Ordinance

Ordinance No. 70 OF THE Date..09-09-2015
CITY OF ATLANTIC CITY, N.J. Date to Mayor.....

Approved as to Form and Legality on Basis of Facts Set Forth Factual contents certified to by

Legislative Counsel Robert L. Tarver, Esq. Business Administrator /s/ Arch Liston

Prepared by the Legislative Counsel

Council Members GILLIAM & RANDOLPH Present the following Ordinance:

AN ORDINANCE ESTABLISHING PROCEDURES TO SANCTION OWNERS OF RENTAL PROPERTIES WHICH HAVE SUBSTANTIATED BEHAVIOR COMPLAINTS BY REQUIRING THE POSTING A SECURITY BOND.

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 seasonal rentals be held to sufficient standards of responsibility ; and

WHEREAS, the City of Atlantic City borders the Atlantic Ocean and is a shore area in Atlantic County which is a county of the sixth class and, as a result, the City of Atlantic City is authorized to avail itself of the provisions of N.J.S.A. 40: 48-2.12(n) *et. seq.*; and

WHEREAS, the City of Atlantic City and its citizens have experienced disturbances, damage and public expense resulting from carelessly granted and inadequately supervised seasonal rentals to irresponsible vacationers by inept or indifferent landlords; and

WHEREAS, this Ordinance is enacted to preserve the peace and tranquility of the community for its permanent residents, and to maintain the municipality as a viable vacation resort for all persons and families availing themselves of the facilities in the community; and

WHEREAS, the enactment of this Ordinance is necessary and desirable to provide a means to curb and discourage those occasional excesses arising from irresponsible seasonal rentals.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Atlantic City as follows:

Section One. Definitions. For the purpose of this Ordinance, the following meanings shall apply:

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 City Council. The hearing officer shall not own or lease any real property within the City of Atlantic City, nor hold any interest in the assets of or profits arising from the ownership of such property.

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, c76 (N.J.S.A. 55:13A-1 et seq.), and owner-occupied premises.

Seasonal rental shall mean any rental of residential accommodations for a term of less than one (1) year and including any part of the period extending from May 15 to September 15.

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, 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 which have been substantiated by prosecution and conviction in any court of competent jurisdiction.

Section Two. Hearing; Penalty.

a. If, in any twelve (12) month period, two (2) complaints, as defined in Section One hereof, 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 of incitements of any of the tenants of those premises, have been substantiated by prosecution and conviction in any court of competent jurisdiction, the City of Atlantic City, may institute proceedings to require the landlord of the seasonal rental premises to post a bond against the consequences of future incidents of the same character.

b. In the event a tenant is convicted of any of the conduct described in subsection a. of this section, the City of Atlantic City, 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 City of Atlantic City.

c. The City of Atlantic City shall cause to be served upon the landlord, in person or by registered mail or by certified mail, return receipt requested, to the address appearing on the tax records of the City of Atlantic City, 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 City of Atlantic City, and which shall be no sooner than thirty (30) days from the date upon which the notice is served or mailed.

d. 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 officer shall determine whether the landlord shall be required to post a bond in accordance with the terms of this Ordinance.

e. Any bond required to be posted shall be in accordance with the judgment of the hearing officer, in the 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 or the disruption of affected residents' rights of fair use and quiet enjoyment of their premises; and

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; provided, however, no such bond shall be in amount less than five hundred ($500.00) 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.

f. Any bond or other security deposited in compliance with paragraph e3 above shall remain in force for a period of four (4) years. Upon the lapse of the four (4) 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 Section Three 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 the 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 paragraph e. above in the same manner as the landlord upon which the requirement was originally imposed; provided however, the City Council may by Resolution shorten the period for which security is required to not less than one (1) 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 Three. Bond Forfeiture; Extension.

a. If, during the period for which a landlord is required to give security pursuant to Section Two above, a substantiated complaint is recorded against the property in question, the City of Atlantic City may institute proceedings against the landlord for the forfeiture or partial forfeiture of the security, for an extension as provided in subsection Section Two, paragraph e. above, of the period for which the security is required, or for increase in the amount of security required, 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 Section Two. Paragraph e above. Any decision by the hearing officer to increase the amount or extend the period of the required security shall be determined in the light of the same factors set forth in Section Twp, paragraph e. 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 Two, paragraph e above.

Section Four. Hearing Officer; Qualifications. The hearing officer shall be a licensed New Jersey attorney or Municipal Judge appointed by the City of Atlantic City. A hearing officer shall not own or lease any real property within the City of Atlantic City, nor hold any interest in the assets of or profits arising from the ownership or lease of such property.

Section Five. If any portion of this Ordinance is determined to be invalid by a court of competent jurisdiction, that determination shall have no effect upon the remainder of this Ordinance, which shall remain valid and operable.

Section Six. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same hereby are repealed; however, nothing in this Ordinance shall be interpreted as repealing those Ordinances, or portions thereof, that have been codified at of the Code of the City of Atlantic City.

Section Seven. This Ordinance shall take effect immediately upon final passage and publication as provided by law.

ADJOURNED INDEFINITELY 09-23-2015

September 24, 2015 11:00 AM 15-D

DO NOT USE SPACE BELOW THIS LINE

RECORD OF COUNCIL VOTE ON FINAL PASSAGE

COUNCIL MEMBER	AYE	NAY	N.V	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
DELGADO							MOORE						
MALIK							RANDOLPH						
MANCUSO							SMALL						
MARSH							TIBBITT						
							GILLIAM, PRESIDENT						

X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second

Adopted on first reading at a meeting of the Council of the City of Atlantic City, N.J. on .....SEPTEMBER 09, 2015....

Adopted on second and final reading after hearing on.....

Reconsidered Over

Approved By.../s/.....Date.....By Council.....Ride _____ _____

Mayor Aye Nay

This is a Certified True copy of the Original Ordinance on file in the City Clerk's Office.

/s/..... Rhonda Williams, City Clerk