

ORDINANCE 2010- 16

AN ORDINANCE REQUIRING RENTAL LICENSES AND ESTABLISHING PROCEDURES TO REQUIRE AN OWNER OF RENTAL PROPERTY, WHICH HAS BECOME THE SOURCE OF AT LEAST TWO (2) SUBSTANTIATED COMPLAINTS, TO POST A BOND OR EQUIVALENT SECURITY TO COMPENSATE FOR ANY FUTURE DAMAGE OR EXPENSE SUFFERED FROM FUTURE REPETITION OF DISORDERLY, INDECENT, TUMULTUOUS OR RIOTOUS CONDUCT.

WHEREAS, the Borough Council of the Borough of Allenhurst has determined that it is in the best interests of the community to require anyone intending to lease or rent out residential space in the Borough to obtain a License for said rental in addition to the existing requirement for the issuance of a Certificate of Occupancy, and

WHEREAS, The Borough Council also finds, determines and declares that:

- a. Allenhurst and the residents thereof, have experienced disturbances, damage and public expense resulting from carelessly granted and inadequately supervised rentals to irresponsible tenants by inept or indifferent landlords.
- b. To preserve the peace and tranquility of those communities, it is necessary and desirable that those communities have adequate means to curb and discourage those occasional excesses arising from irresponsible rentals.
- c. Accordingly, the legislature of the State of New Jersey enacted N.J.S.A. 40:48-2.12(n) et. seq. to enable municipal governing bodies to take effective 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 Borough of Allenhurst, County of Monmouth, State of New Jersey, that the Borough of Allenhurst Revised General Ordinances are hereby amended and supplemented as follows:

CHAPTER IX

BUILDING AND HOUSING

9-4 RENTAL LICENSES

9-4.1 Applications for Rental Licenses shall be made in writing, on forms prescribed by the Code

Official and signed by the owner of the premises or the owner=s authorized agent. The Code Official may require proof of agency. Applications for Rental Licenses shall not be deemed complete by the Code Official unless the applicant:

a. Fully completes the form required by the Code Official for such applications, which shall include at a minimum, the following information:

i. The street address and the tax map lot and block numbers of the premises.

ii. The names, mailing addresses and telephone numbers of all owners of the premises.

iii. The name, mailing address and daytime telephone number of the person signing the application.

b. Submits the appropriate inspection fee prescribed by Section 9-3.3, subsection 307.3.

c. Provides proof of payment of property taxes, assessments against the property, municipal water charges, municipal sewer charges and any other municipal charges or assessment pursuant to N.J.S.A. '40:52-1.2.

d. Provides a certification in lieu of an affidavit, on a form to be furnished by the Code Enforcement Officer, in which the property owner acknowledges that he or she has:

i. Retained a fully executed copy of any lease agreement executed by all adult persons who will be tenants of the dwelling unit; provided, however, that this paragraph shall not be construed to require the property owner to enter into a written lease agreement;

ii. Determined that each adult tenant maintains a permanent residence elsewhere, and obtained the full address thereof; and

iii. Obtained a true and correct copy of the driver=s license or, if not applicable, alternative proof of identification, for each adult tenant; and

iv. Has obtained, and attaches the original copies to the certification in lieu of an affidavit of the property owner required by this section, a certification in lieu of an affidavit completed by each of the persons who will be tenants of the dwelling unit stating that they have read and understand the regulations governing Rental Licenses, set forth in 9.5 hereof, which regulations shall be

summarized on the affidavit, and which shall further require each prospective occupant to acknowledge that he or she is aware of the total occupancy limits applicable to the licensed premises. In addition, the affidavit shall contain substantially the following language:

READ THIS IMPORTANT NOTICE

I HEREBY ACKNOWLEDGE that the maximum permitted occupancy of this rental is ____ persons. I understand that occupancy by a number of persons greater than this maximum limit is a violation of Borough ordinance and shall result in the issuing of a summons which carries a fine for a first time offense of not less than \$265.00 to each tenant of the dwelling unit at the time the occupancy limit is exceeded.

I further understand that rental occupancy limits are strictly enforced, and that they apply to all occupants of rentals regardless of whether they are tenants or guests.

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.

X_____

Notice: If anyone has misrepresented the maximum permitted occupancy of this rental to you, you may have a claim against them under the New Jersey Consumer Fraud Act, N.J.S.A. 56:12-1, et. seq. Consult a lawyer, or contact the Allenhurst Code Official at (732) 531-2757.

v. Has obtained, and attached the original copies to the certification in lieu of an affidavit of the property owner required by this section, a certification in lieu of an affidavit completed by each of the persons who will be tenants of the dwelling unit advising of that they 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 (v) shall apply only if the current or prior owner of a property that is the subject of a Rental License has been required to post a bond in accordance with Section 9-5 et. seq., commonly referred to as an Animal House Bond, and the said bond continues 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

Borough of Allenhurst ~~A~~Animal House@ Ordinance, Section 9-5 et seq., by an Administrative Hearing Officer on _____.

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

I further understand that in the event the Borough of Allenhurst takes such action, the Borough will bring proceedings against the Landlord to hold the Landlord liable for any and all expenses and costs incurred by the Borough of Allenhurst. 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 \$1,000.00 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 Borough. 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.

X_____

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 (5) business days from the date of the Administrative Hearing Officer=s Decision and Order and obtained executed copies of the same and submit the landlord=s certification in lieu of an affidavit to the Borough within ten (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.

e. Provides in connection with the first application for a Rental License a floor plan of the dwelling unit proposed to be licensed, in a form satisfactory to the Code Official, accurately depicting the locations of the bedrooms, kitchen, bathrooms and other

rooms in the dwelling unit, and all routes of ingress and egress; provided, however, that nothing contained herein shall be construed to require that the floor plan be prepared by an architect or other licensed professional.

The property owner shall be required to maintain in his possession and control the documents and information described in paragraph 9-4.1 (d) above during all times that the tenants, or any of them, are in possession of the dwelling unit and for at least one (1) year following the termination or expiration of the license issued in connection therewith; provided, however, that the property owner shall not be required to produce these documents or information to any official or employee of the Borough of Allenhurst, except pursuant to and in accordance with Section 9-5 et seq. of the Revised General Ordinances of the Borough of Allenhurst. All information and documentation required to be provided pursuant to this section shall be deemed material. Any person who knowingly misstates any fact therein shall be subject to criminal prosecution. Any Rental License that is issued on the basis of false information or documentation shall be subject to revocation.

9-4.2 Occupancy Limitations Applicable to Rental Licensed Dwelling Units.

- a. Each Rental License shall state thereon the maximum permitted occupancy of the dwelling unit as calculated by the Code official pursuant to and in accordance with the Uniform Construction Code.
- b. Each Rental License shall contain the following warning in bold-faced type:

WARNING: OCCUPANCY LIMITATION

The maximum permitted occupancy of this rental licensed dwelling unit is _____ adults. This occupancy limitation will be strictly enforced. No warnings will be given.

Each tenant of the dwelling unit at the time of the violation of this occupancy limitation shall be issued a summons for overcrowding which carries a fine of \$265.00 each for the first violation of this occupancy limitation. Successive violation may result in higher fines, and/or may result in the revocation of the Rental License.

NOTICE: If anyone has misrepresented the maximum permitted occupancy of this dwelling unit to you, you may have a claim against them under the New Jersey Consumer Fraud Act, N.J.S.A. 56:12-1, et. seq. Consult a lawyer, or contact the Allenhurst Code Official at (732) 531-2757.

9-4.3 NOTICE OF POSTING OF BOND UNDER SECTION 9-5.

a. If the property owner(s) has been required to post a bond in accordance with Section 9-5 et. seq., commonly referred to as an ~~A~~Animal House Bond,~~@~~ and at all times in which said bond is in effect each Rental License shall contain the following warning in bold-faced type:

WARNING: PROPERTY SUBJECT TO AN ANIMAL HOUSE BOND

This rental property has been found to fall within the Borough of Allenhurst ~~A~~Animal House~~@~~ Ordinance, Section 9-5, by an Administrative Hearing Officer on _____.

Because of this Decision and Oder any further ~~A~~substantiated complaints~~@~~ as defined in the Ordinance, may result in the Landlord being held liable for money damages owed to the Borough of Allenhurst. Such money damages may include the salaries paid to Police Officers who may be posted at these premises to repress future violation of the ~~A~~Animal House~~@~~ Ordinance.

Under the terms of your lease, your Landlord may be entitled to recover from you these money damages required to be paid to the Borough. You need to read your lease terms to know your potential liability.

b. If a property owner has been required to post an Animal House Bond during an existing tenancy, the Rental License shall be amended to include the above warning and posted within five (5) business days from the date of the Administrative Hearing Officer=s Decision and Order.

9-5 PROCEDURES TO REQUIRE AN OWNER OF RENTAL PROPERTY WHICH HAS BECOME SOURCE OF AT LEAST TWO (2) SUBSTANTIATED COMPLAINTS TO POST A BOND OR EQUIVALENT SECURITY TO COMPENSATE FOR ANY FUTURE DAMAGE OR EXPENSE SUFFERED FROM FUTURE REPETITION OF DISORDERLY, INDECENT, TUMULTUOUS OR RIOTOUS CONDUCT.

9-5.1 Definitions.

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

a. *Hearing Officer* means a person designated pursuant to N.J.S.A. 40:48-2.12p to hear

and determine proceedings under N.J.S.A. 40:48-2.12n et. seq.

b. *Landlord* means 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 (4) dwelling units. In the case of a mobile home park, *Alandlord@* shall mean the owner of an individual dwelling unit within the mobile home park.

c. *Substantiated complaint* means a complaint which may form the basis for proceedings in accordance with subsection 9-5.2 a hereof.

9-5.2 Hearing, Penalty.

a. If, in any twelve (12) month period, two (2) 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, or excessive noise, upon or in proximity to any seasonal 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 Borough Council or any officer or employee of the Borough so designated by the Borough 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.

b.(1) In the event a tenant is convicted of any of the conduct described in section 9-5.2a above, the governing body, or the officer or employee designated pursuant to 9-5.2a, 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 of Allenhurst.

(2) The governing body or person designated pursuant to section 9-5.2a above 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 of Allenhurst, 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 notice is served or mailed.

c. At the hearing convened pursuant to paragraph 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 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 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 five hundred (\$500.00) dollars nor more than five thousand (\$5,000.00) dollars. 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. A bond or other security deposited in compliance with subsection d. above shall remain in force for a period specified pursuant to the ordinance, which shall be not less than two or 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 section 9-5.3 of this ordinance, in which case the security shall be renewed, in an amount and for a period that shall be specified by the hearing officer.

9-5.3 Bond Forfeiture, Extension.

a. If during the period for which a landlord is required to give security pursuant to

section 9-5.2d above, a substantiated complaint is recorded against the property in question, the Borough 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 section 9-5.2e 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 section 9-5.2d. 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 section 9-5.2d 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 section 9-5.2d above.

9-5.4 Hearing Officer, Qualifications.

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

9-5.5 Notice of Bond.

If a landlord has been required to post an Animal House Bond during an existing tenancy, the property owner shall obtain the notice required under section 9-4.3 and shall arrange access to the rental unit(s) on the property for the Borough to post the amended Rental License per section 9-4.3.

APPROVED: September 14, 2010