

Chapter 166

DWELLING UNIT OCCUPANCY

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[HISTORY: Adopted by the Borough Council of the Borough of East Washington 4-21-1997 by Ord. No. 455. Amendments noted where applicable.]

GENERAL REFERENCES

Board of Code Enforcement Appeals — See Ch. 16.
Construction codes — See Ch. 150.

Property maintenance — See Ch. 245.

§ 166-1. Title. [Amended 12-15-1997 by Ord. No. 456]

This chapter of the Code of the Borough of East Washington shall be known as the "Regulated Dwelling Unit Occupancy Code." The minimum standards as set forth herein shall apply to all regulated dwelling units within the Borough.

§ 166-2. Purpose. [Amended 12-15-1997 by Ord. No. 456]

Property owners and occupants of the Borough of East Washington share a responsibility to obey the various Borough ordinances and laws of the commonwealth adopted to protect and promote public health, safety and welfare. Furthermore, it is the responsibility of Borough Council to adopt ordinances which benefit all residents of the community by promoting a safe, healthy and peaceful neighborhood environment. This chapter specifically addresses the rights and responsibilities of owners and occupants of certain regulated dwelling units in the Borough of East Washington, the appropriate and reasonable behavior of occupants, and the issuance and renewal of occupancy licenses. It also imposes penalties on individuals who violate this chapter. It is the desire of Borough Council to work together with property owners to ensure that they and their occupants understand and uphold the requirements of this chapter. This chapter shall be liberally construed and applied to promote its purposes and policies.

1. Editor's Note: Throughout this chapter, this ordinance also amended the following terms: "regulated rental unit" to "regulated dwelling unit;" "rental unit" to "dwelling unit;" and "rental occupancy license" to "occupancy license."

§ 166-3. Declaration of necessity.

Adoption of this chapter of the Code is considered necessary, since it has been determined and declared as a matter of legislative finding that, with respect to all residential properties in the Borough of East Washington:

- A. There is a greater incidence of violations of various ordinances of the Borough and disturbances which adversely affect the peace and quiet of the neighborhood at residential rental properties where owners of the property do not reside in said properties.
- B. Those owners desiring to uphold the ordinances of the Borough and regulate the conduct of unruly tenants are limited by law in the remedies they may invoke.
- C. Incidents of disruptive conduct committed by college students while tenants of residential rental properties in the Borough have caused residents to view dormitories as a threat to their continued enjoyment of peace and quiet. [Added 12-15-1997 by Ord. No. 456]

§ 166-4. Definitions.

- A. Definition of terms. Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; and the singular number includes the plural and the plural, the singular.
- B. Terms not defined. Where terms are undefined in this chapter, reference may be made to BOCA Codes or other standard codes.² If such reference is necessary, the definitions established within such standard codes shall be ascribed to this chapter. Where terms are not defined within this chapter or under provisions of standard codes, they shall have the same meaning assigned by other ordinances of the Borough of East Washington or, in the absence thereof, as ordinarily accepted or such as the context herein may imply.
- C. Applied meanings of words and terms. For the purposes of this chapter, the following definitions shall apply:

AGENT — An adult individual designated by the owner of a regulated dwelling unit under § 166-7J to accept service of process and receive notices or demands.

CODE — Any code or ordinance adopted, enacted, and/or in effect in and for the Borough of East Washington concerning fitness for habitation or the construction, maintenance, operation, occupancy, use or appearance of any premises or dwelling unit. Included within, but not limited by, this definition are the following which are in effect as of the date of enactment of this chapter: BOCA Basic Building Code; National Electrical Safety Code; Property Rehabilitation and Maintenance Code; Solid Waste and Recycling Ordinance; Subdivision and Land Development Ordinance; Zoning Ordinance and ordinances governing control of grass and weeds, storage of refuse, storage of motor vehicles, operation and parking of motor vehicles and maintenance of streets and sidewalks; and any duly enacted amendment to any of the above and any new enactment falling within this definition.

2. Editor's Note: See also Ch. 150, Art. I, Uniform Construction Codes.

CODE ENFORCEMENT OFFICER — The employee or agent appointed by the Council of the Borough of East Washington to enforce Borough codes, or his duly authorized assistant or representative.

COMMON AREA — In multiunit dwellings, space which is not part of a regulated dwelling unit and which is shared with other occupants of the dwelling whether they reside in regulated dwelling units or not. Common areas shall be considered as part of the premises for purposes of this chapter.

DISRUPTIVE CONDUCT — Any form of conduct, action, incident or behavior perpetrated, caused or permitted by any occupant of or guest at a regulated dwelling unit that is so loud, untimely (as to hour of the day), offensive, riotous, or that otherwise disturbs other persons of reasonable sensibility in their peaceful enjoyment of their premises such that a report is made to police complaining of such conduct, action, incident, or behavior. It is not necessary that such conduct, action, incident or behavior constitute a criminal offense, or that criminal charges be filed against any person in order for a person to have perpetrated, caused, or permitted the commission of disruptive conduct, as defined herein. Provided, however, that no disruptive conduct shall be deemed to have occurred unless the police shall investigate and make a determination that such did occur and keep written records of such occurrence.

DISRUPTIVE CONDUCT REPORT — A written report of disruptive conduct on a form to be prescribed therefor, to be completed by the Code Enforcement Officer based on his investigation of an alleged incident of disruptive conduct and the report prepared by the police of said alleged incident and which shall be maintained by the Code Enforcement Officer.

DORMITORY — See "dwelling." A "dormitory" includes a fraternity house and sorority house. **[Added 12-15-1997 by Ord. No. 456]**

DWELLING — Any building which is designed for or occupied in whole or in part as a home, residence or sleeping place of one or more persons, either permanently or temporarily, and having one or more dwelling units.

DWELLING UNIT — One or more rooms located within a dwelling and forming a single habitable unit and used for living and sleeping purposes by one or more persons living together and maintaining a common household, having its own cooking facilities and a bathroom with a toilet and a bathtub or shower. With respect to a dormitory, a dwelling unit is one or more rooms forming a single habitable unit for individuals or for groups of two, three or four with common toilet and bathroom facilities. **[Amended 12-15-1997 by Ord. No. 456]**

GUEST — A person on the premises with the actual or implied consent of an occupant.

HABITABLE FLOOR SPACE — Space in a dwelling unit for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility spaces and similar areas are not considered habitable floor space.

LANDLORD — One or more persons, jointly or severally, in whom is vested all or part of the legal title to the premises, or all or part of the beneficial ownership and a right to

present use and enjoyment of the premises, including a mortgage holder in possession of a regulated dwelling unit. (Same as "owner.")

LOCAL RESIDENT — A person residing in the Borough of East Washington or the City of Washington or in a municipality which is a local telephone call from the Borough. If the owner is a partnership or corporation, an agent shall be required if a partner or an officer of the corporation does not reside in the Borough or in the aforesaid calling area.

MULTIUNIT DWELLING or MULTIPLE DWELLING — Any dwelling or part thereof containing two or more regulated dwelling units, including, but not limited to, double houses, rowhouses, townhouses, condominiums, rooming houses, apartment houses, and conversion apartments.

OCCUPANCY LICENSE — The certificate issued to the owner of regulated dwelling units under this chapter, which is required for the lawful rental and occupancy of regulated dwelling units.

OCCUPANT — Any person, including an owner or landlord, residing in a regulated dwelling unit with whom a legal relationship with the owner or landlord is established by a written lease, by agreement or contract of the parties, or otherwise by the laws of the Commonwealth of Pennsylvania. **[Amended 12-15-1997 by Ord. No. 456]**

OWNER — One or more persons, jointly or severally, in whom is vested all or part of the legal title to the premises, or all or part of the beneficial ownership and a right to present use and enjoyment of the premises, including a mortgagee or vendee in possession, assignee of rents, receiver, executor, administrator, trustee, lessee or other person, firm or corporation in control of a building or of premises, or their duly authorized agents. **[Amended 12-15-1997 by Ord. No. 456]**

OWNER-OCCUPIED DWELLING UNIT — A dwelling unit in which the owner resides on a regular, permanent basis.

PERSON — A natural person, partnership, corporation, unincorporated association, limited partnership, trust, or any other entity.

POLICE — The Police Department of the Borough of East Washington or any properly authorized member or officer thereof or any other law enforcement agency having jurisdiction within the Borough of East Washington.

PREMISES — Any lot, plot or parcel of real property in the Borough, including the land and all buildings and appurtenant structures or appurtenant elements, on which one or more regulated dwelling units is located.

REGULATED DWELLING UNIT — A dwelling unit occupied by an occupant or occupants under a rental agreement. **[Amended 12-15-1997 by Ord. No. 456]**

RENTAL AGREEMENT — A written agreement between an owner or landlord and occupant or tenant supplemented by the Addendum required under § 166-5C(1) of this chapter, embodying the terms and conditions concerning the use and occupancy of a specified regulated dwelling unit or premises. With respect to a dormitory, a rental

agreement is an agreement or contract between the owner and the occupant whereby the owner provides the occupant with a dwelling unit in consideration or anticipation of payment by the occupant. **[Amended 12-15-1997 by Ord. No. 456]**

TENANT — Same as "occupant."

UNRELATED — Of or pertaining to two or more persons not related to one another through blood to the level of second cousins, adoption or marriage.

§ 166-5. Owner's duties.

- A. Minimum standards required. Each owner shall be responsible for facilitating the proper and lawful use and maintenance of every dwelling which he/she owns. Every owner shall also be responsible for clearly communicating to the occupants of every regulated dwelling unit which he/she owns in the Borough the appropriate conduct or activity that may take place at such regulated dwelling unit or its premises, including any common area, in accordance with this chapter. In this way, every owner of a regulated dwelling unit shall regulate the conduct and activity of the occupants thereof, both contractually and through enforcement, as more fully set forth in this chapter.
- B. Disclosure.
 - (1) The owner shall disclose to the occupant in writing on or before the commencement of the tenancy:
 - (a) The name, address and telephone number of the agent, if applicable; and
 - (b) The name, address and telephone number of the owner of the premises.
 - (2) Before an occupant initially enters into or renews a rental agreement for a regulated dwelling unit, the owner shall furnish the occupant with the most recent inspection report prepared by the Code Enforcement Officer relating to the property.
- C. Written rental agreement.
 - (1) Agreement and addendum; no oral agreement. All rental agreements for regulated dwelling units shall be in writing and shall be supplemented with the Addendum attached hereto as Appendix A.³ No oral lease or oral modification of any written rental agreement is permitted. All disclosures and information required by this chapter to be given to the occupant by the owner shall be furnished before the signing of the rental agreement. The owner shall provide the occupant with a copy of the rental agreement and Addendum upon execution.
 - (2) Terms and conditions. Owner and occupant may include in a rental agreement terms and conditions not prohibited by this chapter or other applicable ordinances, regulations and laws, including rent, term of the agreement, and other provisions governing the rights and obligations of the parties.

3. Editor's Note: Said Addendum is on file in the Borough's offices.

- (3) Prohibited provisions. Except as otherwise provided by this chapter, no rental agreement may provide that the occupant or owner agrees to waive any rights or remedies under this chapter. A provision prohibited by this chapter included in a rental agreement shall be unenforceable.
 - (4) Attachment of ordinance to rental agreement. Owner shall provide every occupant with a summary of the provisions of this chapter by attaching a copy of same to the rental agreement before execution by owner and occupant. Occupant's initials on the page containing said summary shall serve as acknowledgment by occupant that occupant has read the summary. In the event owner and occupant execute a rental agreement prior to the effective date of this chapter, owner shall provide occupant with a copy of the summary no later than 60 days after the effective date of this chapter.
 - (5) Acknowledgment by occupant. The owner shall secure a written acknowledgment from each occupant that the occupant has received the disclosures and information required by this chapter. Failure of any occupant to receive the disclosures and information required by this chapter shall not relieve the occupant from complying with the provisions of this chapter.
 - (6) Furnishing of leases to Borough. Upon oral or written request by the Code Enforcement Officer, the owner, within 10 days of the request, shall furnish copies of the leases which the owner has entered into for regulated dwelling units and/or copies of the acknowledgement that the occupant received the disclosures and information required by this chapter.
- D. Complaints. The owner shall reply promptly to reasonable complaints and inquiries from occupants.
- E. Landlord and tenant act. The owner shall comply with all provisions of The Landlord and Tenant Act of 1951, as amended.
- F. Dormitories. **[Added 12-15-1997 by Ord. No. 456⁴]**
- (1) Provisions inapplicable. Subsections A through E of this § 166-5 shall not apply to an owner of a dormitory.
 - (2) Notice of ordinance to occupant. The owner of a dormitory shall provide every occupant with a summary of the provisions of this chapter at the commencement of each occupant's occupancy. Occupant's initials on the page containing said summary shall serve as acknowledgment by occupant that occupant has read the summary. Failure of any occupant to receive the said summary or to acknowledge receipt of same shall not relieve occupant from complying with the provisions of this chapter.
- G. Enforcement.

4. Editor's Note: This ordinance also renumbered former Subsections F, G and H as Subsections G, H and I, respectively.

- (1) Within five days after receipt of a disruptive conduct report or of written notice from the Code Enforcement Officer that an occupant of a regulated dwelling unit has violated a provision of this chapter, the owner shall address the violation with the occupant reviewing again the requirements of this chapter and informing the occupant that additional violations may result in eviction or other action. See the attached Addendum, Paragraph B(8).⁵
 - (2) Within 10 days after receipt of the notice described in Subsection G(1), the owner shall file with the Code Enforcement Officer a statement, on a form provided by the Borough, describing what action the owner has taken to address the violation and shall provide a written plan, prepared jointly with the occupant, describing how further violations will be avoided. Included in this plan will be a statement regarding the action the owner will take if the violation recurs.
 - (3) The Code Enforcement Officer shall review the statement, and if, in the exercise of his discretion, he/she believes that adequate steps have been taken by the owner and the plan prepared by the owner and occupant is adequate to address future violations, he/she shall approve the plan. The owner and occupant shall immediately implement the plan. Failure to implement or follow the plan shall be a violation of this chapter.
 - (4) In the event that a second violation occurs within a license period involving the same occupant, the Code Enforcement Officer may direct the owner to begin eviction proceedings against the occupant committing the violation and to prohibit the occupant from occupying the premises during any subsequent license period. In the event the owner commences eviction proceedings, the Code Enforcement Officer shall provide the owner with documentation to support the owner's case and attend any court proceeding to give testimony, if requested.
- H. Inspection of premises. The owner shall permit inspections of any premises by the Code Enforcement Officer at reasonable times and upon reasonable notice to monitor or enforce compliance with this chapter.
- I. Duty of owner. This § 166-5 shall not be construed as diminishing or relieving in any way the responsibility of occupants or their guests for their conduct or activity, nor shall it be construed as an assignment, transfer or projection over or on to any owner of any responsibility or liability which occupants or their guests may have as a result of their conduct or activity under any private cause of action, civil or criminal enforcement proceeding or criminal law; nor shall this chapter be construed as to require an owner to indemnify or defend occupants or their guests when any such action or proceeding is brought against an occupant based upon the conduct or activity of the occupant or the occupant's guest(s). Nothing in this § 166-5 is intended to impose any additional civil or criminal liability upon an owner other than that which is imposed by law. This chapter is not intended to limit any other enforcement remedy which may be available to the Borough against an owner, occupant or guest.

5. Editor's Note: Said Addendum is on file in the Borough's offices.

§ 166-6. Occupant's duties.

- A. General. Every occupant shall comply with all obligations imposed upon occupants by this chapter, all applicable codes and other ordinances of the Borough and all applicable provisions of state law.
- B. Maximum number of persons in regulated dwelling unit. The maximum number of persons permitted in any regulated dwelling unit at any time shall not exceed one person for each 40 square feet of habitable floor space in said regulated dwelling unit. The maximum number of persons permitted in the common areas of any multiunit dwelling at any time shall not exceed one person for each 15 square feet of common area on the premises.
- C. Peaceful enjoyment. Every occupant shall conduct himself or herself and require other persons on the premises, including any common area, or within his or her regulated dwelling unit with his or her consent, including but not limited to guests, to conduct themselves in a manner which will not disturb the peaceful enjoyment of the premises by others and which will not disturb the peaceful enjoyment of adjacent or nearby dwellings by the persons occupying said dwellings.
- D. Residential use. Every occupant shall, unless otherwise permitted by applicable law or ordinance, occupy or use his or her regulated dwelling unit for no other purpose than as a residence.
- E. Illegal activities. No occupant shall engage in, tolerate or permit others on the premises, including but not limited to guests, to engage in any conduct declared illegal under the Crimes Code (18 Pa.C.S.A. § 101 et seq.), Liquor Code (47 P.S. § 1-101 et seq.) or the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-101 et seq.).
- F. Disruptive conduct.
 - (1) No occupant shall engage in, tolerate or permit others on the premises, including but not limited to guests, to engage in disruptive conduct or other violations of this chapter.
 - (2) Following police investigation of an alleged incident of disruptive conduct, if the Code Enforcement Officer believes, following a review of the police report and discussion with the investigating police officer, that the incident involves or constitutes disruptive conduct as defined in this chapter, the Code Enforcement Officer shall complete a disruptive conduct report. The report shall include the identity of the alleged perpetrator(s) of the disruptive conduct, a description of the disruptive conduct, and a copy of any police report describing the incident. The Code Enforcement Officer shall mail a copy of the disruptive conduct report to the owner or agent and the occupant within three working days of the occurrence of the alleged disruptive conduct. The occupant may appeal to the Board of Code Enforcement Appeals⁶ for a review of the Code Enforcement Officer's action within 10 days of the occupant's receipt of said report.

6. Editor's Note: See Ch. 16, Code Enforcement Appeals, Board of.

- G. Compliance with rental agreement. The occupant shall comply with all lawful provisions of the rental agreement entered into between owner and occupant. Failure to comply may result in the eviction of the occupant by the owner.
- H. Damage to premises. No occupant shall intentionally cause or permit or tolerate other persons to cause damage to the premises. Conduct resulting in damages to the premises in excess of \$500 shall be considered a violation of this chapter.
- I. Inspection of premises. The occupant shall permit inspections by the Code Enforcement Officer of the regulated dwelling unit and the premises at reasonable times upon reasonable notice to monitor or enforce compliance with this chapter.

§ 166-7. Occupancy license. [Amended 5-11-2009 by Ord. No. 503]

- A. License required. As a prerequisite to entering into a rental agreement or permitting the occupancy of any regulated dwelling unit, the owner of every regulated dwelling unit shall be required to apply for and obtain a occupancy license for the regulated dwelling unit. A license shall be required for all regulated dwelling units.
- B. Exceptions. The following categories of rental properties shall not require a occupancy license, although they may be regulated by other ordinances of the Borough:
 - (1) Owner-occupied dwelling units, provided that not more than two unrelated individuals, in addition to the immediate members of the owner's family, occupy the dwelling unit at any given time.
 - (2) Hotels and motels.
 - (3) Hospitals and nursing homes.
- C. Multiunit dwellings. A license shall not be required for multiunit dwellings, although a license shall be required for each regulated dwelling unit within the multiunit dwelling. Notwithstanding the foregoing, all other provisions of this chapter shall apply to the common areas of multiunit dwellings.
- D. Term of license. Each occupancy license shall have an annual term commencing July 1 through June 30 of the next year.
- E. Issuance. The Code Enforcement Officer is hereby authorized, upon application therefor, to issue occupancy licenses and renewals thereof in the names of the applicant owners or landlords of regulated dwelling units. No such license shall be issued unless the regulated dwelling unit and the dwelling of which it is a part for which the license is sought are found, after inspection, to meet all requirements of Borough ordinances and codes.
- F. Maximum occupancy. The occupancy license shall indicate the maximum number of occupants permitted in each regulated dwelling unit.
- G. Application.
 - (1) No occupancy license shall be issued or renewed unless the applicant owner or landlord has first made application therefor on an application form provided by the Code Enforcement Officer. The application for the license shall be in a form prescribed by the Borough.

- (2) The owner or landlord shall furnish with his or her application a copy of the written lease form which the owner or landlord intends to have the occupant or occupants of each licensed regulated dwelling unit execute. If the owner or landlord uses more than one form of lease, the owner or landlord shall furnish a copy of each form. No license shall be issued to an owner or landlord if the lease form does not meet the requirements of § 166-5C of this chapter.
- H. Inspection. No occupancy license shall be issued or renewed unless the applicant owner or landlord agrees in the application to such inspection as may be called for by the various Borough codes and ordinances or which the Code Enforcement Officer may require to determine whether the regulated dwelling unit and the dwelling are in compliance with the provisions of all such codes and ordinances and rules and regulations pursuant thereto. Inspections shall be performed by the Code Enforcement Officer or his designee on a biennial basis and also on the following occasions:
 - (1) Change of ownership of the dwelling unit and the dwelling of which it is a part.
 - (2) Change of occupant(s).

[Amended 5-11-2009 by Ord. No. 503]

- I. Fees. No occupancy license shall be issued or renewed unless the completed application form is accompanied by payment of a license fee to be established from time to time by resolution of the Council of the Borough of East Washington.
- J. Nonresident applications. No occupancy license or renewal thereof shall be issued to an owner or landlord who is not a local resident unless said owner or landlord designates an agent who shall be a local resident. The agent shall be the agent of the owner or landlord for accepting service of process and receiving notices and demands. The owner, landlord or agent shall immediately advise the Code Enforcement Officer of any changes in the identity, address or telephone number of the agent.
- K. Renewal. No occupancy license shall be renewed unless an application therefor has been made within 60 days prior to the expiration of any present license.
- L. License. No license shall be transferable to another person or to another regulated dwelling unit. Every person holding a license shall give notice in writing to the Code Enforcement Officer within 24 hours after having transferred or otherwise disposed of the legal control of any dwelling containing a regulated dwelling unit. Such notice shall include the name and address of the person or persons succeeding to the ownership or control of such dwelling containing a regulated dwelling unit.
- M. Names of occupants. Each owner or landlord shall maintain a current list of each occupant in each regulated dwelling unit, which list shall include the occupant's name, permanent address and permanent telephone number. The owner or landlord shall furnish said list to the Borough and notify the Borough of any changes.

§ 166-8. Sanctions. [Amended 5-11-2009 by Ord. No. 503]

- A. Grounds for imposing sanctions. It is the desire of Borough Council to support those owners of rental properties within the Borough who are upholding the requirements of this chapter. Owners cooperating with Borough Council and the Code Enforcement Officer as

described in this chapter will not be subject to sanctions above the level of formal warning unless the owner has failed or refused to permit the inspection of a dwelling unit permitted or mandated by this chapter or additional sanctions are required to support the owner's removal of an occupant. Owners not complying with the requirements of this chapter, however, will be subject to more severe sanctions. Sanctions may be imposed against owners for the following: **[Amended 5-11-2009 by Ord. No. 503]**

- (1) Failure to abate a violation of this chapter within the time directed by the Code Enforcement Officer.
 - (2) Failure or refusal to permit the inspection of the dwelling unit or the premises by the Code Enforcement Officer required by this chapter. **[Amended 5-11-2009 by Ord. No. 503]**
 - (3) Failure to address violations of this chapter by occupants of regulated dwelling units as required by § 166-5G of this chapter.
 - (4) Failure to file and implement an approved plan, prepared with the occupant, to remedy and prevent violations of this chapter by occupants of a regulated dwelling unit as required by § 166-5G of this chapter.
 - (5) Failure to begin eviction proceedings against occupants after having been directed to do so by the Code Enforcement Officer as provided for in § 166-5G of this chapter.
 - (6) Three violations of this chapter by the owner of the affected regulated dwelling unit within a license term. For purposes of this chapter, there need be no criminal conviction before a violation may be found to exist. Before a prior violation may be considered under this section, the owner must have received notice in writing of the violation within 30 days after the Code Enforcement Officer received notice of the violation.
- B. Types of sanctions. The Code Enforcement Officer may impose the following sanctions against an owner for violating any provision of this chapter, as described in § 166-8A, in the following order:
- (1) Formal warning: formal written notification of at least one violation of this chapter. Upon satisfactory compliance with this chapter and any conditions imposed by the Code Enforcement Officer or Borough Council, the formal warning shall be rescinded.
 - (2) Nonrenewal of license: the denial of the privilege to apply for license renewal with respect to a regulated dwelling unit upon expiration of the license term. The Borough will permit the owner to maintain occupants in the premises until the end of the license term but will not accept applications for renewal of the license until a time set by the Code Enforcement Officer or Borough Council.
 - (3) Suspension of license: the immediate loss of the privilege to rent a regulated dwelling unit for a period of time established by the Code Enforcement Officer or Borough Council. The owner, after the expiration of the suspension period, may apply for license renewal without the need to show cause why the owner's privilege to apply for a license should be reinstated. Upon suspension, the owner shall take immediate steps to evict any occupant in the affected dwelling unit.

- (4) Revocation of license: the immediate loss of the privilege to rent a regulated dwelling unit and the loss of the privilege to apply for renewal of the license at the expiration of the time period. Upon suspension, the owner shall take immediate steps to evict any occupant in the affected dwelling unit.
- C. Criteria for imposing sanctions. The Code Enforcement Officer shall consider the following criteria when imposing sanctions under this chapter:
- (1) The sanctions listed in § 166-8B are progressive in severity, with revocation of license being the most severe sanction. Unless the circumstances require otherwise, or the circumstances described in Subsection C(4), (5) and (7) are present, the Code Enforcement Officer shall impose the least severe sanction authorized by this chapter.
 - (2) The effect of the violation on the health, safety and welfare of the occupants of the regulated dwelling unit and of other residents of the premises.
 - (3) The effect of the violation on the neighborhood.
 - (4) Whether the owner has prior violations of this chapter and other ordinances of the Borough or has received notices of violations under this chapter.
 - (5) Whether the owner has been subject to enforcement proceedings under this chapter.
 - (6) The effect of any sanction on the occupants.
 - (7) The action taken by the owner to remedy the violation and to prevent future violations, including any written plan submitted by the owner.
- D. Procedure for nonrenewal, suspension or revocation of license. Following a determination that grounds for nonrenewal, suspension or revocation of a license exist, the Code Enforcement Officer shall notify the owner of the action to be taken and the reason therefor. Such notification shall be in writing, addressed to the owner and shall contain the following information:
- (1) The address of the premises in question and identification of the particular regulated dwelling unit(s) affected.
 - (2) A description of the violation which has been found to exist.
 - (3) A statement that the owner will receive a formal warning or that the license for said regulated dwelling unit(s) shall be either suspended or revoked or will not be renewed for the next license year beginning July 1. In the case of a suspension or revocation, the notice shall state the date upon which such suspension or revocation will commence and, in the case of a suspension, shall also state the duration of said suspension.
 - (4) A statement that, due to the nonrenewal, suspension or revocation, the owner or any person acting on the owner's behalf is prohibited from renting, letting or permitting occupancy of the dwelling unit(s) subject to said enforcement action, from and during the period said action is in effect.

- (5) A statement informing the owner that the owner may appeal the Code Enforcement Officer's decision to the Board of Code Enforcement Appeals within 30 days from the date printed on the notice.

E. Service of notice.

- (1) The Code Enforcement Officer shall serve notice of sanction upon the owner in the following manner:
 - (a) By handing it to the owner or agent; or
 - (b) By handing the notice, at the residence of the owner or agent, to an adult member of the family with which he/she resides; but if no adult member of the family is found, then to an adult person in charge of such residence; or
 - (c) By handing the notice at any office or usual place of business of the owner or agent to his agent or to the person for the time being in charge thereof; or
 - (d) By mailing the notice to the last known address of the owner or agent by certified mail, unrestricted delivery, return receipt requested.
- (2) If the owner or agent cannot be served in the above manner, the Code Enforcement Officer shall briefly note the appropriate facts and shall make service upon the owner or agent by posting the notice in a conspicuous place on the premises described in the notice.
- (3) Notice upon any executive officer of a corporation shall be a sufficient, but not exclusive, method of service upon the corporation. Service upon any partner of a partnership shall be a sufficient, but not exclusive, method of service upon the partnership.
- (4) In addition to service of the notice as prescribed above, the Code Enforcement Officer may post a notice on the premises or part thereof alleged to be in violation.
- (5) Any owner selling, transferring, conveying, letting or leasing any dwelling or premises or regulated dwelling unit which to his or her knowledge has been cited as not in compliance with this chapter shall first give to the prospective purchaser, transferee, grantee, lessee or its agent appropriate notice of the sanction. Regardless of whether such notification has been given, any notice of sanction shall nevertheless remain in full force against the premises or regulated dwelling unit, and any new owner and any occupant shall be bound thereby.

F. Appeal.

- (1) An owner affected by a decision or action of the Code Enforcement Officer may appeal to the Board of Code Enforcement Appeals for a review of the decision or action of the Code Enforcement Officer in accordance with the procedures prescribed by the Board; provided, however, that such person shall file such appeal with the Board and deliver a copy of such appeal to the Code Enforcement Officer within 30 days after service of notice of violation or order.

- (2) The Board of Code Enforcement Appeals shall hear all appeals as required by this chapter.
- (3) Said appeal shall contain a detailed statement of the grounds therefor, the reason(s) why the determination of the Code Enforcement Officer is incorrect and should be overturned, and a statement of the relief requested by the owner. Such notice of appeal may be required to be submitted on a form prescribed by Borough Council, signed by the owner.
- (4) Upon receipt of the appeal in proper form and payment of the appeal filing fee as determined by Borough Council, the Board of Code Enforcement Appeals shall schedule a hearing.
- (5) The appellant, the Code Enforcement Officer, the occupants of the affected regulated dwelling unit, and the owners of properties within a radius of 300 feet from the premises for which the license is at issue shall receive written notice of the hearing on the appeal.

§ 166-9. Violations and penalties.

A. Basis for violation. It shall be unlawful:

- (1) For any person, as owner of a regulated dwelling unit for which a license is required, to operate without a valid, current license issued by the Borough authorizing such operation;
- (2) For any person, as owner, to allow the number of occupants of a regulated dwelling unit to exceed the maximum limit as set forth on the license, or to violate any other provision of this chapter;
- (3) For any occupant to violate this chapter.

B. Penalties. Any violation of this chapter shall constitute a summary offense punishable, upon conviction thereof by a District Justice, by a fine not to exceed \$1,000 plus costs of prosecution or, in default of payment of such fine and costs, by a term of imprisonment not to exceed 30 days. Each day of violation shall constitute a separate and distinct offense. [Amended 11-7-2005 by Ord. No. 481]

C. Nonexclusive remedies. The sanctions and penalty provisions of this chapter shall be independent, mutually exclusive separate remedies, all of which shall be available to the Borough as may be deemed appropriate for carrying out the purposes of this chapter. The remedies and procedures provided in this chapter are not intended to supplant or replace, to any degree, the remedies and procedures available to the Borough in the case of a violation of any other code or ordinance of the Borough.

§ 166-10. Miscellaneous provisions.

A. Notices.

- (1) For purposes of this chapter, any notice given to an agent shall be deemed to be notice given to the owner.
 - (2) There shall be a presumption that any notice required to be given to the owner under this chapter shall have been received by such owner if the notice was given to the owner or agent in the manner provided by this chapter.
 - (3) A claimed lack of knowledge by the owner of any violation hereunder cited shall be no defense to license nonrenewal, suspension or revocation proceedings as long as all notices prerequisite to institution of such proceedings have been given and deemed received in accordance with the applicable provisions of this chapter.
- B. Changes in ownership or occupancy. It shall be the duty of each owner of a regulated dwelling unit to notify the Code Enforcement Officer in writing of any change in ownership or the number of regulated dwelling units on the premises. It shall also be the duty of the owner to notify the Code Enforcement Officer in writing of any increase in the number of occupants in any regulated dwelling unit or of the changing of a dwelling unit from owner-occupied to nonowner-occupied which thereby transforms the dwelling unit into a regulated dwelling unit for purposes of this chapter.
- C. Owners severally responsible. If any regulated dwelling unit is owned by more than one person, in any form of joint tenancy, including by the entirety, as a partnership, or otherwise, each person shall be jointly and severally responsible for the duties imposed under the terms of this chapter and shall be severally subject to prosecution for the violation of this chapter.
- D. Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such holding shall not affect the other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are declared severable.