
(7) Director of Public Works

b. The designation of any person to enforce this Ordinance or authorization of an Inspector, when in writing, and signed by a person authorized by Section 10a to designate or authorize an Inspector to enforce this Ordinance, shall be prima facie evidence of such
authority before the Magisterial District Judge, Court of Common Pleas, or any other Court, administrative body of the City, or of this Commonwealth, and the designating Director or Supervisor need not be called as a witness thereto.
SECTION 11. FAILURE TO CORRECT VIOLATIONS

If any Person shall fail, refuse or neglect to comply with a notice of violation as set forth in Section 4 above, the City shall have the right to file an enforcement action with the Magisterial District Judge against any Person the City deems to be in violation. If, after hearing, the Magisterial District Judge determines that such Person or Persons are in violation, the Magisterial District Judge may, at the City’s request, order the closure of the Rental Unit(s), or assess fines in accordance with Section 12 below, until such violations are corrected. Such order shall be stayed pending any appeal to the Court of Common Pleas of Luzerne County.

SECTION 12. FAILURE TO COMPLY WITH THIS ORDINANCE; PENALTIES

a. Any Person who shall violate any provision of the Ordinance shall, upon conviction thereof after notice and a hearing before the Magisterial District Judge, be sentenced to pay a fine of not less than $300.00 and not more than $1000.00 plus costs, or imprisonment for a term not to exceed ninety (90) days in default of payment. Every day that a violation of this Ordinance continues shall constitute a separate offense, provided, however, that failure to register or renew or pay appropriate fees in a timely manner shall not constitute a continuing offense, but shall be a single offense not subject to daily fines.

SECTION 13. EXEMPTIONS

Owner-occupants of double homes who reside in one half of the property and who do not lease/rent or advertise for lease/rent the other half of their property are exempt from the requirements of this Ordinance contingent upon: 1) the provision of a sworn and verified statement by the Owner, subject to penalties for the provision of sworn falsification in accordance with the laws of Pennsylvania, that the subject half-double is vacant and will remain vacant for the subject calendar/permit year; and 2) execute a form provided by Code Enforcement agreeing to allow periodic inspections to confirm that the subject half-double is not being occupied.

SECTION 14. CORRESPONDENCE

Any and all correspondence relating to any and all rental properties on record within the City of Hazleton will be sent to the Owner and/or Agent of record that is on file in the Rental Registration Office. The Owner and/or Agent will be identified according to the provisions set forth in Section 3 of this Ordinance.

SECTION 15. CONFIDENTIALITY OF INFORMATION

All registration information collected by the City under this Ordinance shall be maintained as confidential and shall not be disseminated or released to any individual, group, or organization for any purpose except as provided herein or required by law. Information may be released only to authorized individuals when required during the course of an official City, state or federal investigation or inquiry.
SECTION 16. SAVING CLAUSE

This Ordinance shall not affect violations of any other ordinance, code, or regulation existing prior to the effective date thereof, and any such violations shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes, or regulations in effect at the time the violation was committed.

SECTION 17. SEVERABILITY

If any section, clause, provision, or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision, or portion of this Ordinance, so long as it remains legally enforceable without the invalid portion. The City reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

SECTION 18. EFFECTIVE DATE

This Ordinance shall become effective immediately upon approval. This Ordinance repeals and replaces Ordinance 2006-35 and any other Ordinances or portions of Ordinances that are in conflict with the provisions of this Ordinance.

SECTION 19.

This Ordinance is enacted by the Council of the City of Hazleton under the authority of the Act of Legislature, April 13, 1972, Act No. 62, known as the “Home Rule Charter and Optional Plans Law,” and all other laws enforceable in the State of Pennsylvania.

ORDAINED AND ENACTED by Council this 3rd day of October, 2012.

First Reading
(September 19, 2012)
Presented Bast
Seconded Cabell
Bast Y
Cabell Y
Mope N
Mundie N
Perry Y

Second Reading
(October 3, 2012)
Presented Cabell
Seconded Bast
Bast Y
Cabell Y
Mope N
Mundie N
Perry Y

Third Reading
(October 3, 2012)
Presented Bast
Seconded Cabell
Bast Y
Cabell Y
Mope N
Mundie N
Perry Y

ORDINANCE PASSES 3-2 ON 10/3/2012