

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

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ADOPTED

ORDINANCE 2013-15

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**An Ordinance Amending the Revised Ordinances of the
Borough of Flemington, Chapter Ixb Property Maintenance
Code, Requiring Certain Landlords to Post Adequate Security
Against the Consequences of Disorderly Behavior of Their
Tenants**

BOROUGH OF FLEMINGTON
COUNTY OF HUNTERDON

**AN ORDINANCE AMENDING THE REVISED ORDINANCES OF THE BOROUGH OF
FLEMINGTON, CHAPTER IXB PROPERTY MAINTENANCE CODE, REQUIRING
CERTAIN LANDLORDS TO POST ADEQUATE SECURITY AGAINST THE
CONSEQUENCES OF DISORDERLY BEHAVIOR OF THEIR TENANTS**

Section 9-5.1 Purpose

WHEREAS, P.L.1993, c.127, (**S2422**, Good Neighbor Act), was enacted to permit the adoption of Ordinances holding landlords to standards of responsibility in the selection of tenants and supervision of their rental premises, by virtue of this Act such landlords may be required to post adequate bond against the consequences of disorderly behavior of their tenants, and in the case of subsequent violations forfeit such bond, in whole or part, in compensation for the consequences of such behavior.

The purpose of this Article is to enable the Borough of Flemington to take effective action to assure that excesses arising from irresponsible rentals, when they occur, shall not be repeated, and that landlords be held to sufficient standards of responsibility in order to preserve the peace and tranquility of the Borough for all residents.

Section 9-5.2 Definitions

”Hearing Officer” shall mean Flemington Municipal Court judge.

"Landlord" means the person or persons who own or purport to own a building in which there is rented or offered to rent housing space for living or dwelling under either a written or oral lease which building contains no more than four dwelling units. In the case of a mobile home, "landlord" shall mean the owner of an individual dwelling within the mobile home park.

"Substantiated complaint" means a complaint which may form the basis for proceedings in accordance with section 9-5.3.

"Housing Enforcement Officer" shall mean the person authorized by this section to issue notice of violations or summons to enforce compliance with this chapter and to investigate and/or inspect complaints and possible unsafe conditions and includes the rental housing officer, zoning official, fire official, construction code official, and any police officer of the Borough of Flemington.

"Occupant" shall mean any person, including a minor, who resides or intends to reside in a dwelling unit.

"Tenant" shall mean any person, including a minor, who resides in a dwelling unit on a continuous basis for more than 30 days.

"rental premises" shall mean the entire property owned by the Landlord on which the rental unit in which the Tenant resides is located, inclusive of all buildings , and rental units , and open and other areas on the property.]

Section 9-5.3

- a. If in any twenty-four-month period **a specified number, which shall not be less than two, of , there are two** 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 municipal ordinance governing disorderly conduct, the municipal governing body **or any officer [, Housing Enforcement Officer]** or employee of the municipality designated by the governing body for the purpose, **including but not limited to the Housing Enforcement Officer**, may institute proceedings to require the landlord of those premises to post a bond against the consequences of future incidents of the same character. **Each two additional such complaints in any subsequent twenty-four month periods shall be a separate basis under this ordinance to institute proceedings to require the landlord to post a bond.**
- b. (1) In the event a tenant is convicted of any of the conduct described in subsection a. of this section, the governing body, **or any officer [, Housing Enforcement Officer]** or employee designated pursuant to subsection a. of this section, 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 municipality.

- (2) The governing body or person designated pursuant to subsection a. of this section 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 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 the notice is served or mailed.
- c. At the hearing convened pursuant to subsection b. of this section, 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 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 a 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 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 (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 municipality 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 municipality 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.
- e. A bond or other security deposited in compliance with subsection d. of this section shall remain in force for a period of three years. Upon the lapse of the three year 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, in which case the security shall be renewed, in an amount and for a period that shall be specified by the **Hearing Officer**.