

ORDINANCE NO. 2019-18

AN ORDINANCE OF THE TOWNSHIP OF LACEY, COUNTY OF OCEAN, STATE OF NEW JERSEY, CREATING CHAPTER 278 OF THE TOWNSHIP CODE OF THE TOWNSHIP OF LACEY, WHICH SHALL BE ENTITLED "RENTAL REGULATIONS"

WHEREAS, the Township Council seeks to preserve the peace and tranquility of the community for its residents, and to maintain the Township as a desirable destination for all persons and families, therefore this chapter is necessary to curb and discourage those occasional excesses arising from irresponsible rentals; and

WHEREAS, the Legislature adopted N.J.S.A. 40:48-2.12n *et seq.* to authorize municipalities to take action to assure that excesses, when they occur, shall not be repeated and that landlords be held to sufficient standards of responsibility.

NOW, THEREFORE, BE IT ORDAINED, by the governing body of the Township of Lacey, County of Ocean, State of New Jersey, as follows:

SECTION 1. The Township Code of the Township of Lacey is hereby amended and supplemented so as to create Chapter 278, which shall be entitled "Rental Regulations," so as to create Article I which shall be entitled "Bonding Requirements for Repeated Improper Conduct," and which shall read as follows:

§278-1 Purpose

For the purpose of this article, the following meanings shall apply:

HEARING OFFICER A person designated by the Township Council to hear and determine proceedings under this Chapter. The Hearing Officer shall be a licensed attorney in the State of New Jersey. The Hearing Officer may not own or lease any real property within the Township, 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 any 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 CONVICTION 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, or excessive noise, upon or in proximity to any rental premises, and attributable to the acts or incitements of any of the tenants of those premises which have been substantiated by prosecution and conviction in any court of competent jurisdiction.

§278-2 Complaints, notice, hearing, penalty

A. If, in any twenty-four month period, two substantiated convictions 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 or any municipal ordinance governing disorderly conduct, the municipal governing body or its designee may institute proceedings to require the landlord of those premises to post a bond against the consequence of future incidents of the same character.

B. Notice of conduct and hearing:

1. In the event that a tenant is convicted of a violation of any provision of Title 2C or any municipal ordinance governing disorderly conduct, the governing body or its designee shall cause a notice to be served on the landlord in person or by registered mail at the address appearing on the tax records of the Township, advising that the specified conduct has occurred.

2. The governing body its designee 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 convictions 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.

C. Hearing:

1. At the hearing pursuant to subsection B. of this section, the hearing officer shall give a full hearing to both the complaint of the municipality and to any evidence in contradiction or mitigation that the landlord, if present or represented and offering such evidence, may present.

2. 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.

3. 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 the 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 convictions 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 Township for the costs of repressing and prosecuting such incidents of disorderly behavior; but no such bond shall be in an amount less than \$500 or more than \$5,000.

E. The Township 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.

F. A bond or other security deposited in compliance with subsection d. of this section shall remain in force for 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 278-3, in which case the security shall be renewed, in an amount and for a period that shall be specified by the hearing officer.

§278-3 Proceedings against landlord for forfeiture of security

A. If during the period for which a landlord is required to give security a substantiated conviction 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 time period required for the posting of the security, or for an increase in the amount of security required.

- B. Any forfeiture or partial forfeiture shall be determined by the hearing officer solely in accordance with the amount deemed necessary to provide for the compensatory purpose set forth in §278-2D.
- C. 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 as set forth in §278-2C and shall be taken only to the extent that the nature of the substantiated conviction or convictions out of which the proceedings arise under this section indicates the appropriateness of such change in order to carry out the purposes of this act effectually.
- D. The decision of the hearing officer in such circumstances shall be enforceable in the same manner as provided for in §278-2E.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. 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 4. 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 Township Committee on first reading at a meeting of the Township Committee of the Township of Lacey held on the 26th day of September, 2019, and will be considered for second reading and final passage at a regular meeting of the Township Committee to be held on the 10th day of October, 2019, at 7:00 p.m., at the Municipal Building located on Lacey Road in Forked River, 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.

VERONICA LAUREIGH, CMC, AAE
Township Clerk, Township of Lacey