

ORDINANCE 2015-02

AN ORDINANCE OF THE BOROUGH OF ISLAND HEIGHTS, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE BOROUGH CODE TO CREATE A NEW CHAPTER XXXIII, TO BE ENTITLED "LANDLORD RENTAL RESPONSIBILITY"

BE IT ORDAINED by the Mayor and Council of the Borough of Island Heights, County of Ocean, and State of New Jersey, as follows:

SECTION 1. The Borough Code of the Borough of Island Heights is hereby amended and supplemented so as to create a new Chapter XXXIII, to be entitled "LANDLORD RENTAL RESPONSIBILITY" and which shall read as follows:

CHAPTER XXXIII. "LANDLORD RENTAL RESPONSIBILITY"

Article I. Landlord Responsibility

§ 1. Purpose.

The purpose of this article is to enable the Borough of Island Heights to take effective action to assure that excesses arising from irresponsible rentals, when they occur, shall not be repeated, and that landlords be held to sufficient standards of responsibility in order to preserve the peace and tranquility of the Borough for its permanent residents.

§ 2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

HEARING OFFICER

A licensed attorney of the State of New Jersey appointed by the governing body, who shall not be an owner or lessee of any real property within the Borough of Island Heights, nor hold any interest in the assets of or profits arising from the ownership or lease of such property.

LANDLORD

The person or persons who own or purport to own a building in which there is rented or offered for rent housing space for living or dwelling under either a written or oral lease which building contains no more than four dwelling units.

SUBSTANTIATED COMPLAINT

A complaint for a violation of any provision of Title 2C of the New Jersey Statutes or any municipal ordinance governing disorderly conduct, upon or in proximity to any rental premises, and attributable to the acts or incitements of any of the tenants of those premises which has been substantiated by prosecution and conviction in any court of competent jurisdiction.

§ 3. Complaint.

If in any twenty-four-month period a specified number, which shall not be less than two complaints, on separate occasions, of conduct upon or in proximity to any rental premises, and attributable to the acts or incitements of any of the tenants of those premises, have been substantiated by prosecution and conviction in any court of competent jurisdiction as a violation of any provision of Title 2C of the New Jersey Statutes or any municipal ordinance governing disorderly conduct, the municipal governing body or any officer or employee of the municipality designated by the governing body for the purpose may institute proceedings to require the landlord of those premises to post a bond against the consequences of future incidents of the same character.

§ 4. Notice requirements.

- A. The governing body, or officer or employee designated pursuant to § 3 shall cause to be served upon the landlord, in person or by registered mail to the address appearing on the tax records of the Borough, notice advising of the institution of such proceedings, together with particulars of the substantiated complaints upon which those proceedings are based, and of the time and place at which a hearing will be held in the matter, which shall be in the municipal building, municipal court or other public place within the municipality, and which shall be no sooner than 30 days from the date upon which the notice is served or mailed.
- B. In the event a tenant is convicted of any of the conduct described in § 3 the governing body, or officer or employee designated pursuant to § 3 shall cause notice advising that the conduct specified has occurred to be served on the landlord, in person or by registered mail, at the address appearing on the tax records of the Borough.

§ 5. Hearing; violations and penalties.

- A. At the hearing convened pursuant to this article, the Hearing Officer shall give full hearing to both the complaint of the Borough and to any evidence in contradiction or mitigation that the landlord, if present or represented and offering such evidence, may present. The Hearing Officer may consider, to the extent deemed relevant by the Hearing Officer, prior complaints about the residents of the property, even if those complaints did not result in a conviction. At the conclusion of the hearing, the Hearing Officer shall determine whether the landlord shall be required to post a bond in accordance with the terms of this article.
- B. Any bond required to be posted shall be in accordance with the judgment of the Hearing Officer, in light of the nature and extent of the offenses indicated in the substantiated complaints upon which the proceedings are based, to be adequate in the case of subsequent offenses to make reparation for:
 - (1) Damages likely to be caused to public or private property and damages consequent upon disruption of affected residents' rights of fair use and quiet possession of their premises;
 - (2) Securing the payment of fines and penalties likely to be levied for such offenses; and
 - (3) Compensating the municipality for the costs of repressing and prosecuting such incidents of disorderly behavior.
- C. No such bond shall be in an amount less than \$500 or more than \$5,000.
- D. The municipality may enforce the bond thus required by action in the Superior Court, and shall be entitled to an injunction prohibiting the landlord from making or renewing any lease of the affected premises for residential purposes until that bond or equivalent security, in satisfactory form and amount, has been deposited with the municipality.
- E. A bond or other security deposited in compliance with this section shall remain in force for a period recommended by the Hearing Officer but not less than two nor more than four years. Upon the lapse of the specified period the landlord shall be entitled to the discharge thereof, unless prior thereto further proceedings leading to a forfeiture or partial forfeiture of the bond or other security shall have been had under § 5 in which case the security shall be renewed, in an amount and for a period that shall be specified by the Hearing Officer.

§ 6. Proceedings against landlord; recovery from tenant.

- A. If, during the period for which a landlord is required to give security pursuant to § 5, a substantiated complaint is recorded against the property in question, the governing body or its designee may institute proceedings against the landlord for the forfeiture or partial forfeiture of the security, for an extension of the period for which such security is required, or for an increase in the amount of security required, or for any or all of those purposes.

- B. Any forfeiture or partial forfeiture of security shall be determined by the Hearing Officer solely in accordance with the amount deemed necessary to provide for the compensatory purposes set forth in § 5. Any decision by the Hearing Officer to increase the amount or extend the period of the required security shall be determined in light of the same factors set forth in § 5 and shall be taken only to the extent that the nature of the substantiated complaint or complaints out of which proceedings arise under this section indicates the appropriateness of such change in order to carry out the purposes of this article effectually. The decision of the Hearing Officer in such circumstances shall be enforceable in the same manner as provided for in § 5.

SECTION 2. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 3. This Ordinance shall take effect after second reading and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Mayor and Council on first reading at a meeting of the Borough Council of the Borough of Island Heights held on the 24th day of March, 2015, and will be considered for second reading and final passage at a regular meeting of the Borough Council to be held on the 14th day of April, 2015 at 7:00 p.m., at the Municipal Building, located at 1 Wanamaker Municipal Complex, Island Heights, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

Ellie Rogalski, RMC/CMC