

CHAPTER 13

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

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Part 1

Licensing and Regulation of Transient Retail Business
and Transient Retail Dealers

§101. Definitions and Interpretation. The following definition and interpretation shall apply to this Part:

CART - shall refer to any vehicle used by the foot peddler.

FLEA MARKET - a collection of a minimum of ten (10) transient retail business vendors and a maximum of twenty (20) transient retail business vendors at a single site all under the sponsorship of a single person and landowner for the purpose of selling merchandise at retail as a transient retail business. [Ord. 05-6]

PEDDLER - any person engaged in a transient retail business who operates on foot with or without a cart or from a vehicle.

PERSON - any natural person, association, partnership, firm or corporation.

TRANSIENT RETAIL BUSINESS - engaging in peddling, canvassing, soliciting or taking of orders either by sample or otherwise of any goods, wares or merchandise, including works of art, or photography, upon any of the streets or sidewalks, from house to house, by vehicle, by telephone, or from any store room, apartment, dwelling, or building whatsoever, or from any other fixed position within the Borough of Shamokin Dam.

TRANSIENT RETAIL DEALER - any person who shall engage in transient retail business as hereinabove defined.

In this Part, the singular shall include the plural and the masculine shall include the feminine and the neuter.

(Ord. 81-4, 10/5/1981, §201.01; as amended by Ord. 05-6, 9/12/2005, §1)

§102. Transient Retail Dealers to Obtain License. Every person, whether principal or agent or otherwise, prior to commencing a transient retail business within the Borough of Shamokin Dam shall obtain for the Business a license as herein provided. (Ord. 81-4, 10/5/1981, §201.02, as amended by Ord. 81-7, 12/18/1981)

§103. Application for a Transient Retail Dealer's License.

1. Every person, prior to engaging in a transient retail business within the Borough of Shamokin Dam, shall first make application to the Mayor for a license. Final approval or disapproval will be granted by the Mayor within three (3) days of receipt of application. After such application is received, and upon the request of the Mayor, it shall be the responsibility of the Police Department to evaluate previous criminal records, if any. Individuals with previous convictions of a felony or misdemeanor may be re-

fused a license at the Mayor's discretion. A license shall be required for each transient retail business. No license issued under this Part shall be transferable from one person to another. The title "Mayor" as used herein shall include, in addition to the Mayor, any person designated by him to act in his behalf with regard to this Part. The application shall contain the following applicable information:

A. Names. The name of the business meaning the firm, corporation or person owning or operating such business, the name of the individual conducting or managing such business within the Borough, and the names of all persons, whether resident or not, participating in and assisting in the conducting of said business.

B. Addresses. Both the permanent and local addresses of all persons, firms or corporations referred to above, together with the address or location of any place of business or location within the Borough from which said business will be conducted.

C. Other Information. Personal description including age, weight, height, color of eyes, color of hair, previous convictions of criminal offenses, if any, and other descriptive information relative to each individual as referred to in this Section.

D. Nature of Business. A complete and accurate description of the nature and type of business to be conducted including, but not limited to, the procedure and methods used in contacting and interesting potential customers, and also including the hours and days during which such business shall be conducted and the length of time for which the license is being requested.

E. Description of Vehicle or Cart. A description of any carts, including color, size and type of vehicles used by any of the individuals referred to in this Section, including make, year, license plate, name of registered owners, operator's number and names of any operators of said carts or vehicles.

F. Items for Sale. A complete description of the goods, wares, merchandise or articles to be sold, ordered or bartered, including prices, deposits required, and any contract, if any, to be offered to the general public for such purchases.

G. Notice to Tax Collector. Proof in the form of a letter from Shamokin Dam's Tax Collector that applicant has notified Tax Collector of his intent to do business in the Borough of Shamokin Dam and that he will be subject to Borough privilege taxes.

H. Other. Other information required or desired by the Mayor, Police Department or by the Council of this Borough.

2. Every person and landowner sponsoring a flea market of not less than ten (10) transient retail business vendors or more than twenty (20) transient retail business vendors shall prior to opening such a flea market make application for a flea market license and shall provide the same information required in subsection (1) above. The holder of the flea market

license and their vendors shall comply with all other regulations of this Part.

(Ord. 81-4, 10/5/1981, §201.03, as amended by Ord. 81-7, 12/18/1981; and by Ord. 05-6, 9/12/2005, §1)

§104. Fee for Transient Retail Dealer's License. No license shall be issued under this Part until a license fee shall be paid to the Borough of Shamokin Dam, which shall be for the use of the Borough to defray administrative and enforcement costs, that fee shall be as established by resolution of the Borough Council.

No license shall be issued for a flea market until a license fee shall be paid to the Borough of Shamokin Dam, which shall be for the use of the Borough to defray administrative and enforcement costs. The initial flea market license fee shall be one hundred fifty dollars (\$150.00) per day. That license fee may hereafter be increased or decreased by a resolution of Borough Council. [Ord. 05-6]

(Ord. 81-4, 10/5/1981, §201.04, as amended by Ord. 85-4, 4/1/1985; by Ord. 88-3, 10/17/1988; and by Ord. 05-6, 9/12/2005, §1)

§105. Responsibility for Payment of Borough Wage Tax. Every such transient retail dealer or person or firm engaged in such business shall be responsible for the payment of wage or income taxes payable by himself or itself or any employee thereof as a result of income earned within the Borough of Shamokin Dam, unless otherwise exempt by law, shall be required to make a quarterly report and payment to the appropriate tax collector of the Borough of Shamokin Dam. Such retail dealer shall provide such Tax Collector and the Borough Secretary, at the time such transient retailer ceases doing business within the Borough, of the names and addresses of all such employees or agents, liable to pay such tax, and the amount of earnings applicable thereto. (Ord. 81-4, 10/5/1981, §201.05)

§106. Issuance of Transient Retail Dealer's License to Be Carried; to Be Exhibited upon Request; Restrictions of License. Upon making application therefor and paying the proper fee, as herein specified, a license shall be issued to every transient retail dealer. Such license shall contain information required to be given on the application therefor. Every transient retail dealer or his employee shall at all times when engaged in such business in the Borough, carry such license or a certified copy thereof upon his person, and shall exhibit such license upon request to all police officers, Borough officials and prospective customers. No transient retail dealer shall engage in selling any product not mentioned upon such license, nor shall such dealer sell in a manner or location not indicated in such license. (Ord. 81-4, 10/5/1981, §201.06, as amended by Ord. 81-7, 12/18/1981)

§107. Transient Retail Business Hours Limited.

1. No person licensed as a foot or vehicle peddler under this Part shall engage in peddling before 9:00 A.M. or after 7:00 P.M.

2. No person licensed as a transient retail dealer other than peddling shall engage in business before 8:00 A.M. or after 10:00 P.M.

3. No person licensed to operate a flea market or a vendor in that flea market shall engage in business before 8:00 A.M. or after 10:00 P.M.

(Ord. 81-4, 10/5/1981, §201.07, as amended by Ord. 88-3, 10/17/1988; and by Ord. 05-6, 9/12/2005, §1)

§108. Hawking Prohibited; Noise-Making Devices Not to Be Used by Transient Retail Dealers. No person, licensed as a transient retail dealer under this Part, shall hawk or cry his wares on any of the streets or sidewalks of the Borough nor shall he use any loud speaker or horn or any other sound device whether it be carried on the person or attached to the cart or vehicle, for announcing his presence by which the public is annoyed. (Ord. 81-4, 10/5/1981, §201.08)

§109. Certain Uses of Streets by Transient Retail Dealers.

1. No person, licensed as a transient retail dealer under this Part shall park any cart or vehicle upon any of the streets or alleys of the Borough in order to sort, rearrange or clean any of his goods, wares or merchandise; nor may any such person place or deposit any refuse upon any of the streets or alleys; nor may any such person maintain or keep a street or curbstone market by parking any cart or vehicle upon any street or alley in the Borough for longer than necessary in order to sell therefrom to persons residing or present in the immediate vicinity.

2. No person, licensed as a transient retail dealer under this Part shall occupy, set up, or establish a fixed position within a distance of fifty (50) feet of the right of way line of U.S. Routes 11 & 15, which is a four-lane highway in the Borough of Shamokin Dam and no person so licensed shall occupy, set up, or establish a fixed position along said U.S. Routes 11 & 15 in such a manner as to limit access to said highway.

(Ord. 81-4, 10/5/1981, §201.09)

§110. Peddlers Not to Sell from Fixed Location on Streets or Sidewalks. No person, licensed as a peddler under this Part, shall occupy any fixed location upon any of the streets, alleys or sidewalks of the Borough for the purpose of peddling with, or without, any stand or counter. No such person shall stop his cart, to make a sale, or for any other purpose, between a building and a shade tree or planter or within ten feet of any street intersection. No peddler shall operate with another peddler, but shall maintain a distance of fifty (50) feet from other peddlers. A peddler may have one other person assisting him, but no more, and any person or persons who are acquainted with such peddler and remain in the immediate vicinity of such peddler for a period in excess of five minutes shall be deemed to be assisting such peddler. Such peddler will attempt to avoid congestion in the streets and sidewalks and to facilitate the flow of pedestrian or vehicular traffic. (Ord. 81-4, 10/5/1981, §201.10)

§111. Record of Transient Retail Dealer's Licenses and Registrations; Supervision over Transient Retail Dealers. The Police Department shall keep a record of all licenses issued and registrations made under this Part and shall be responsible for supervising the activities of all holders of such licenses and transient retail dealers exempt from obtaining licenses. (Ord. 81-4, 10/5/1981, §201.11)

§112. Suspension of Licenses. The Mayor of the Borough of Shamokin Dam is hereby authorized to suspend any license issued under this Part when he deems such suspension to be beneficial to the public health, safety and morals, or for the violation of any provisions of this Part, or for giving false information or misrepresentation upon any application for a license, or for making false or fraudulent statements in the operation of his business, or for conviction of any crime other than minor traffic violations. (Ord. 81-4, 10/5/1981, §201.12)

§113. Transient Retail Dealers Subject to Other Ordinances and Regulations. All such transient retail dealers shall conform to all other Ordinances and regulations of the Borough of Shamokin Dam, including, but not limited to, the Zoning Chapter of such Borough. (Ord. 81-4, 10/5/1981, §201.13)

§114. Exemptions. The provisions of this Part relating to payment of fees and obtaining a license shall not apply to the four (4) excepted categories set forth hereinafter, so that §§102, 104, 106, and 112 shall not apply to those exempted. However, those exempted as herein set forth under subsections (1), (2), and (3) shall be required, prior to engaging in a transient retail business, to provide the information set forth in §103, except subsection (7) thereof, herein on the application form then in use which shall be deemed a registration of such exempt persons. Such exempted persons are as follows:

1. Farmers selling their own produce;
2. Persons selling goods, wares and merchandise, the proceeds whereof are to be applied to any charitable or philanthropic purpose;
3. Any manufacturer or producer in the sale of bread or bakery products, meat and meat products, or milk and milk products; or
4. Persons selling personal property in conjunction with a garage sale or estate sale on their own premises in the Borough.

However, all of the other provisions of this Part, except as herein exempted, shall apply to and be binding on all transient retail dealers, including those persons set forth in this Section. (Ord. 81-4, 10/5/1981, §201.14)

§115. Right of Appeal. Any person who is refused a license or has his license suspended may appeal such action to Borough Council in writing within ten (10) days after license has been denied or suspended. Such person shall be present at the time Borough Council reviews the appeal. (Ord. 81-4, 10/5/1981, §201.15)

§116. Penalties. Any person, firm or corporation who shall violate any provision of this Part 1 shall, upon conviction thereof, be sentenced to pay a fine of not less than three hundred (\$300.00) dollars and not more than one thousand (\$1,000.00) dollars, and in default of payment, to imprisonment for a term not to exceed ninety (90) days. Every day that a violation of this Part 1 continues shall constitute a separate offense. (Ord. 81-4, 10/5/1981, §201.99; as amended by Ord. 88-3, 10/17/1988; by Ord. 05-6, 9/12/2005, §1; and by Ord. 2018-2, 5/7/2018, §2)

Part 2

Cable Television System Franchising

§201. Statement of Purpose. The citizens of the Borough of Shamokin Dam have available to them cable television system services and may, from time to time, have made available to them alternate cable television systems. The Borough of Shamokin Dam deems it necessary and appropriate to hereafter require cable television systems operating in the Borough to obtain a nonexclusive franchise from the Borough to operate within the Borough limits for a specific term subject to the payment of an annual franchise fee to finance the cost of regulation. (Ord. 2013-4, 4/1/2013, §3)

§202. Definitions. For the purposes of this Part, the following terms, phrases, words and their derivations shall have the meaning given herein. 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 number include the plural number, and words in the masculine gender shall include the feminine gender. The word "shall" is always mandatory and not merely directory.

BASIC CABLE TELEVISION SERVICE - that tier of Cable Television Service to which all users must subscribe in order to obtain the retransmission of local broadcast television signals and for which a charge is made.

CABLE TELEVISION SERVICE or SERVICE - the business of furnishing video and/or audio programming or other information to subscribing customers by means of a cable television system.

CABLE TELEVISION SYSTEM or SYSTEM - any facility or group of facilities which, in whole or in part, receives, modifies or originates television, FM radio or other electrical or fiber optic signals for the purpose of transmitting or distributing such signals by wire, cable or other means to subscribing members of the public or to selected customers, as herein contemplated. This definition shall include those systems that do not occupy or cross over or under the public ways and places of the Municipality.

COUNCIL - is the Borough Council of Shamokin Dam.

FRANCHISEE - is a person to whom a franchise is issued to operate a System within the Municipality.

GROSS REVENUES - the revenue derived by the Company in the franchise area, calculated in accordance with generally accepted accounting principles, from monthly basic and expanded basic, digital premium, and pay per view service fees. Gross Revenue shall not include non-recurring fees, such as reconnections, change of service, refundable deposits, bad debts, investment income, and/or assessments imposed and/or assessed by any governmental authority, including franchise fees.

MUNICIPALITY - is the Borough of Shamokin Dam, Snyder County, Pennsylvania, acting through its duly constituted governing body.

OPTIONAL CABLE TELEVISION SERVICE - the furnishing to cable television service for which a per-channel charge is made additional to that for basic cable television service.

PERSON - is any person, firm, partnership, association, corporation, company or organization of any kind.

(Ord. 2013-4, 4/1/2013, §3)

§203. Cable Systems Required to Obtain Franchise. All cable television systems hereafter intending to operate in the Borough of Shamokin Dam shall be required to obtain a nonexclusive franchise prior to the commencement of operations in the Borough. An existing cable television system now under franchise shall not have to reapply for franchise but shall upon passage of this Part enter into an amended franchise agreement incorporating all provisions of this Part. All franchises shall be granted or denied by the Borough Council. Any franchise granted or extended shall incorporate therein all provisions of regulation set forth in this Part. (Ord. 2013-4, 4/1/2013, §3)

§204. Franchise Grant of Authority. Having determined that the continued availability of cable television service affords significant social, educational and entertainment benefits to the public in the Municipality, the Municipality shall grant to appropriate persons the nonexclusive right and privilege to construct, erect, operate and maintain a cable television system in, under, over, along, across or upon the public streets, highways, sidewalks, rights-of-way and places within the boundaries of the Municipality, to the extent permitted by law. Municipality shall also grant to appropriate persons permission to attach or otherwise affix or install its cables and other equipment to and in the facilities of any public utility with such public utility's permission, even though the same may occupy or cross over or under the public ways and places of the Municipality. (Ord. 2013-4, 4/1/2013, §3)

§205. Franchise Term. Grant of franchise shall be for such term as deemed appropriate by Municipality, provided that such term shall not exceed ten (10) years. (Ord. 2013-4, 4/1/2013, §3)

§206. Franchise Fee.

1. The cable television system so franchised shall, during each calendar year operation under franchise, pay to the Municipality a franchise fee as herein below set forth, which shall be used to cover the cost of regulation and control by the Municipality.

2. Such fee shall be payable beginning on the date a franchise agreement is entered into, and continue annually thereafter during the term of the franchise.

3. Such fee shall be negotiated with the franchisee but be not less than three percent (3%), nor more than five percent (5%) of gross revenues collected by the franchisee from charges for basic cable television and optional cable television service during the preceding calendar year.

4. This fee shall be in lieu of any other payment to the Borough in the nature of a business privilege or mercantile tax. However, the charging of said fee is not and shall not be considered in any manner to be in the nature of a tax.

(Ord. 2013-4, 4/1/2013, §3)

§207. Installation and Extension of System. A franchisee shall serve all residents of Municipality except to the extent that low household density, adverse terrain or other factors render providing service impracticable or technically or economically infeasible. Franchisee shall not be required to install, or to extend the cable television system, to areas of Municipality where potential revenues from subscribers to be served therein would produce a return insufficient to economically justify such installation or extension. Without limiting the generality of the foregoing, if otherwise practicable and technically feasible:

A. Service shall be provided at normal installation and monthly service rates to an individual customer whose point of connection is located within one hundred fifty (150) feet of in-place distribution cable.

B. A franchisee, at its cost, shall make an extension of its cable system where the number of existing households per linear mile of cable to be passed by the extension equals or exceeds the average number of households passed per linear mile of existing cable plant within the Municipality.

C. In no event shall a franchisee be required to make an extension where the number of existing households to be passed per mile is less than fifty (50). A franchisee shall not be required to install or extend its System in areas where it cannot:

(1) Obtain necessary rights-of-way over private property at an economically feasible cost.

(2) Obtain permission to attach its facilities to public utility poles.

(3) Obtain permission to use necessary conduits.

(Ord. 2013-4, 4/1/2013, §3)

§208. Regulatory Action. The performance by to franchisee is subject to limitations, restrictions, or requirements now existing or which may henceforth be imposed by law, rule, or order of the Federal Communications Commission or other government, board, commission or authority. A franchisee shall not be deemed in default of any of the requirements of a franchise to the extent it acts in compliance with, or refrain from doing anything prohibited by such law, rule or order. (Ord. 2013-4, 4/1/2013, §3)

§209. Condition of Street Occupancy.

1. All transmission and distribution structures, lines, and equipment erected by a franchisee within the Municipality shall be so located as to cause minimum feasible interference with the proper use of streets, alleys and other public ways, roads and places, and to cause minimum feasible interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways, roads and places. A franchisee shall obtain any required permits prior to construction.

2. In case of any disturbance of pavement, sidewalk, driveway or other surfacing by a franchisee, the franchisee shall, at its expense and in a manner approved by the Municipality, replace and restore the same in as good condition as before said work was commenced.

(Ord. 2013-4, 4/1/2013, §3)

§210. Standards of Service.

1. A franchisee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system. Upon receipt of a complaint from a subscriber(s) regarding the quality of service, equipment malfunctions, and similar matters, the franchisee shall promptly investigate such complaints.

2. Where possible the franchisee shall commence an investigation of such complaints within twenty-four (24) hours of their receipt. Resolution of such service complaint(s) shall be made as promptly as possible. A franchisee shall maintain toll-free telephone access for the receipt of service problems, requests for repairs or customer inquiries.

3. A franchisee shall keep a maintenance service log for a period of one (1) year that will indicate the nature of each service complaint, the date it was received, and the disposition of said complaint. Upon request, this log shall be made available for inspection by the Municipality, during normal business hours.

4. As subscribers are connected or reconnected, a franchisee shall, by appropriate means such as a card or brochure, furnish information to them concerning the procedures for contacting the franchisee, including its name, address and local telephone number.

5. A franchisee's construction and maintenance of its transmission and distribution system shall be in accordance with the provisions of the National Electrical Safety Code prepared by the National Bureau of Standards, The National Electrical Code of the National Board of Fire Underwriters and any applicable State and Federal laws or regulations now in effect or later enacted regulating or affecting franchisee's installation or operation.

(Ord. 2013-4, 4/1/2013, §3)

§211. Franchisee Liability-Indemnification. A franchisee shall save the Municipality harmless from all loss sustained on account of any suit, judgment, execution, claim or demand whatsoever, resulting solely from the operation of the franchisee in the construction, operation or maintenance of its system in the Municipality. The Municipality shall notify the franchisee within a reasonable time after the presentation of any claim or demand, either by suit or otherwise, made against the Municipality on account of any damages or losses as aforesaid resulting from the operations of the franchisee. On the date a franchise agreement is entered into, and continuing thereafter during the term of the franchise. A franchisee shall obtain, and furnish to Municipality satisfactory evidence in writing that it has in force public liability insurance of not less than a one million dollars (\$1,000,000.00) combined single limit, duly issued by an insurance company or insurance companies authorized to do business in this Commonwealth. (Ord. 2013-4, 4/1/2013, §3)

§212. Landlord-Tenant. The provisions of Article V-B of the Landlord and Tenant Act of 1951, 68 P.S. §250.501-B et seq., Tenants Rights to Cable Television, shall apply to all franchisees (operators) and landlords as therein defined. (Ord. 2013-4, 4/1/2013, §3)

§213. Establishment of Franchises Committee as Oversight Agency. There is hereby established a committee to be composed of three (3) members of Borough Council and two (2) non-elected citizens of the Borough, designated as Franchise Committee, whose responsibility it shall be to oversee all franchises granted by Council. It shall be the duty of such Committee to see that all regulations and requirements hereinafter adopted are adhered to by the franchisee. Council members of the Committee shall be appointed by the President of Council, while non-Council members shall be appointed by full Council. Chairman of the Committee shall be selected by its members. Non-Council members shall be appointed to three (3) year terms, while Council members' appointments shall be subject to renewal or termination in the years of Council reorganization as established by the Borough Code. (Ord. 2013-4, 4/1/2013, §3)

§214. Application for Franchise. Application for franchise shall be made by application to the Municipality on such form as may be required by the Municipality. Application shall contain such information as deemed necessary by the Municipality. (Ord. 2013-4, 4/1/2013, §3)

§215. Assignability of Franchise. Any franchise granted under this Part shall be assignable by franchisee to any successor, assignee or designee found to be a responsible party. Determination of a responsible party shall be made by the Shamokin Dam Borough Franchise Committee upon presentation to it of information and proofs as required in an application for franchise. Such proofs may be submitted by affidavit. No public hearing will be required by the Borough unless such is mandated by future State or Federal law. Assignability to a successor franchisee shall not be unreasonably withheld by the franchisee. (Ord. 2013-4, 4/1/2013, §3)

§216. Noncompliance with Franchise or Ordinance. If the franchisee shall fail to comply with any of the provisions of franchise and/or this Part as determined by the Franchise Committee after public hearing on the question of failure of compliance, and shall fail within thirty (30) days after written notice from the Franchise Committee to correct said determined noncompliance, the Franchise Committee shall have the right to revoke the franchise and all rights of the franchisee thereunder, provided that such noncompliance shall not apply if the condition is without fault of the franchisee or occurs as a result of circumstances beyond its control or by reason of force majeure. Such revocation shall be subject to review and reconsideration by Borough Council at its next regularly scheduled meeting following the revocation exercised by the Franchise Committee. Franchisee shall have right to an appeal of a revocation proceeding to the Commonwealth Court of Pennsylvania. (Ord. 2013-4, 4/1/2013, §3)

§217. Removal of Equipment. Upon expiration, termination, or revocation of franchise, the franchisee shall remove, upon direction of the Franchise Committee, at the sole cost and expense of franchisee, the coaxial cables and appurtenant devices together with any and all building connections installed, constructed or maintained in connection with the service authorized by said franchise. (Ord. 2013-4, 4/1/2013, §3)

§218. Revision and Amendment. This Part may, from time to time, be revised, modified or amended as prescribed by local and State laws. Such amendments shall be prospective in nature and shall not attempt to enforce a

provision retroactive to the effective date of amendment. (Ord. 2013-4, 4/1/2013, §3)

§219. Provisions. The provisions of this Part shall be deemed a part of every franchise hereafter granted to the operator of a cable television system. (Ord. 2013-4, 4/1/2013, §3)

§220. Civil and Criminal Penalties for Violation of Franchise and/or Ordinance.

1. In addition to revocation of franchise for failure to pay franchise fees, the Borough may collect delinquent franchise fees by an action in assumpsit. Franchise fees shall be delinquent if not paid on or before the day set for payment by this Part 2.

2. Any person, firm or corporation who shall violate any provision of this Part 2 shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00); and/or to imprisonment for a term not to exceed ninety (90) days. Every day that a violation of this Part 2 continues shall constitute a separate offense.

(Ord. 2013-4, 4/1/2013, §3)

Part 3

Landlord Registration and Licensing

§301. Title. This Part shall be known as the Borough of Shamokin Dam "Landlord Registration and Licensing Ordinance." (Ord. 2010-5, 9/13/2010)

§302. General. It is the purpose of this Part and the policy of the Council of the Borough of Shamokin Dam, 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 the rental of certain residential rental units in the Borough and to encourage owners and occupants to maintain and improve the quality of rental housing within the community. It is also the policy of the Borough that owners, managers and occupants shall have responsibilities to obey the various codes adopted to protect and promote public health, safety and welfare. As a means to those ends, this Part provides for a system of inspections, issuance and renewal of occupancy licenses and sets penalties for violations. This Part shall be liberally construed and applied to promote its purposes and policies. In considering the adoption of this Part, the Borough of Shamokin Dam makes the following findings.

In recent years, many formerly private homes have been turned into residential rental units. Those rental units have oftentimes been rented to individuals who, because they have no ownership interest in the property, have allowed the properties to deteriorate. In many cases, the owners of the properties live long distances from the Borough. As a result, property maintenance of many rental units in the Borough has been somewhat lax. In addition, problems have occurred because many tenants, because they have no ownership interest in the real estate, have not been concerned about following Codes of the Borough of Shamokin Dam, including Codes which govern maintenance and safety of the property. This, in turn, has caused problems for other home owners near the rental units. In addition, there is a greater incidence of violation of various Codes of the Borough of Shamokin Dam in residential rental properties where owners rent properties to tenants. Estimates are that the majority of all code violations in the Borough of Shamokin Dam occur in tenant occupied structures.

(Ord. 2010-5, 9/13/2010)

§303. Definitions.

BOROUGH - the Borough of Shamokin Dam, Snyder County, Pennsylvania.

CODE - any code or ordinance adopted, enacted and/or in effect in and for the Borough concerning fitness for habitation or the construction, maintenance, operation, occupancy, use or appearance of any premises or residential rental unit. Included within, but not limited by, this definition are the following which are in effect as of the date of the enactment of this Part: The Uniform Construction Code (hereinafter "UCC") the International Property Maintenance Code, International Plumbing Code, International Fire Prevention Code, International Electrical Code, Floodplain Management Ordinance, the International Building Code and any duly enacted amendment or supplement to any of the above and any new enactment falling within this definition.

CODE ENFORCEMENT OFFICER - the person(s) designated by the Borough to act as Code Enforcement Officer(s) under this Part.

COMMON AREA - any open area within a structure shared by occupants or that the occupants have the right to share including, but not limited to, kitchens, bathrooms, living rooms, dining rooms, attics, basements and any room used for parties, social events or the congregation of people, excepting bedrooms.

DISRUPTIVE CONDUCT - any form of conduct, action, incident or behavior perpetrated, caused or permitted by any occupant or visitor of a residential 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 such that a report is made to police and/or to the Code Enforcement Officer complaining of such conduct, action, incident or behavior. It is not necessary that such conduct, action, incident or behavior constitute a criminal offense, nor that criminal charges be filed against any person in order for a person to have perpetrated, caused or permitted the commission of disruptive conduct, as defined herein. Provided, however, that no disruptive conduct shall be deemed to have occurred unless the Code Enforcement Officer or police shall investigate and make a determination that such did occur, and keep written records, including a disruptive conduct report, of such occurrence.

DISRUPTIVE CONDUCT REPORT - a written report of disruptive conduct on a form to be prescribed therefore, to be completed by the Code Enforcement Officer or police, as the case may be, who actually investigates an alleged incident of disruptive conduct and which shall be maintained by the Code Enforcement Officer.

GUEST - a person on the premises with the actual or implied consent of an occupant.

LANDLORD - one (1) 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 the present use and enjoyment of the premises, including a mortgage holder in possession of a residential rental unit (same as "owner").

LANDLORD-TENANT ACT - the Pennsylvania Landlord and Tenant Act of 1951, 68 P.S. §250.101 et seq.

MANAGER - an adult individual designated by the owner of a residential rental unit.

OCCUPANCY LICENSE - the license issued to the owner of residential rental units under this Part, which is required for the lawful rental and occupancy of residential rental units.

OCCUPANT - an individual who resides in a residential rental unit, whether or not he or she is the owner thereof, with whom a legal relationship with the owner/landlord is established by a lease or by the laws of the Commonwealth of Pennsylvania.

OWNER - one (1) 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 the present use and enjoyment of the premises, including a mortgage holder in possession of a residential rental unit.

OWNER-OCCUPIED RENTAL UNIT - a rental unit in which the owner resides on a regular, permanent basis.

OWNER'S IMMEDIATE FAMILY - parent, child or grandchild, of an owner, by blood or marriage, and the immediate family members' spouses. [Ord. 2015-5]

PERSON - a natural person, partnership, corporation, unincorporated association, limited partnership, trust or any other entity.

POLICE - the Police Department of the Borough of Shamokin Dam or any properly authorized member or officer thereof or any other law enforcement agency having jurisdiction within the Borough of Shamokin Dam.

PREMISES - any parcel of real property in the Borough, including the land and all buildings and appurtenant structures or appurtenant elements, on which one (1) or more rental units are located.

RENTAL AGREEMENT - a written agreement between owner/landlord and occupant/tenant supplemented by the addendum required under §304(5), embodying the terms and conditions concerning the use and occupancy of a specified residential rental unit or premises.

RESIDENTIAL RENTAL UNIT - any structure within the Borough of Shamokin Dam that is occupied by someone other than the owner of the real estate as determined by the most current deed and for which the owner of the said parcel of real estate received any value, including but not limited to money, or the exchange of services. Each apartment within a building is a separate structure requiring inspection and a license.

STRUCTURE - any human-made object, the use of which requires an ascertainable stationary location on land, whether or not it is affixed to the land. Each apartment within a building is a separate structure.

TENANT - an individual who resides in a rental unit, whether or not he or she is the owner thereof, with whom a legal relationship with the owner/landlord is established by a lease or by the laws of the Commonwealth of Pennsylvania (same as "occupant").

(Ord. 2010-5, 9/13/2010; as amended by Ord. 2015-5, 2/2/2015, §2A)

§304. Owner's Duties.

1. General. It shall be the duty of every owner to keep and maintain all rental units in compliance with all applicable State laws and regulations and local ordinances and to keep such property in good and safe condition. As provided for in this Part, every owner/landlord shall be responsible for regulating the proper and lawful use and maintenance of every dwelling which he, she or it owns. As provided for in this Part, every owner shall also be responsible for regulating the conduct and activities of the occupants of every rental unit which he, she or it owns in the Borough, which conduct or activity takes place at such rental unit or its premises. In order to achieve those ends, every owner of a rental unit shall regulate the conduct and activity of the occupants thereof, both contractually and through enforcement, as more fully set forth below. This Section 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 onto any owner of any responsibility or liability which occupants or their guest may have as a result of their conduct or activity under any private cause of action, civil or criminal enforcement proceeding, or criminal law; nor shall this Section

be construed so as to require an owner to indemnify or defend occupants or their guests when any such action or proceeding is brought against the occupant based upon the occupant's conduct or activity. Nothing herein is intended to impose any additional civil/criminal liability upon owners other than that which is imposed by existing law. This Part is not intended to, nor shall its effect be, to limit any other enforcement remedies that may be available to the Borough against an owner, occupant or guest thereof.

2. Designation of Manager. Every owner who is not a full-time resident of the Borough, and/or who does not live within fifteen (15) miles of the boundaries of the Borough, shall designate a manager who shall reside in an area that is within fifteen (15) miles from the Borough. If the owner is a corporation, a manager shall be required if an officer of the corporation does not reside within the above referenced area. The officer shall perform the same function as a manager. If the owner is a partnership, a manager shall be required if a partner does not reside within the above referenced area. Said partner shall perform the same function as a manager. The manager shall be the agent of the owner for service of process and receiving of notices and demands, as well as for performing the obligations of the owner under this Part and under rental agreements with occupants. The identity, address and telephone number(s) of a person who is designated as manager hereunder shall be provided by the owner or manager to the Borough and such information shall be kept current and updated as it changes.

3. Disclosure. The owner or manager shall disclose to the occupant in writing on or before the commencement of the tenancy:

A. The name, address and telephone number of the manager, if applicable.

B. The name, address and telephone number of the owner of the premises.

4. Maintenance of Premises. The owner shall maintain the premises in compliance with the applicable codes of the Borough and shall promptly make or cause to be made any and all repairs necessary to fulfill this obligation.

5. Rental Agreement.

A. All disclosures and information required to be given to occupants by the owner shall be furnished at or before the commencement of the landlord tenant relationship. The owner shall provide occupant with copies of any rental agreement and addendum upon execution.

B. Terms and Conditions. Owner and occupant may include in a rental agreement terms and conditions not prohibited by this Part or other applicable ordinances, regulations and laws, including rent, term of the agreement and other provisions governing the right and obligations of the parties.

C. Provision of Summary of Ordinance to Occupant. Following the effective date of this Part, a summary hereof in substantially the form set forth in Appendix A, shall be provided to the occupant at or before the commencement of the landlord tenant relationship. If a summary has been provided at or before the commencement of the landlord tenant relationship, a summary does not have to be provided upon renewal. Where a rental agreement has been entered into prior to the effective date of this Part, the owner shall provide the occupants with a copy of the summary within sixty (60) days after enactment of this Part.

6. Registration. Every owner of a residential rental unit must register the unit with the Borough in accordance with the following schedule:

A. All owners of residential units must register the units with the Borough within thirty (30) days after the effective date of this Part.

B. Any individual, entity or firm which converts any structure to a residential rental unit or units shall register the residential rental unit or units with the Code Enforcement Officer of the Borough within thirty (30) days of the completion of the conversion of the unit or units or within thirty (30) days of the time when any rent, including the exchange of other services for the unit or units, is obtained or within thirty (30) days of the date within which a tenant or tenants occupies the unit or units, whichever time period is sooner.

C. It shall be the responsibility of the grantee and the grantee's agent in the purchase of the said real estate, including the grantee's attorney or title company, to notify the Borough of Shamokin Dam within ten (10) days of any purchase or transfer of a rental unit.

D. The owner of a residential rental unit must update the registration information on record with the Code Enforcement Officer within ten (10) days of any changes of the information set forth below.

E. All owners of any residential rental unit living outside of the fifteen (15) mile limit set forth in subsection (2) must have a local manager who shall reside within fifteen (15) miles of the Borough and who shall be available as an emergency contact person.

F. Registration information shall be provided annually by all owners and shall include the following:

- (1) Owner name, address, telephone number.
- (2) Local manager name, address, telephone number (an emergency contact person).
- (3) Property address and number of units.
- (4) Maximum occupancy and square feet of habitable floor area of each unit.
- (5) Emergency telephone number.
- (6) Actual number of occupants.
- (7) Names and addresses of current tenants.

G. Any owner of a residential rental unit shall notify the Borough at the Borough Building within ten (10) days of a new tenant occupying, renting or residing in the landlord's or owner's residential rental unit.

H. Notwithstanding any other provisions of this Part, the names and addresses of tenants shall not be disclosed by any Borough personnel in the event that the tenant is the subject of a court order requiring that this information be kept confidential.

7. Landlord-Tenant Act. The owner shall comply with all provisions of the Pennsylvania Landlord-Tenant Act.

8. Common Areas. Tenants shall be responsible for the behavior of occupants and their guests in the common. The failure of the tenant to regulate behavior of occupants and their guests in the common areas that results in the following shall be a violation of this Part:

A. Engaging in fighting, threatening or other violent or tumultuous behavior.

B. Making unreasonable noise.

C. Creating a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

9. Enforcement.

A. Within ten (10) days after receipt of written notice from the Borough Police Department that an occupant of a residential rental unit has violated a provision of this Part, the owner shall take immediate steps to remedy the violation and take steps to assure that there is not a reoccurrence of the violation.

B. Within twenty (20) days after receipt of a notice of violation, the owner shall file with the Borough Police Department a report, on a form provided by the Borough, setting forth what action the owner has taken to remedy the violation.

C. In the event that a second violation occurs within a license year involving the same occupant or occupants, the Code Enforcement Officer may direct the owner not to renew the lease with the tenant, or to initiate eviction proceedings against the occupants who violated this Part in accordance with the Landlord-Tenant Act, and to not permit the occupant to occupy the premises during any subsequent licensing periods.

10. Code Violations. Upon receiving notice of any code violations the owner shall promptly take action, or cause the necessary action to be taken, to abate the offending condition and eliminate the violation.

11. Inspections. The owner shall permit inspections of any premises by the Code Enforcement Officer at reasonable times upon reasonable notice. Inspections shall be recorded on a written inspection report. The inspection report shall be signed and dated by the owner of the residential rental unit or his or her manager and shall in addition be signed by all the tenants named on the lease at the time of the inspection. Inspections may be made by the Code Enforcement Officer anytime within the said year.

12. Noncompliance.

A. Any parcel of real estate containing a residential rental unit which has been found to be in noncompliance with this Part shall be subject to re-inspection by the Code Enforcement Officer as follows:

(1) Each residential rental unit referred to above may be inspected one (1) time each year. A particular residential unit which contains a violation of this Part shall be reinspected as set forth above.

(2) In addition, each residential rental unit may be inspected each time one (1) of the residential rental units is vacant.

B. In the event of a violation, a residential rental unit cannot be occupied unless and until the unit is approved as meeting the criteria of this Part and any other applicable codes of the Borough as determined by the Code Enforcement Officer.

C. (1) If, after inspection of one (1) or more of the residential rental units as set forth above, the Code Enforcement Officer determines that there are violations of any Codes of the Borough, the Code Enforcement Officer shall provide a notice of violation which shall at a minimum set forth the following:

- (a) Street address of the property.
- (b) Date of the inspection.
- (c) Name of the inspector.
- (d) List of violations.

(2) Within ten (10) days after receipt of a written notice from the Code Enforcement Officer that there has been a violation of this Section or any other applicable ordinances of the Borough, the owner shall take immediate steps to remedy the violation and take steps to assure that there will not be a reoccurrence of the violation.

(3) Within twenty (20) days after receipt of a notice of violation the owner of a residential rental unit shall file with the Code Enforcement Officer a report on a form provided by the Borough setting forth what action the owner has taken to remedy the violation.

(4) The Code Enforcement Officer shall review the report and determine if adequate steps have been taken. The owner, on his or her initiative shall enforce the plan, and failure to do so shall be a violation of this Part of the Borough.

(5) In the event that a second violation occurs within a twelve (12) month period, involving the same occupant or occupants, the Code Enforcement Officer may direct the owner to evict the occupant or occupants who have violated the ordinance of the Borough and to not permit the occupant to occupy the premise during any subsequent period.

D. If, after a violation as set forth above, a parcel of real estate containing residential rental units has no violations of applicable codes of the Borough for a period of two (2) years, said property shall then be deemed to be back in compliance with the terms and conditions of this Part and shall not then be subject to the inspections set forth in this Section until there are other violations.

E. If a parcel of real estate in noncompliance with the terms and conditions of this Part or other ordinances of the Borough is sold, then the parcel of real estate shall remain in noncompliance until the sooner of the following has occurred:

- (1) The original two (2) year period with no violations passes with no further violations.

(2) If twelve (12) months passes after purchase by the new owner with no violations of any ordinances of the Borough of Shamokin Dam.

F. All owners of any real estate containing or upon which are erected any residential rental unit which are in noncompliance with this Part and who desire to sell the parcel of real estate shall notify the purchasers, in writing, prior to the sale of the parcel of real estate that the parcel of real estate is in noncompliance with the terms and conditions of this Part. Further, any property owner selling a parcel of real estate upon which is erected a residential rental unit or units which are found to be in noncompliance under the terms and conditions of this Part shall notify the Code Enforcement Officer, in writing, within thirty (30) days prior to closing on the sale of said parcel of real estate.

G. All owners of any parcels of real estate containing residential rental units shall permit access to the property so that the Code Enforcement Officer of the Borough shall be able to complete all inspections necessary to determine compliance with this Part and any other applicable ordinances of the Borough. Refusal to allow entry of the residential rental unit by the Code Enforcement Officer of the Borough of Shamokin Dam to inspect the said unit shall be a violation of this Part.

H. For the purpose of enforcing this Part, the Code Enforcement Officer may seek to obtain a search warrant issued by a competent authority for the purpose of compelling an inspection or otherwise enforcing the terms and conditions of this Part.

I. The Code Enforcement Officer may re-inspect any property subject to a notice of violation upon expiration of the time to accomplish repairs or upon notice from the owner that the violations have been rectified.

J. The owner of any property containing or upon which is erected a residential rental unit shall pay a fee for each and every re-inspection to cover the cost of a re-inspection each time a re-inspection is required under the terms of this Part or each time a re-inspection is requested by the Code Enforcement Officer to determine compliance with this Part or any other applicable ordinances of the Borough. The fee set forth herein may be established, increased or decreased by a resolution of the Shamokin Dam Borough Council.

13. Residential Rental Units Occupied by Owner's Immediate Family. Residential rental units occupied by the owner's immediate family shall be subject to all provisions of this Part except that for such units the owner shall be exempt from paying the fee for the annual license required by §306(2)(B). [Ord. 2015-5]

(Ord. 2010-5, 9/13/2010; as amended by Ord. 2015-5, 2/2/2015, §2B)

§305. Occupants' Duties.

1. General. The occupant shall comply with all obligations imposed upon occupants by this Part, all applicable codes and ordinances of the Borough and all applicable provisions of State Law.

2. Tenant Registration.

A. All tenants who are renting a residential rental unit or residential rental units in the Borough shall within sixty (60) days of the passage of this Part present to the Code Enforcement Officer in the Shamokin Dam Borough Building located at 210 West Eighth Avenue, Shamokin Dam, Pennsylvania, one (1) form of photo identification which shall include a state issued driver's license or photo identification card, a passport, or other form of government issued photo identification.

B. The Borough shall not retain a record of the tenant's Social Security number, if any, driver's license or photo identification number, date of birth, passport number or country of issuance or similar confidential information but shall review these documents solely to verify identity.

C. The Code Enforcement Officer shall record the name of the tenant, the landlord's name, the date of registration, the address of the leased property and the type of identifying information presented (e.g., passport, driver's license) and shall have the tenant attest in writing that the information provided is true and correct subject to the penalties provided for unsworn falsification to authorities.

D. If a tenant is unable to present this information in person on account of a disability or infirmity, the Code Enforcement Officer shall provide alternative means to provide this information in order to reasonably accommodate the tenant.

E. Each time a tenant enters into a new lease, but no less frequently than annually, he or she shall register or re-register with the Borough.

3. Health and Safety Regulations.

A. The maximum number of persons permitted in any rental unit at any time shall not exceed one (1) person for each forty (40) square feet of habitable floor space in said rental unit.

B. The occupant shall deposit all rubbish, garbage and other waste from his or her rental unit into containers provided by the owner or landlord in a clean and safe manner and shall separate and place for collection all recyclable materials, in compliance with the recycling plan submitted by the owner to the Borough or if there is no recycling plan for the premises, then in compliance with Borough's recycling ordinance and all other applicable ordinances, laws and regulations.

4. Peaceful Enjoyment. The occupant shall conduct himself or herself and require other persons including, but not limited to, guests on the premises and within his or her rental unit with his or her 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 the persons occupying same.

5. Residential Use. The occupant shall, unless otherwise permitted by applicable law or ordinance, occupy or use his or her rental unit for no other purpose than as a residence.

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

7. Disruptive Conduct.

A. The occupant shall not engage in, nor tolerate, nor permit others on the premises to engage in, disruptive conduct or other violations of this Part.

B. When police investigate an alleged incident of disruptive conduct, he or she shall complete a disruptive conduct report upon a finding that the reported incident did, in his or her judgment, constitute disruptive conduct as defined herein. The information filled in on said report shall include, if possible, the identity or identities of the alleged perpetrators of the disruptive conduct and all other obtainable information including the factual basis for the disruptive conduct requested on the prescribed form. Where the police make such investigation, said police officer shall then submit the completed disruptive conduct report to the Code Enforcement Officer. In all cases, the Code Enforcement Officer shall mail a copy of the disruptive conduct report to the owner or manager within three (3) working days of the occurrence of the alleged disruptive conduct, whether the person making the investigation on behalf of the Borough is the Code Enforcement Officer or police.

8. 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.

9. Damage to Premises. The occupant shall not intentionally cause, nor permit or tolerate others to cause, damage to the premises.

10. Inspection of Premises. The occupant shall permit inspections by the Code Enforcement Officer of the premises at reasonable times, upon reasonable notice.

11. Removal or Defacement of Notice. It shall be a violation of this Part for any person to remove or deface any notice or document required to be posted within a rental unit and it shall be unlawful for any person to occupy the rental unit unless all notices and documents are posted as required.

12. Disruptive Conduct. It shall be a violation of this Part for any occupant or any other person to engage in disruptive conduct as defined by this Part.

(Ord. 2010-5, 9/13/2010)

§306. Licenses and Inspections.

1. License Requirement.

A. As a prerequisite to entering into a rental agreement or permitting the occupancy of any rental unit (except as provided in subsection (1)(C) below), the owner of every such rental unit shall be required to apply for and obtain a license for each rental unit.

B. A license shall be required for all residential rental units.

C. The following categories of rental properties shall not require licenses, and shall not, therefore, be subject to the permitting provision of this Part:

(1) Owner-occupied dwelling units; provided, that not more than two (2) 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.

(4) Bed and breakfast units as defined in the Borough's Zoning Ordinance [Chapter 27].

D. The application for the license shall be in a form as determined by the Borough.

E. The owner shall maintain a current and accurate list of the occupants in each rental unit that shall include their name, and current telephone number which shall be available to the Borough for inspection upon reasonable notice. The owner shall notify the Borough of changes in the occupancy or of contact information within ten (10) days of the change and shall provide the name of the person who is no longer residing in the premises in the event a person departs and the name, current address and current telephone number of new occupants in the event a new person is added.

F. The owner shall furnish with his or her application for a license a floor plan, drawn to scale, with the measurements of each room within the residential rental unit. The owner shall submit the scale drawing only with the first application submitted after the enactment of this Part. In the event that there are changes to the floor plan, the owner shall submit a revised floor plan with the application first submitted after the changes to the floor plan were made.

G. In the event that a license is denied by the Code Officer, the owner shall have the right to appeal to the Borough Council within thirty (30) days of mailing of the notice of denial of the application. The hearing before the Borough Council shall be governed by the Local Agency Law.

2. Annual License Term, Fee and Occupancy Limit.

A. Each license shall have an annual term running from January 1 of a particular year through December 31 of that year.

B. Upon application for a license prior to issuance or renewal thereof, each owner/applicant shall pay to the Borough an annual license and inspection fee, in an amount to be established, from time to time, by resolution of the Borough Council. The initial fee for a license shall be ten (\$10.00) dollars, for each residential rental unit/apartment. The said fee shall be paid by January 10 of each year.

C. The license shall indicate thereon the maximum number of occupants and the square feet of habitable floor area in each rental unit.

D. No license shall be issued if the owner has not paid any fines and costs arising from enforcement of this Part or any of the ordinances of the Borough relating to land use and/or code enforcement or if any licensing fees under this Part are due and owing the Borough.

3. Search Warrant. Upon a showing of probable cause that a violation of this Part or any other ordinance of the Borough of Shamokin Dam has occurred, the Code Enforcement Officer may apply to the district justice having jurisdiction in the Borough of Shamokin Dam for the search warrant to enter and inspect the premises.

(Ord. 2010-5, 9/13/2010)

§307. Grounds for Non-renewal, Suspension or Revocation of License.

1. General. The Code Enforcement Officer may initiate disciplinary action against an owner that may result in a formal warning, non-renewal, suspension or revocation of the owner's license, for violating any provision of this Part that imposes a duty upon the owner and/or for failing to regulate the breach by occupants as provided for herein.

A. Definition of Options.

(1) Formal Warning. Formal written notification of at least one (1) violation of this Part. Upon satisfactory compliance with this Part and any conditions imposed by the Code Enforcement Officer and/or the Borough Council, the formal warning shall be removed when the owner applies for license renewal at a time set by the Code Enforcement Officer or by the Council of the Borough.

(2) Non-renewal. The denial of the privilege to apply for license renewal after 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 by the Borough Council.

(3) Suspension. The immediate loss of the privilege to rent residential rental units for a period of time set 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 the occupants.

(4) Revocation. The immediate loss of the privilege to rent residential rental units for a period of time set by the Code Enforcement Officer or the Borough Council and the loss of the privilege to apply for renewal of the license at the expiration of the time period. Upon the loss of the privilege to rent, the owner shall take immediate steps to evict the occupants.

2. Criteria for Applying Discipline. The Code Enforcement Officer, when recommending discipline, and the Borough Council, when applying discipline, shall consider the following:

A. The effect of the violation on the health, safety and welfare the occupants of the residential rental unit and other residents of the premises.

B. The effect of the violation on the neighborhood.

C. Whether the owner has prior violations of this Part and other ordinances of the Borough or has received notices of violations as provided for in this Part.

D. Whether the owner has been subject to disciplinary proceedings under this Part.

E. The effect of disciplinary action on the occupants.

F. The action taken by the owner to remedy the violation and to prevent future violations, including any written plan submitted by the owner.

G. The policies and lease language employed by the owner to manage the rental unit to enable the owner to comply with the provisions of this Part.

H. In addition to applying discipline as set forth above, the Code Enforcement Officer may recommend and Borough Council may impose upon the existing or subsequent licenses reasonable conditions related to fulfilling the purposes of this Part.

3. Grounds for Imposing Discipline. Any of the following may subject an owner to discipline as provided for in this Part:

A. Failure to abate a violation of Borough codes and ordinances that apply to the premises within the time directed by the Code Enforcement Officer.

B. Refusal to permit the inspection of the premises by the Code Enforcement Officer as required by this Part.

C. Failure to take steps to remedy and prevent violations of this Part by occupants of residential rental units as required by this Part.

D. Failure to file and implement an approved plan to remedy and prevent violations of this Part by occupants of the rental unit as required by this Part.

E. Failure to evict occupants after having been directed to do so by the Code Enforcement Officer of the Borough as provided for in this Part.

F. Three (3) violations of this Part or other ordinances of the Borough that apply to the premises within a license term. For purposes of this Part, there need be no criminal conviction before a violation can be found to exist. Before a prior violation can be considered under this Section, the owner must have received notice in writing of this violation within thirty (30) days after the Code Enforcement Officer received notice of the violation.

4. Procedure for Non-renewal, Suspension or Revocation of License.

A. Notification. Following a determination that grounds for non-renewal, suspension or revocation of a license exist, the Code Enforcement Officer shall notify the owner of the action to be taken and the reason therefore. Such notification shall be in writing, addressed to the owner in question and shall contain the following information:

(1) The address of the premises in question and identification of the particular residential rental unit(s) affected.

(2) A description of the violation that has been found to exist.

(3) A statement that the license for said residential rental unit(s) shall be either suspended or revoked, or will not be renewed for the next license year beginning January of that year, or that the owner will receive a formal warning. 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 non-renewal, suspension or revocation (as the case may be), the owner or any person acting on his, her or its behalf is prohibited from renting, leasing or permitting occupancy of the dwelling unit(s) from and during the period said action is in effect.

(5) A statement informing the owner that he, she or it has a right to appeal the decision suspending, revoking or declining to renew the license to Borough Council, by submitting in writing to the Borough Secretary/Manager, within thirty (30) days from the date printed on the notice, a detailed statement of the appeal including the grounds therefore and the reason(s) alleged as to why the determination of the Code Enforcement Officer is incorrect or should be overturned, and a statement of relief requested by the appellant. Such notice of appeal shall be required to be submitted on a form to be prescribed therefore by Borough Council, and signed by the appellant. There is hereby imposed a fee for filing of such appeals, the amount of which shall be determined and established, from time to time, by resolution of Borough Council.

(6) Upon receipt of such an appeal in proper form, accompanied with the requisite filing fee, the Borough Secretary/Manager shall schedule a hearing to be held at the time and date of the next regularly scheduled Borough Council meeting not less than ten (10) days from the date on which the appeal is filed.

(7) The appellant, the Code Enforcement Officer and the owners of properties within a radius of three hundred (300) feet from the premises for which the license is at issue shall receive written notice of the hearing on the appeal.

(8) Borough Council shall hold a hearing on the appeal which shall be conducted in accordance with the Local Agency Law, 2 Pa.C.S.A. §751 et seq. The appellant and all other parties having an interest may be heard. Based on the facts and arguments of the appellant and of the Code Enforcement Officer and any police or other public officials involved, and any relevant factual presentations of other parties, the Borough Council shall make a decision either affirming, reversing or modifying the action of the Code Enforcement Officer from which the appeal was taken. Such decision shall be rendered at a public meeting either immediately following the hearing or within thirty (30) days thereafter. The decision shall be reduced to writing stating clearly the factual and legal

basis for the decision, within forty-five (45) days after the hearing. If the Council of the Borough of Shamokin Dam deems it necessary or desirable, it may continue the hearing to a subsequent time and date not later than thirty (30) days from the initial hearing and in, such case, the time limits for rendering the decision and reducing it to writing set forth herein shall be calculated from the last hearing date (at which the substance of the decision is orally announced).

B. Delivery of Notification.

(1) All notices shall be sent to the owner and manager, if applicable, by certified mail. In the event that the notice is returned by the postal authorities marked "unclaimed" or "refused," then the Code Enforcement Officer shall attempt delivery by personal service on the owner or manager, if applicable. The Code Enforcement Officer shall also post the notice at a conspicuous place on the premises.

(2) If personal service cannot be accomplished after a reasonable attempt to do so, then the notice may be sent to the owner or manager at the addresses stated on the most current license application for the premises in question, by regular first-class mail, postage prepaid. If such notice is not returned by the postal authorities within five (5) days of its deposit in the U.S. Mail, then it shall be deemed to have been delivered to and received by the addressee on the fifth day following its deposit in the U.S. Mail, and all time periods set forth above shall thereupon be calculated from said fifth day.

5. Nonexclusive Remedies. The penalty provisions of this Section and the license non-renewal, suspension and revocation procedures provided in this Part shall be independent, non-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 Part. The remedies and procedures provided in this Part for violation hereof are not intended to supplant or replace to any degree the remedies and procedures available to the Borough in the case of a violation of any other code or ordinance of the Borough, whether or not such other code or ordinance is referenced in this Part and whether or not an on-going violation of such other code or ordinance is cited as the underlying ground for a finding of a violation of this Part.

(Ord. 2010-5, 9/13/2010)

§308. Miscellaneous Provisions.

1. Notices. For purposes of this Part, any notice required hereunder to be given to a manager shall be deemed as notice given to the owner.

A. There shall be a rebuttable presumption that any notice required to be given to the owner under this Part shall have been received by such owner if the notice was given to the owner in the manner provided by this Part.

B. A claimed lack of knowledge by the owner of any violation hereunder cited shall be no defense to license non-renewal, 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 Part.

2. Changes in Ownership Occupancy. It shall be the duty of each owner of a residential rental unit to notify the Code Enforcement Officer, in writing, of any change in ownership of the premises or of the number of residential rental 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 rental unit or of the changing of a rental unit from owner-occupied to non-owner-occupied, which thereby transforms the dwelling into a residential rental unit for purposes of this Part.

3. Owners Severally Responsible. If any rental unit is owned by more than one (1) person, in any form of joint tenancy, as a partnership 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.

4. Confidentiality. All registration and contact information shall be maintained in a confidential manner by the Code Enforcement Officer and shall only be utilized for the purpose of enforcement of this Part by the Code Enforcement Officer and Borough Manager.

(Ord. 2010-5, 9/13/2010)

§309. Enforcement; Violations and Penalties.

1. This Part shall be enforced by the Code Enforcement Officer of the Borough of Shamokin Dam.

2. Basis for Violation. It shall be unlawful for any person, as either owner or manager of a residential rental unit for which a license is required, to operate without a valid, current license issued by the Borough authorizing such operation. It shall also be unlawful for any person, either owner or manager, to allow the number of occupants of a residential rental unit to exceed the maximum limit as set forth on the license, or to violate any other provision of this Section. It shall be unlawful for any occupant to violate this Section.

3. Penalties.

A. Any landlord or owner of a residential unit that violates any of the provisions of §304(6) together with all of the subsections thereunder shall upon conviction thereof be sentenced to pay a fine of five hundred dollars (\$500.00) for each and every offense. Each day of the said violation shall be a separate offense.

B. Any landlord or owner of a residential rental unit which violates any of the provisions of §§304(10), 304(11), and 304(12), shall incur the following penalties:

(1) For the First Offense. Any owner or landlord violating any of the above listed sections the first time shall upon conviction thereof in a summary proceeding be sentenced to pay a fine of one hundred dollars (\$100.00) for each and every offense. Each day of the said violation shall be a separate offense.

(2) For the Second Offense. Any owner or landlord violating any of the above listed sections a second time shall upon conviction thereof in a summary proceeding be sentenced to pay a fine of three hundred dollars (\$300.00) for each and every offense. Each day of the said violation shall be a separate offense.

(3) For the Third and Subsequent Offense. Any owner or landlord violating any of the above listed sections for a third and subsequent time shall upon conviction thereof in a summary proceeding be sentenced to pay a fine of five hundred dollars (\$500.00) for each and every offense or shall be imprisoned for a period not to exceed ninety (90) days or both. Each day of the said violation shall be a separate offense.

C. Any landlord or owner of a residential rental unit who violates §306 of this Part shall upon conviction be sentenced to pay a fine of not less than one thousand dollars (\$1,000.00).

D. Fines as imposed through this Part shall be collected as allowable by law.

E. Each day during which any owner of a residential rental unit violates any provision of this Part shall constitute a separate offense.

F. This Part and the foregoing penalties shall not be construed to limit or deny the right of the Borough of Shamokin Dam or its agents or representatives to such equitable or other remedies as may otherwise be available with or without process of law.

G. In addition to the fines set forth herein, the Borough of Shamokin Dam shall be entitled to reasonable attorneys fees incurred in enforcing this Part. The said fees shall be added to any penalties set forth above.

H. The owner of all residential rental units in the Borough of Shamokin Dam shall have the responsibility of making sure that all occupants within their rental units comply with and abide by this Part of the Borough of Shamokin Dam.

I. If any section or provision of this Part is adjudged by a court of competent jurisdiction to be unlawful, void, or unenforceable, all the remaining sections and provisions of this Part shall remain in full force and effect.

(Ord. 2010-5, 9/13/2010)

Landlord: _____

Rental Address: _____

**APPENDIX A
TENANT'S COVENANTS AND OBLIGATIONS**

- 1. Tenant shall comply with all applicable Codes and Ordinances of the Borough of Shamokin Dam and all applicable State laws.**
- 2. Tenant agrees that the maximum number of persons permitted within the residential rental unit at any time shall be _____ and the maximum number of persons permitted within the common areas of the leased premises at any time shall be _____.**
- 3. Tenant shall deposit all rubbish, garbage and other waste from the leased premises into containers provided by the owner or landlord in a clean and safe manner and shall separate and place for collection all recyclable materials in compliance with the recycling plan submitted by the owner to the Borough under Shamokin Dam's Ordinance or if there is no recycling plan for the premises, then in compliance with Shamokin Dam's Ordinance and all other applicable ordinances, laws and regulations.**
- 4. Tenant shall not engage in any conduct on the leased premises which is declared illegal under the Pennsylvania Crimes Code or Liquor Code, or the Controlled Substance, Drug, Device and Cosmetic Act, nor shall Tenant permit others on the premises to engage in such conduct.**
- 5. Tenant shall use and occupy the leased premises so as not to disturb the peaceful enjoyment of adjacent or nearby premises by others.**
- 6. Tenant shall not cause, nor permit nor tolerate to be caused, damage to the leased premises, except for ordinary wear and tear.**
- 7. Tenant shall not engage in, nor tolerate nor permit others on the leased premises to engage in, "disruptive conduct" which is defined as "any form of conduct, action, incident or behavior perpetrated, caused or permitted by any occupant or visitor of a residential rental unit that is so loud, untimely, offensive, riotous or that otherwise unreasonably disturbs other persons in their peaceful enjoyment of their premises such that a report is made to the police and/or to the Code Enforcement Officer. 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 a person to have perpetrated, caused or permitted the commission of disruptive conduct as defined herein. Provided, however, that no disruptive conduct shall be deemed to have occurred unless the Code Enforcement Officer or police shall investigate and make a determination that such did occur, and keep written records, including a disruptive conduct report, of such occurrence.

8. Tenant acknowledges and agrees that this tenancy is subject to the provisions of the Residential Rental Unit Occupancy Ordinance of the Borough of Shamokin Dam and that the issuance by any municipal officer of the Borough of Shamokin Dam of a Certificate of Noncompliance with said Ordinance relating to the leased premises shall constitute a breach of the rental agreement of which this addendum is an Ordinance. Upon such breach, Landlord shall have the right and option to pursue any and all of the following remedies:
- A. Termination of the rental agreement without prior notice;
 - B. Bring an action to recover possession of the leased premises without abatement of rents paid, including reasonable attorney's fees and costs;
 - C. Bring an action to recover the whole balance of the rent and charges due for the unexpired lease term, including reasonable attorney's fees and costs;
 - D. Bring an action for damages caused by tenant's breach, including reasonable attorney's fees and costs.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the as of this ____ day of _____, 20____.

Landlord:

Tenant:

Part 4

Gambling

§401. Category 4 Licensed Facility; Location in the Borough Prohibited.

1. The Borough Council hereby exercises its statutory option to prohibit the location of a Category 4 licensed facility within the boundaries of the Borough of Shamokin Dam, pursuant to 4 Pa.C.S. §1305.1(a.1); and

2. The Borough hereby requests that the Pennsylvania Gaming Control Board exercise its general and sole regulatory authority over the conduct of gaming and all related activities to prohibit the location of any Category 4 licensed facility within the boundaries of the Borough of Shamokin Dam, pursuant to 4 Pa.C.S. §1305.1(a.1); and

3. A copy of this resolution shall be delivered to the Pennsylvania Gaming Control Board.

(Res. 2017-5, 12/4/2017)

