FILE OF COUNCIL

No. _____ of 2013

PRESENTED IN CITY COUNCIL _____, 2013

AN ORDINANCE AMENDING PART OF CHAPTER 7 OF THE CITY OF WILKES-BARRE CODE OF ORDINANCES, SPECIFICALLY 7-239, GOVERNING GROUNDS FOR RENEWAL, SUSPENSION OR REVOCATION OF RENTAL LICENSE

WHEREAS, it is the desire of City Council to pass legislation to correct the drug problems and to alleviate any further drug activity within the City limits; and

WHEREAS, it is also the desire of City Council to pass legislation to correct any criminal issues with firearms within the limits of the City of Wilkes-Barre; and

WHEREAS, the City of Wilkes-Barre is also intent on substantially reducing and/or eliminating crime within the City by imposing regulations upon property owners and occupants which are more strict as they relate to drug activity, violence, criminal acts and civil disobedience.

WHEREAS, the City of Wilkes-Barre is concerned with crime in neighborhoods which statistically stems from properties which are not or do not meet proper health and code standards.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wilkes-Barre, and it is hereby ordained by the authority of the same that:

SECTION 7-239 (d)(1)(f) which currently reads:

f. The code enforcement officer may close a rental unit (or a property containing more than one (1) rental unit) pursuant to this subsection when one (1) or more of the following events occurs:

i. A riot as defined in Title 18 of the Pennsylvania Statutes occurs on the premises where the rental unit(s) is located;

ii. Three (3) or more of the following occur in any combination within a six-month period: violations of this section under Chapter

7 have occurred, or disruptive conduct reports or police reports are generated from activity on the premises where the rental unit(s) is located;

iii. The rental unit, common areas, or the premises is condemned by the code enforcement officer, the Wilkes-Barre City Fire Department, or any other appropriate city official, as unsafe for human occupancy, or structurally unsafe;

iv. The owner has failed to appoint a manager as required by this section;

v. The owner has failed to comply with any applicable building codes, zoning codes, housing codes or any provision of this chapter; or, the owner has failed to pay the fine or rectify the underlying problem which generated a citation and/or fine from the code enforcement office regarding the condition of the premises; or an owner, after written notice of violation(s), has failed to come into compliance with the Wilkes-Barre Code of Ordinances, within such time as the code enforcement officer may designate.

In the event there is a violation of any provision of section 7-239(d)(1)f., the rental unit or rental unit(s) of a multi-unit building, when necessary, shall be closed by the City of Wilkes-Barre for a period of time which will be the lesser of the time needed to cure the violating event or six (6) months. The violation of section 7-239(d)(1)f.ii. or iii. shall require the closure of the rental unit(s) for a period of six (6) months. Each re-opening without having cured the violation or prior to obtaining a new certificate of occupancy shall be considered a new violation subject to any applicable fines, penalties or additional closure orders.

vi. Three (3) or more nuisance violations, under Chapter 18 of the Wilkes-Barre Code of Ordinances, have occurred on the premises within any six (6) month period.

IS HEREBY <u>AMENDED</u> TO READ:

f. The code enforcement officer, or any authorized agent thereof, may close a rental unit (or an entire property or structure or building containing more than one (1) rental unit) pursuant to this subsection when one (1) or more of the following events occurs at the property:

i. A riot as defined in Title 18 of the Pennsylvania Statutes occurs on the premises where the rental unit(s) is located;

ii. Three (3) or more of the following occur in any combination within any six-month period: violations of this section under Chapter 7 have occurred; and/or disruptive conduct reports and/or police reports are generated from activity on the premises where the rental unit(s) is located;

iii. The rental unit, common areas, or the premises is condemned by the code enforcement officer, the Wilkes-Barre City Fire Department, or any other appropriate city official, as unsafe for human occupancy, or structurally unsafe;

iv. The owner has failed to appoint a property manager as required by this section, or if the property manager is not properly licensed as required by the Commonwealth of Pennsylvania;

v. The owner has failed to comply with any applicable building codes, zoning codes, housing codes or any provision of this Chapter; and/or, the owner has failed to pay the fine or rectify the underlying problem which generated a citation and/or fine from the code enforcement office regarding the condition of the premises; or an owner, after written notice of violation(s), has failed to come into compliance with the Wilkes-Barre Code of Ordinances, within such time as the code enforcement officer may designate.

vi. Three (3) or more nuisance violations, under Chapter 18 of the Wilkes-Barre Code of Ordinances, have occurred on the premises within any six (6) month period.

vii. An occupant or owner has implied or actual knowledge of drug activity, or 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 or property. Said knowledge

may be imputed to the occupant or owner based on police knowledge and experience of drug activity on the premises or property.

viii. An occupant or owner has implied or actual knowledge of any illegal or criminal action with a firearm, in any instance where the owner and/or occupant(s) are charged or convicted in a court of competent jurisdiction of murder or attempted murder, in any degree, manslaughter, assault with a deadly weapon, possession of an illegal firearm, gun manufacturing, gun or firearm trafficking, illegal possession of a firearm, or any crime where a firearm is used as an accessory and/or part of the commission of the said crime, as these terms are or may be defined in the Pennsylvania statutes, in the rental unit, common areas or on the premises or property. Said knowledge may be imputed to the occupant or owner based on police knowledge and experience of such criminal activity(ies) on the premises or property.

In the event there is a violation of any provision of section 7-239(d)(1)(f) i., iv. and v., the rental unit or rental unit(s) of a multi-unit building, when necessary, may be closed by the City of Wilkes-Barre for a period of time which will be the lesser of the time needed to cure the violating event or six (6) months. The violation of section 7-239(d)(1)(f) ii, iii, vii. or viii. shall require the closure of the rental unit(s) for a period of six (6) months at the direction of the City of Wilkes-Barre. Each re-opening without having cured the violation or prior to obtaining a new certificate of occupancy shall be considered a new violation subject to any applicable fines, penalties or additional, consecutive closure orders.

Any person aggrieved by an order of the City for closure of a rental unit or suspension or termination of a rental license issued under this article relating to housing, building, health or disruptive conduct may appeal such order, within twenty (20) days from the date of the order to the Housing Appeals Board by filing an appeal in the Office of Code Enforcement at Wilkes-Barre City Hall, and paying a non-refundable appeal fee of One Hundred Dollars ($100.00).

SECTION 7-239 (f) shall be supplemented as follows:

(3) For purposes of this section and article, any notice required hereunder which is given to the agent, property manager or occupant shall be deemed as notice given to the owner. A claimed lack of knowledge by the owner, property manager or agent, if applicable, of any violation hereunder cited shall be no defense to closure of rental units, as long as all notice prerequisite to such proceedings has been given in accordance with this section or article.

SEVERABILITY.

If it is determined by a proper legal authority that any section or part thereof is unconstitutional or otherwise invalid, the remaining sections and parts thereof shall remain in full force and effect and be unaffected by such determination.

CONFLICT.

Any ordinance or law of the City of Wilkes-Barre which is in conflict with the provisions of this Ordinance, as outlined above, is hereby automatically repealed, and this Ordinance shall control.

EFFECTIVE DATE OF ORDINANCE

This Ordinance shall become effective ten (10) days after final adoption by Wilkes-Barre City Council.

ATTEST:

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JAMES RYAN, CITY CLERK