



Legislation Text

File #: 12-2129, Version: 1

AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE XVIII, HOUSING CODE, CHAPTER 7, OTHER HOUSING REGULATIONS, AND CHAPTER 12, MAINTENANCE CODE OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK BY INCREASING AND SUPPLEMENTING THE PENALTIES FOR FAILURE TO COMPLY WITH CERTAIN ORDINANCES.

Sponsor: Councilman Ras J. Baraka

WHEREAS, the Municipal Council of the City of Newark finds and declares that it is in the interest of the public good to encourage property owners to be more diligent and expeditious in adhering to the law, designates that those ordinances that are now punishable only by a lien will now also incur a monetary fine, and or imprisonment, and or a period of community service; and

WHEREAS, P.L. 1962, c. 66, §1. (N.J.S.A. 40:48-2.12a) grants to municipalities the statutory authority to make, amend, repeal and enforce ordinances to regulate buildings and structures and their use and occupancy. Such ordinances enable the prevention and abatement of any condition that may be harmful to the health and safety of the occupants of said buildings and structures and the general public in the municipality; and

WHEREAS, P.L. 1962, c 66, §5. (N.J.S.A. 40:48-2.12e) grants to municipalities the statutory authority to collect fines and penalties for violation of any ordinance adopted pursuant thereto; moreover, the fines and penalties thereby assessed are collectible; and

WHEREAS, N.J.S.A. 40:49-5, in part, governs the prescribed penalties for violations of ordinances, as follows:

“The governing body may prescribe penalties for the violation of ordinances it may have authority to pass, by one or more of the following: imprisonment in the county jail or in any place provided by the municipality for the detention of prisoners, for any term not exceeding 90 days; or by a fine not exceeding \$2,000; or by a period of community service not exceeding 90 days...”

“The governing body may prescribe that for the violation of any particular ordinance at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100...”

“Any person who is convicted of violating an ordinance within one year of the date of a previous violation of the same ordinance and who was fined for the previous violation shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the

ordinance..."

"Any person convicted of the violation of any ordinance may, in the discretion of the court by which he was convicted, and in default of the payment of any fine imposed therefore, be imprisoned in the county jail or place of detention provided by the municipality, for any term not exceeding 90 days, or be required to perform community service for a period not exceeding 90 days..."

WHEREAS, N.J.S.A. 40:49-5, further provides that the court can impose any fine, term of imprisonment or period of community service not less than the minimum and not exceeding the maximum fixed in such ordinance; and

WHEREAS, the Municipal Council finds and declares the following amendments to the Revised General Ordinances of the City of Newark are deemed necessary for the preservation of the public peace, health, and or safety within the City of Newark.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

Deletions are indicated by ~~strike through~~

Additions are indicated by underline

SECTION 1. Title XVIII, HOUSING CODE, Chapter 7, Other Housing Regulations of the Revised General Ordinances of the City of Newark, New Jersey is amended and supplemented to read as follows:

18:7-1.19 Penalties.

a. Any person who shall violate any provision of this chapter or of any rule or regulation promulgated by the Director pursuant to the authority granted by this chapter and as approved by the Council, shall upon a conviction be punished by a fine of not less than one hundred dollars (\$100.00) and not more than two thousand dollars (\$2,000.00) for each such provision violated. Each day's failure to comply with any such provision shall constitute a separate offense. Additionally, the court may impose imprisonment in the county jail or in any place provided by the municipality for the detention of prisoners, for a term of ninety (90) days or a period of community service not exceeding ninety (90) days.

b. The court may cause a defendant who, in default, refuses or neglects to pay the amount of the fine imposed against him/her and all costs and charges incident thereto to be committed to the Essex County jail or in an place provided by the municipality for the detention of prisoners, for a minimum period of (2) two days but not exceed ninety (90) days.

c. In case a defendant shall have been convicted within one year of the date of a previous violation of this chapter and due proof of such fact is made, the court may, in addition to the imposition of the penalty prescribed by paragraph a. above, order the defendant to pay an additional fine as a repeat offender. The additional fine shall not be less than the minimum or exceed the maximum fine set by this ordinance for such violation.

d. Where the defendant is other than a natural person or persons, paragraphs a., b., and c. of this subsection shall apply to any agent, officer, member or partner who shall, alone or with others have charge, care, or control of the premises within the definition of "owner" under this chapter.

SECTION 2. Title XVIII, HOUSING CODE, Chapter 12, Nonresidential Property Maintenance Code of the Revised General Ordinances of the City of Newark, New Jersey, is amended and supplemented to read as follows:

18:12-4.3 Penalty

a. Any person who shall violate any provision of this chapter or of any rule or regulation promulgated by the Director pursuant to authority granted by this chapter and as approved by the Council, shall upon conviction be punished by a fine of not less than one hundred dollars (\$100.00) and not more than one hundred (\$100.00) two thousand (\$2,000.00) dollars for each such provision violated. Each day's failure to comply with any such provision shall constitute a separate offense. Additionally, a court may impose imprisonment in the county jail or in any place provided by the municipality for the detention of prisoners, for a term of ninety (90) days or a period of community service not exceeding ninety (90) days

b. The court may cause a defendant, in default, who refuses or neglects to pay the amount of the fine imposed against him/her and all costs and charges incident thereto to be committed to the Essex County jail for a minimum period of (2) two days but not exceeding ninety (90) days or be required to perform community service for a period not exceeding 90 days.

c. In case a defendant shall have been twice convicted within the space of six (6) months, of the violation of this chapter and due proof of such fact is made, the court may, in addition to the imposition of the penalty prescribed by paragraph a. above, cause the defendant to be imprisoned in the Essex County jail with or without hard labor for any number of days not exceeding one (1) day for each dollar of the penalty.

c. In case a defendant shall have been ~~twice~~ convicted within one year of the date of a previous the space of six (6) months, of the violation of this chapter and due proof of such fact is made, the court may, in addition to the imposition of the penalty prescribed by paragraph a. above, to pay an additional fine as a repeat offender. The additional fine shall not be less than the minimum or exceed the maximum fine set by this ordinance for such violation.

d. Where the defendant is other than a natural person or persons, paragraphs b and c of this subsection shall apply to any agent, officer, member or partner who shall, alone or with others who have charge, care, or control of the premises within the definition of "owner" under this chapter.

Section 2. If any section, paragraph, subdivision, clause or provision of these ordinances shall be judged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged, and the remainder of these ordinances shall be deemed valid and effective.

Section 3. All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistency.

Section 4. The ordinance amendments shall take effect upon final passage and publication in accordance with New Jersey law.

STATEMENT

An ordinance amending and supplementing Title XVIII, Housing Code, Chapter 7, Other Housing Regulations, and Chapter 12, Nonresidential Property Maintenance Code of the Revised General Ordinances of the City of Newark by increasing and supplementing the penalties for failure to comply with certain ordinances.