

**AN ORDINANCE CREATING CHAPTER 14, SECTION 19 OF THE REVISED
GENERAL ORDINANCES OF WEST ORANGE, ENTITLED
“OWNER RESPONSIBILITY FOR RENTAL PROPERTIES”**

BE IT ORDAINED, by the Township Council of the Township of West Orange (“Township”), in the County of Essex and the State of New Jersey, that there should be created a Chapter 14, Section 19 of the Revised General Ordinances of the Township, which shall provide as follows:

14-19 OWNER RESPONSIBILITY FOR RENTAL PROPERTIES

14-19.1 Purpose

The purpose of this Section is to enable the Township to take effective action to ensure that disorderly conduct, when it occurs on rental properties within the Township, shall not be repeated, and that landlords be held to sufficient standards of responsibility in order to preserve peace health, and safety within the Township.

14-19.2 Definitions

As used in this section:

Hearing Officer shall mean a licensed attorney designated pursuant to Subsection 14-19.5 of this Section to hear and determine proceedings under Subsection 14-19.6 of this Section.

Landlord shall mean 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.

Public Official shall mean a person designated to institute proceedings on behalf of the Township to require any landlord to post a bond with the Township pursuant to this Section.

Substantiated complaint shall mean a complaint which may form the basis for proceedings in accordance with Subsection 14-19.6 of this Section.

14-19.3 Complaints

If, in any twenty-four-month period, two or more 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 provision of the Revised General Ordinances of the Township governing disorderly conduct, the Public Official may institute proceedings to require the landlord of those premises to post a bond against the consequences of future incidents of the same character.

14-19.4 Notice Requirements

- a. In the event a tenant is convicted of any of the conduct described in Subsection 14-19.3a, the Public Official 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 Township.

- b. The Public Official shall cause to be served upon the landlord, in person or by registered mail to the address appearing on the tax records of the Township, notice advising of the institution of proceedings under this Section, together with the 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 Township, and which shall be no sooner than 30 days from the date upon which the notice is served or mailed.

14-19.5 Designation of Hearing Officer

The Hearing Officer shall be a licensed attorney appointed by the Mayor. A Hearing Officer shall 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.

14-19.6 Hearing

At the hearing convened pursuant to this Section, the Hearing Officer shall give full hearing to both the complaint of the Township 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 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 Subsection 14-19.6 of this Section.

14-19.7 Bond

- a. Any bond required to be posted pursuant to this Section 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 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. The Township may enforce the bond thus required by action in the Superior Court of New Jersey 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 Township.
- b. A bond or other security deposited in compliance with Subsection 14-19.6a of this Section shall remain in force and on deposit with the Township for a period of four (4) years. Upon expiration of the four-year period, the landlord shall be entitled to the discharge thereof, unless prior thereto further proceedings leading to a forfeiture of the bond or other security shall have occurred, in which case the security shall be renewed, in an amount

and for a period that shall be specified by the Hearing Officer.

14-19.8 Forfeiture or Increase of Bond

- a. If, during the period for which a landlord is required to give security pursuant to Subsection 14-19.7 of this Section, a substantiated complaint is recorded against the property in question, the Public Official may institute proceedings against the landlord for the forfeiture or partial forfeiture of the security, for an extension as provided in Subsection 14-19.7b of this Section, 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 Subsection 14-19.7a of this Section. Any decision of 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 14-19.7a of this Section, and shall be taken only to the extent that the nature of the substantiated complaint or complaints out of which the proceedings arise indicate the appropriateness of such change in order to carry out the purposes of this Section effectually. The decision of the Hearing Officer in such circumstances shall be enforceable in the same manner as provided in Subsection 14-19.7a of this Section.
- c. A landlord may recover from a tenant any amounts of security actually forfeited as described in Subsection 14-19.7 of this Section.

Susan McCartney , Council President

Robert D. Parisi , Mayor

Approved as to form on the basis of the facts provided:

Karen J. Carnevale, Municipal Clerk

Introduced : October 1 , 2013

Adopted: October 29, 2013

LEGISLATIVE HISTORY

Authority for this proposed legislation is derived from N.J.S.A. 40:48-2.12n through N.J.S.A. 40:48-2.12r (the “Authorizing Statute”), which was enacted in response to the State Legislature’s concerns regarding “disturbances, damages and public expense resulting from carelessly granted and inadequately supervised rentals to irresponsible tenants by inept or indifferent landlords.” N.J.S.A. 40:48-2.12n(a). The Authorizing Statute was amended in 2009 such that it is now applicable to “any municipality” in the State. N.J.S.A. 40:48-2.12p(a).

The proposed legislation, which is modeled closely upon the Authorizing Statute as well as similar ordinances adopted in various municipalities, serves several important functions. First and foremost, in circumstances in which any particular rental property within the Township gives rise to repeated disorderly incidents, the proposed legislation will shift the cost of repressing and prosecuting such incidents from the Township to the owner of the offending rental property. Moreover, by requiring landlords to post bonds to cover such enforcement costs in appropriate circumstances, the proposed legislation will incentivize landlords within the Township to take affirmative measures to ensure that the tenants residing in their rental properties are not interfering with the peace, health, and safety of the Township. Finally, by providing for a neutral and uninterested Hearing Officer to adjudicate the proceedings authorized by this proposed legislation, and by ensuring that any security posted by a landlord shall be returned in the event that there are no further problems arising from the landlord’s rental property, the proposed legislation creates a system that is both fair and remedial.