

## **ORDINANCE 16-2021**

### **AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF ABERDEEN CHAPTER 12- BUILDINGS, CONSTRUCTION AND HOUSING, SECTION 12-9 RENTAL PROPERTIES WITH TWO COMPLAINTS**

**WHEREAS**, the Township of Aberdeen (the "Township") is a densely populated community with a wide variety of commercial and residential properties which are subject to rentals; and

**WHEREAS**, because of proximity of dwellings to each other within the Township; and

**WHEREAS**, the Township and its citizens have experienced disturbances, damage and public expense resulting from carelessly granted and inadequately supervised rentals to irresponsible tenant; and

**WHEREAS**, the Township seeks to preserve the peace and tranquility of the community for its permanent residents, and to maintain the municipality as a viable rental location for all persons and families availing themselves of the facilities in the community; and

**WHEREAS**, the enactment of this section is necessary and desirable to provide a means to curb and discourage those occasional excesses arising from irresponsible rentals; and

**WHEREAS**, the Legislature of the State of New Jersey enacted N.J.S.A. 40:48-2.12(n) et seq. to enable certain communities to take effective action to assure that excesses, when they occur, shall not be repeated, and that landlords offering rentals be held to sufficient standards of responsibility; and

**NOW, THEREFORE, BE IT ORDAINED**, the Mayor and Council of the Township of Aberdeen, Monmouth County, New Jersey, hereby amend and supplement the Code of the Township of Aberdeen Chapter 12 Buildings, Construction and Housing as follows:

#### **Section 12-9.1 Definitions**

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

- a. **Hearing Officer**- Shall mean a licensed attorney of the State of New Jersey appointed by the Mayor, subject to the advice and consent of the Township Council. The hearing officer shall not own or lease any real property within the Township of Aberdeen, nor hold any interest in the assets of or profits arising from the ownership of such property.
- b. **Landlord**- Shall mean the person or persons who own or purport to own any building in which there is rented or offered for rent housing space for living or dwelling under either a written or oral lease, including but not limited to any building subject to the "Hotel and Multiple Dwelling Law," P.L. 1967, c.76 (N.J.S.A. 55:13A-1 et seq.), and owner-occupied two-unit premises.

- c. Substantiated Complaint- Shall mean an act of disorderly, indecent, tumultuous or riotous conduct, including, by way of example but not limited to, simple assault, terroristic threats, harassment, urinating in public, lewdness, criminal mischief, excessive noise, petty disorderly offense, or as a violation of any provision of Title 2C of the New Jersey Statutes or any other municipal ordinance governing disorderly conduct upon or in proximity to any rental premises, and attributed to the acts or incitements of any of the tenants of those premises which have been substantiated by prosecution and conviction and/or guilty plea in any court of competent jurisdiction. For purposes of this definition, the phrase “upon or in proximity to” shall mean anywhere on the property or upon or within the adjacent right-of-way, adjoining roadways, or adjoining properties.

### **Section 12-9.2 Hearing Penalty**

- a. If, in any twenty-four-month period, two complaints, on separate occasions, of disorderly, indecent, tumultuous or riotous conduct, including, by way of example, but not limited to, simple assault, assault, terroristic threats, harassment, lewdness, urinating in public, criminal mischief, excessive noise, a petty disorderly offense, or as a violation of any provision of Title 2C of the New Jersey Statutes or any other 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, have been substantiated by prosecution and conviction in any court of competent jurisdiction, the Township Council or any officer or employee of the Township so designated by the Township Council for this purpose, may institute proceedings to require the landlord of the rental premises to post a bond against the consequences of future incidents of the same character, or of a character actionable under this chapter. For purposes of this definition, the phrase “upon or in proximity to” shall mean anywhere on the property or upon or within the adjacent right-of-way, adjoining roadways, or adjoining properties.
- b. The Township Council or any officer or employee of the municipality designated by the Township Council shall cause to be served upon the landlord, in person or by registered mail, to the address appearing on the tax records of the municipality, notice advising of the institution of such proceedings, together with particulars of the substantiated complaint upon which those proceedings are based, and of the time and place at which the hearing will be held in the matter, which shall be in the Municipal Building, Municipal Court or such other public place as designated by the Township Council, and which shall be no sooner than 30 days from the date upon which the notice is served or mailed.
- c. At the hearing convened pursuant to Subsection **b** above, the hearing officer shall give full hearing to both the complaint of the municipality and to any evidence in contradiction or mitigation that the landlord, if present or represented or offering such evidence, may present. At the conclusion of the hearing, the officer shall determine whether the landlord shall be required to post a bond in accordance with the terms of this ordinance.

- d. 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:
  - i. Damages likely to be caused to public or private property consequent upon disruption of affected residents' rights of fair use and quiet enjoyment of their premises; and
  - ii. Securing the payment of fines and penalties likely to be levied for such offenses; and
  - iii. Compensating the municipality for the costs of repressing and prosecuting such incidents of disorderly behavior; provided, however, no such bond shall be in an amount less than \$500 nor more than \$5,000. The municipality may enforce a bond thus requiring an 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. Any bond or other security deposited in compliance with Subsection d3 above shall remain in force for a period of four years. Upon the lapse of the four-year period, the landlord shall be entitled to the discharge of the bond, unless prior thereto further proceedings leading to a forfeiture or partial forfeiture of the bond or other security shall have been had under Subsection **12-9.3** below, in which case the security shall be renewed in an amount and for a period that shall be specified by the hearing officer. A transfer of ownership or control of the property shall not void a requirement of security imposed under this section. The person or persons to whom ownership or control is transferred shall maintain that security, and shall be subject to injunctive proceedings as authorized by Subsection **d** above in the same manner as the landlord upon which the requirement was originally imposed; provided however, the Township Council may by Resolution shorten the period for which security is required to not less than one year from the date of the transfer of ownership or control, if during that year no substantiated complaints are recorded with respect to the property in question.

### **Section 12-9.3 Bond Forfeiture, Extension**

- a. If during the period for which a landlord is required to give security pursuant to Subsection **12-9.2** above, a substantiated complaint is recorded against the property in question, the Township Council or its designee may institute proceedings against the landlord for the forfeiture or partial forfeiture of the security, for an extension as provided in Subsection **12-9.2e** above, of the period for which the security is required, or for 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 Subsection **12-9.2d** above. 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 Subsection **12-9.2d** above, and shall be taken only to the extent that the nature of the substantiated complaint or complaints out of which proceedings arise under this action indicated the appropriateness of such change in order to effectually carry out the purposes of this ordinance. The decision of the hearing officer in such circumstances shall be enforceable in the same manner as provided in Subsection **12-9.2d** above.

#### **Section 12-9.4 Hearing Officer, Qualifications**

The hearing officer shall be a person or persons appointed by the Mayor, subject to the advice and consent of the Township Council. A hearing officer shall not own or lease any real property within the Township of Aberdeen, nor hold any interest in the assets of or profits arising from the ownership or lease of such property.

#### **Section 12-9.5 Notice of Bond**

If a landlord has been required to post an Animal House Bond during an existing tenancy, the property owner shall provide tenant a certification on a form furnished by the Code Enforcement Officer in which the property owner acknowledges that he or she has:

- a. Obtained, and attaches the original copies of a certification completed by each of the persons who will be tenants of the dwelling unit advising of that are aware of the existence of an Animal House Bond, and potential consequences thereof; the affidavit shall contain substantially the following language, provided however, that this Subsection shall apply only if the current or prior owner of a property that is the subject of Rental License has been required to post a bond in accordance with section **12-9** et seq., commonly referred to as an "Animal House Bond" and that said bond shall continue to be in effect:

#### **READ THIS IMPORTANT "ANIMAL HOUSE" NOTICE**

I HEREBY ACKNOWLEDGE that I have been notified by the Landlord that this rental property has been found to fall within the Township of Aberdeen "Animal House" Ordinance, § **12-9**, by an Administrative Hearing Officer on \_\_\_\_\_.

I understand that because of this Decision and Order in the event any further "substantiated complaints" as defined in the Ordinance, occur on the rental property, the Township of Aberdeen may take affirmative action to repress further violations of the Township's quality of life ordinances, which actions may include posting a Police or Sheriff's Officer at the rental premises for such duration of rental term as the Township shall determine to be necessary.

I further understand that in the event the Township takes such action, the Township will bring proceedings against the Landlord to hold the Landlord liable for any and all expenses and costs incurred by the Township. Such money damages may include the salaries paid to all Police or Sheriff's Officers who may be posted at the premises, which costs may exceed \$1,000 per weekend.

I acknowledge that I have hereby been advised that under the terms of my lease, my Landlord may be entitled to recover from me the money damages he is required to pay to the Township. I

acknowledge that I have been advised to read the terms of my lease carefully, and if necessary to consult an attorney, so that I may fully understand my potential liability.

I certify, swear and affirm, under oath, that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

If a property owner has been required to post an Animal House Bond during an existing tenancy, the property owner shall forward the aforementioned certification in lieu of an affidavit to each tenant within five business days from the date of the Administrative Hearing Officer's Decision and Order and obtain executed copies of the same and submit the landlord's certification in lieu of an affidavit to the Township within 10 business days of the Hearing Officer's Decision or provide proof that he has taken reasonable steps to obtain the same from his tenants and has been unable to do so.

#### **Section 12-9.6 Revocation or Suspension of Rental Registration**

- a. Any Registration granted or issued pursuant to §12-2.5 et seq. may be suspended or revoked as provided herein after notice and hearing for any of the following causes:
  - i. In the event any tenant or occupant of any individual living unit upon the registered premises is charged with a violation of a Township ordinance, notice of the pending charge will be given by mail to the registered party and the person designated to receive notices on the behalf of the registered party. In the event two such complaints are issued during one registered year and result in convictions and/or guilty pleas in Municipal Court, then such convictions and/or guilty pleas may be grounds for suspension or revocation of the registration. In the event the owner of the licensed premises is the complaining party and said complaint results in a conviction in municipal court, such conviction shall not be counted as a complaint for purposes of registration suspension or revocation.

#### **ROLL CALL VOTE:**

Ayes: Councilmember Cannon, Kelley, Montone, Swindle, Deputy Mayor Martucci and Mayor Tagliarini

Nays: None

Abstain: None

Absent: Councilman Hirsch

I hereby certify the foregoing to be a true copy  
of an ordinance adopted by the Township  
Council of the Township of Aberdeen at  
a regular council meeting held on December 2, 2021

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*Melissa Pfeifer*

Melissa Pfeifer, Municipal Clerk