

**BOROUGH OF JERMYN**

**LACKAWANNA COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 302**

**AN ORDINANCE ESTABLISHING A REGISTRATION PROGRAM FOR RESIDENTIAL RENTAL PROPERTIES; REQUIRING ALL OWNERS OF RESIDENTIAL RENTAL PROPERTIES TO DESIGNATE AN AGENT FOR SERVICE OF PROCESS; AND PRESCRIBING DUTIES OF OWNERS, AGENTS AND OCCUPANTS; DIRECTING THE DESIGNATION OF AGENTS; ESTABLISHING FEES FOR THE COSTS ASSOCIATED WITH THE REGISTRATION OF RENTAL PROPERTY; AND PRESCRIBING PENALTIES FOR VIOLATIONS**

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF JERMYN and it is hereby ordained by and with the authority of the same as follows:

SECTION 1. DEFINITIONS AND INTERPRETATION

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

- a. Agent shall mean an individual of legal majority who has been designated under the provisions of this ordinance by the owner.
- b. Borough shall mean the Borough of Jermyn.
- c. Borough Manager shall mean the office of the Borough Manager, Borough Manager or her designee.
- d. Disruptive Conduct shall mean any form of conduct, action, incident or behavior perpetrated, caused or permitted by any occupant or visitor of a rental unit that is so loud, offensive, riotous or otherwise disturbs other persons of ordinary sensibility in their peaceful enjoyment of their premises such that a report is made to the police department 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, occupant or visitor in order for a person, occupant or visitor to have perpetrated, caused or permitted the commission of the disruptive conduct, as defined herein. Provided, however, that no disruptive conduct shall be deemed to have occurred unless the police department shall have investigated and made a determination that such did occur, and keep written record, including a disruptive conduct report or police report, of such occurrence. A copy of such report shall be

submitted to the Borough Manager upon request. A copy of the report shall also be forwarded to the owner or agent within ten days of community development receiving the report from the police department.

e. Disruptive Conduct Report shall mean a written report from the police department to the Borough Manager or her designee.

f. Dwelling Unit shall mean a single habitable living unit, having its own toilet, bath or shower, sink, sleeping and cooking facilities and separate access to the outside at ground level. There may be more than one Dwelling Unit on a premises.

g. Family shall mean one or more persons living in a single dwelling unit and functioning as a common household unit sharing household expenses and sharing joint use of the entire dwelling unit. If a dwelling unit is rented, in order to qualify as a family, then there shall not be more than one (1) lease among the occupants. A family shall not include more than four (4) persons who are not "related" to each other.

h. Inspector shall mean any person authorized by law or ordinance to inspect buildings or systems, e.g. zoning, housing, plumbing, electrical systems, heating systems, mechanical systems and health necessary to operate or use buildings within the Borough. An inspector also includes anyone authorized by the Borough Manager, and also includes fire prevention officer and fire inspectors, and any fireman designated by the fire chief or his designee to inspect buildings for fire safety and compliance with the current fire prevention codes and ordinances, and state law and county law, in effect within the Borough.

i. Fire Department shall mean the fire department within the Borough or any member thereof, includes the fire prevention officer and fire inspectors, and the chief of fire or his designee.

j. Let for Occupancy shall mean to permit possession or occupancy of a building or dwelling unit by a person who is not the legal owner of record thereof pursuant to a written or unwritten lease.

k. Occupant shall mean a person who resides at a premises, such as a tenant, or any other individual that is allowed on premise by such resident or tenant.

l. Operator shall mean any person who has charge, care or control of a rental property.

m. Owner shall mean one or more persons, jointly or separately, in who is vested all or part of the legal title to the premises, or all or part of the beneficial ownership and right to present use and enjoyment of the premises, including a mortgage holder in possession of a rental unit. For purposes of this ordinance owner also includes landlord.

n. Owner-Occupant shall mean an owner who resides in a dwelling unit on a regular permanent basis.



o. Person shall mean any natural person, partnership, firm, association, corporation or municipal authority.

p. Police Department shall mean the police department of the Borough or any member thereof sworn to enforce laws and ordinances in the Borough, includes the chief of police or his designee.

q. Premises shall mean any parcel or real property in the Borough, including the land and all buildings and apartment structures or apartment elements on which one or more rental units are located.

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

s. Registration Certificate shall mean a certificate issued by the Borough indicating that the owner of rental property has paid the annual registration fee.

t. Related or Relative shall mean persons who are related by blood, marriage, adoption or formal foster relationship to result in one of the following relationships: brother, sister, parent, son, daughter, grandparent, grandchild, great grandchild, uncle, aunt, nephew, niece, sister-in-law, brother-in-law, father-in-law, mother-in-law, or first cousin. Shall not include relationships such as second, third and fourth cousins.

u. Rental Unit shall mean a dwelling unit occupied by one or more tenants. Does not include, for purposes of this ordinance, a dormitory room occupied by one or more students.

v. Tenant shall mean any person who occupies a rental unit within a rental property regardless of whether such person has executed a lease for said premises.

## SECTION 2. APPOINTMENT OF AN AGENT

Each property owner who is not an owner-occupant, or who does not reside in the Borough shall appoint an agent who shall live either in the Borough or within a twenty (20) mile radius of the Borough.

## SECTION 3. DUTIES OF THE AGENT

a. The duties of an agent shall be: 1) To receive notices and correspondence, including service of process, from the Borough; 2) To arrange for the inspection of the rental units; 3) To do or arrange for the performance of maintenance, cleaning, repair, pest control, snow and ice removal and garbage removal; and 4) To ensure continued compliance of the premises with the ordinances, building codes and zoning code in effect in the Borough.

b. The name, address and telephone number of the agent shall be reported to the Borough Manager in writing upon registering the rental units.

c. It shall be the duty of the owner or agent to permit inspection of the premises or any rental unit therein by inspectors of the Borough, the police and fire departments at reasonable times after designation as may be necessary to ensure health, safety and welfare of the tenants, to respond after disruptive conduct, maintain peace and order, compliance with current ordinances, building codes, zoning code and health regulations. In the event that access is refused, the Borough is authorized to obtain a warrant from a judicial officer, and may cite in support of the request, a disruptive conduct report, any alleged violation of this or other Borough ordinances, and any facts suggesting any threat to the public health or safety.

d. The owner has the duty to maintain the premises in good repair, clean and sanitary condition, and to maintain the premises in compliance with the current ordinances, and codes of the Borough, and other county and state law. He or she may delegate implementation of these responsibilities to an agent.

e. It shall be the duty of the owner and agent to discourage and prevent as may be possible disruptive conduct which may result in damage to the premises, breach of the peace, and disturbances of the community.

f. It shall be the duty of the owner or agent, upon the receipt of disruptive conduct reports from the Borough, to contact the occupants and to remind them of their responsibility for their conduct, and that under this ordinance occupancy of the rental unit may be closed for a period of up to six (6) months.

g. It shall be the responsibility of the owner or agent to produce a lease upon request from the Borough Manager whenever it is deemed necessary by the Borough Manager to enforce the borough and zoning codes.

h. If a rental unit is closed due to three (3) disruptive conduct reports, then it shall be the responsibility of the occupant to find housing at the occupant's expense.

i. If a rental unit is condemned due to the negligence of the owner, then it shall be the responsibility of the owner to find housing for the occupants at the owner's expense.

#### SECTION 4. DUTY OF THE OCCUPANTS

a. It is the duty of the occupants to maintain their rental unit in good sanitary condition; to report necessary repairs, to properly dispose of garbage and to avoid disruptive conduct which may damage the premises, be a breach of the peace and disturb the community.

b. Occupancy limit: The maximum number of persons permitted in any rental unit subject to this ordinance at any time shall not exceed the requirements of the Borough ordinances and codes and county and state law.



c. It shall be the duty of occupants to engage in recycling materials in accordance with the recycling ordinance of the Borough.

d. An occupant shall not intentionally cause, or permit, or tolerate others to damage the rental unit, common areas, or the premises.

e. An occupant shall not intentionally cause, or permit, or tolerate others committing disruptive conduct in the rental unit, in the common areas, and on the premises.

#### SECTION 5. REGISTRATION

The Borough Manager shall have the responsibility of administering the registration of all rental properties within the Borough.

a. Any person who owns one (1) or more rental units in the Borough shall be required to have the rental units registered with the Borough.

b. The registration form shall include, but not be limited to the name, address and telephone number of the property owner, the location of the rental property, the number of rental units and the number of occupants per unit at that particular location. The property owner shall also provide the Borough Manager with the insurance information required in Section 8 of this ordinance.

c. Any property owner who owns one (1) or more rental units in the Borough and resides in the Borough shall provide the Borough Manager with the name, address and telephone number of another person residing within the Borough or within a twenty (20) mile radius of the city, who is authorized to accept service of process on behalf of the property owner or operator of said rental property if the property owner is either not present in the Borough at the time of service of process or cannot be located by the Borough for service of process. Said authorization shall be signed by the agent so designated to accept service, and the property owner or the operator shall be required to contact the department each year and/or upon the change of any agency, whichever is sooner, in order to update the city records with regard to the name, address and telephone number of the locally designated agent. Failure to provide this information may result in the closure of the property to renters for a period of up to six (6) months.

d. Any property owner who owns one (1) or more rental units in the Borough and does not reside in the Borough shall provide the department with the name, address and telephone number of an agent residing within a twenty (20) mile radius of the Borough who is authorized to accept service of process on behalf of the property owner or of said property. Said authorization shall be signed by the agent so designated to accept service, and the property owner or operator or agent shall be required to contact the department each year and/or upon the change of any agency or owner, whichever is sooner, in order to update the Borough records with regard to the name, address and telephone number of the locally designated agent. Failure to provide this information may result in the closure of the property to renters for a period of up to six (6) months.

e. The Borough shall issue a registration certificate to any person who is required to register a rental property after said person has complied with the aforementioned standards and after said person has paid the annual rental registration as provided in Section 9.

f. Said registration certificate must be conspicuously displayed inside the rental property within five (5) feet of the principal means of ingress and egress to the property. In addition to the issuance of the registration certificate, each owner of rental property shall be issued a decal, which shall be permanently affixed to the door through which access is gained to the rental property, or in a window in the rental property, in such a way that the decal is visible from the exterior of the premises in which the rental property is located. The failure to affix the decal as required by this ordinance shall constitute a violation hereof.

g. The maximum number of occupants shall be posted in each dwelling unit. It shall be unlawful for any person, including a tenant, to allow a greater number of persons than the posted maximum number of occupants to sleep in or occupy overnight the dwelling unit. Any person violating this provision shall be subject to the penalty provisions provided herein.

h. Any property owner who owns one (1) or more rental units in the Borough shall notify the department within thirty (30) days of any change in ownership of the property.

i. Failure to register the rental units with the Borough within ninety (90) days from the effective date of this ordinance or within thirty (30) days following the purchase or legal conversion of a structure to a rental property shall constitute a violation of this ordinance.

j. At the time of registration the owner shall have the name, address and telephone number of the agent of the rental units if applicable.

k. No registration certificate shall be issued to an owner or agent whose property tax, garbage or sewer fee is delinquent as defined by each agency.

#### SECTION 6. CLOSURES OF RENTAL UNITS.

The Borough may close a rental unit pursuant to this ordinance when one or more of the following events occurs:

1. A riot as defined in the Pennsylvania statutes occurs on the premises.
2. Three (3) or more violations of this ordinance have occurred in a rental unit or on the premises within any six (6) month period.
3. An occupant of a rental unit who has implied or actual knowledge of drug activity or who is convicted in a court of competent jurisdiction of selling or distributing narcotics or controlled substances, as these terms are defined in the Pennsylvania statutes, in the rental unit, common areas or on the premises.
4. The rental unit, common areas or the premises are condemned by the Borough or the fire department as unsafe for human occupancy or structurally unsafe.
5. The owner has failed to appoint an agent or respond to notices from the Borough.
6. The owner has failed to comply with Borough ordinances, codes and zoning ordinance, if violations thereof are found in inspection when an owner, after written notice of



violations, has failed to come into compliance with them within such time as the Borough may state.

Any person aggrieved by an order of the Borough for closure of a rental unit issued under this ordinance relating to housing, building, health or disruptive conduct may appeal such order within twenty (20) days from the date thereof to the Borough Council by filing an appeal and paying a one hundred fifty (\$150.00) dollar appeal fee.

#### SECTION 7. NOTICES.

a. 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 Borough or police department shall attempt delivery by personal service on the owner or agent, if applicable. The Borough shall also post the notice at a conspicuous place on the premises.

b. If personal service cannot be accomplished after a reasonable attempt to do so, then the notice may be sent to the owner or agent at the address stated on the most current registration 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 United States 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 United States Mail.

c. For purposes of this ordinance, any notice required hereunder to be given to the agent shall be deemed as notice given to the owner.

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

e. A claimed lack of knowledge by the owner, or agent, if applicable, of any violation hereunder cited shall be no defense to closure of rental unit, as long as all notice prerequisite to such proceedings have been given and deemed received in accordance with the provisions of this ordinance.

#### SECTION 8. CASUALTY AND FIRE LEGAL LIABILITY INSURANCE.

In order to protect the health, safety and welfare of the residents of the Borough, it is hereby declared that the Borough shall require casualty and fire legal liability insurance for all property owners letting property for occupancy in the Borough ("property owners").

a. **Minimum coverage; use of insurance proceeds.** All property owners owning property in the Borough shall be required to obtain a minimum of fifty thousand (\$50,000.00) dollars in fire legal liability insurance and casualty insurance in an amount sufficient to either restore or remove the building. Further, in the event of any fire or loss covered by such insurance, it shall be the obligation of the property owner to use such insurance proceeds to cause the restoration or demolition or other repair of the property in adherence to Borough ordinances and all applicable codes and laws.

b. **Property owners to provide Borough with insurance information.** All property owners shall place their insurance company name, policy number and policy expiration date on their Rental Property Registration form, or in the alternative, shall provide the Borough with a copy of their actual casualty and fire legal liability insurance policies. A registration certificate shall not be issued to any person unless the aforementioned information has been provided to the Borough. The Borough shall be informed of any change in policies for a particular rental property or of cancellation of a policy for said property within ten (10) days of said change or cancellation.

SECTION 9. FEES.

Fees for the administration of the Rental Registration Program shall be assessed against property owners and shall be determined as follows:

- |    |                            |                           |              |
|----|----------------------------|---------------------------|--------------|
| a. | Annual Registration Fee -- | \$10.00 per dwelling unit | 1-25 units   |
|    |                            | \$5.00 per dwelling unit  | 25 and above |

SECTION 10. ENFORCEMENT.

a. The following persons are hereby authorized to enforce this ordinance: The chief of police and any police officer of the Borough; the code enforcement official or his designee; the Borough Manager; inspectors, zoning officer and assistant zoning officer of the Borough when authorized by their respective Borough Manager.

b. The designation of any person to enforce this ordinance or authorization of an inspector, when in writing, and signed by a person authorized by Section 10a to designate or authorize an inspector to enforce this ordinance, shall be prima facie evidence of such authority before the district justice, court of common pleas or any other court, administrative body of the city, or of this commonwealth, and the designating director or supervisor need not be called as a witness thereto.

SECTION 11. FAILURE TO COMPLY WITH THIS ORDINANCE.

If any person shall fail, refuse or neglect to comply with the provisions of this ordinance, or any rules or regulations, or any reasonable orders or directions of a Borough representative in reference thereto, then the Borough may order the closure of the rental units, until such conditions or orders are complied with.

SECTION 12. VIOLATION AND PENALTIES.

Any person, firm or corporation who shall violate any provision of the ordinance, upon conviction thereof, shall be sentenced to pay a fine of not less than \$200.00 and not more than \$600.00, plus costs, or imprisonment for a term not to exceed ninety (90) days in default of payment. Every day that a violation of this ordinance continues shall constitute a separate offense.



SECTION 13. EXEMPTIONS TO THE ORDINANCE.

Exemptions to this ordinance shall include rental units owned by public authorities as defined under the Municipal Authorities Act and elderly multi-dwelling units that are occupied by 75% of persons over the age of sixty-five years of age. And multi-dwelling units that operate under Internal Revenue Service Code Section 42 concerning entities that operate with an elderly component.

SECTION 14. APPLICABILITY.

The provisions of this ordinance shall not apply to properties which are hotels or dormitories.

SECTION 15. SAVING CLAUSE.

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

SECTION 16. SEVERABILITY.

If any section, clause, provision or portion of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction then such decision shall not affect any other section, clause, provision or portion of this ordinance so long as it remains legally enforceable minus the invalid portion. The Borough reserves the right to amend this ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this ordinance, and the effective administration thereof.


SECTION 17. EFFECTIVE DATE.

This ordinance shall become effective thirty (30) days after the date of its enactment.

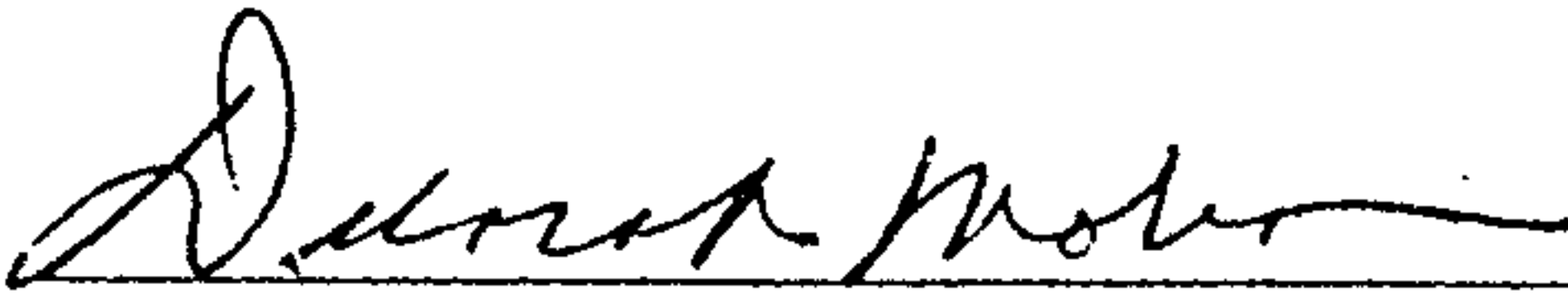
SECTION 18. ENACTMENT.

This ordinance is enacted by the Borough Council of the Borough of Jermyn under the authority of the Municipalities Planning Code and any other applicable law arising under the laws of the Commonwealth of Pennsylvania.

ENACTED AND ORDAINED this 8th day of AUGUST  
2002.


  
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**JOSEPH KRENITSKY**  
**PRESIDENT, BOROUGH COUNCIL**  
**BOROUGH OF JERMYN**

ATTEST:

  
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**DEBORAH MORCOM**  
**SECRETARY**  
**BOROUGH OF JERMYN**

SEAL

APPROVED this 8th day of AUGUST 2002.

  
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**BRUCE SMALLACOMBE**  
**MAYOR**  
**BOROUGH OF JERMYN**