

BILL NO. 24-2014
AN ORDINANCE

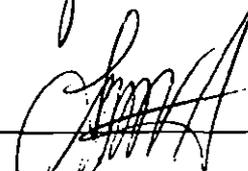
AMENDING THE PERSONNEL CODE, SECTION 308 HOUSING, PART B
DISRUPTIVE CONDUCT REMOVING DOMESTIC COMPLAINTS AND
EXPANDING THE APPEAL PROCESS

Whereas the Council of the City of Reading hereby ordains as follows:

Section 1. Amending § 308 Housing, Part B Disruptive Conduct as per Exhibit A attached herein.

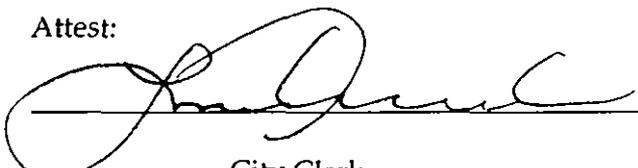
Section 2. This ordinance shall become effective ten (10) days after its adoption, in accordance with Sections 219 & 221 of the City of Reading Home Rule Charter.

Enacted: April 14, 2014



President of Council

Attest:



City Clerk

(Council Staff/Law/ Police)

Submitted to Mayor:

Date: 4/15/14

Received by the Mayor's Office:

Date: 4/15/14

Approved by Mayor:

Date: 4/15/14

Vetoed by Mayor:

Date: _____

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Ordinance, passed by the Council of the City of Reading, on the 14 day of April, A. D. 2014. Witness my hand and seal of the said City this 17 day of April, A. D. 2014.



CITY CLERK

EXHIBIT A

PART B. Disruptive Conduct

§ 308-130. Definitions.

As used in this subpart, the following terms shall have the meanings indicated:

DISRUPTIVE CONDUCT — Any form of conduct, action, incident or behavior perpetrated, caused or permitted by any occupant or visitor of a ~~rental~~ *housing* unit that is so loud, untimely (as to hour of the day), offensive, riotous, or that otherwise disturbs other persons of reasonable sensibility in their peaceful enjoyment of their premises, or causes damage to said premises such that a report is made to a police officer and/or a public officer complaining of such conduct, action, incident, or behavior, *with the exception of domestic abuse or domestic violence, as per Pa. Title 23 Domestic Relations, Chapter 61 and as defined herein. Exemptions may also include circumstances relating to familial status or disabilities.* It is not necessary that such conduct, action, incident or behavior constitutes a criminal offense, nor that criminal charges be filed against any person in order for said person to have perpetrated, caused or permitted the commission of disruptive conduct, as defined herein. Provided, however, that no disruptive conduct shall be deemed to have occurred unless a public officer or a police officer shall investigate and make a determination that such did occur, and keep written records, including a disruptive conduct report, of such occurrences. The ~~tenant~~ *occupant* and the owner, operator, responsible agent or manager shall be notified of any such occurrences, in writing.

DISRUPTIVE CONDUCT REPORT — — A written report of disruptive conduct on a form to be prescribed therefore to be completed by a police officer or a public officer, as the case may be, who actually investigates an alleged incident of disruptive conduct and which shall be maintained by the Department of Police and Property Maintenance Division.

DOMESTIC ABUSE (OR DOMESTIC VIOLENCE) *is defined as a pattern of abusive or harmful behavior within the confines of an intimate relationship. Domestic abuse generally occurs between people who do or do not share a home - such as a husband and wife, boyfriend and girlfriend, parent and child, estranged spouses, etc. Some examples of domestic abuse include but are not limited to the following:*

- *Physical abuse (hitting, pushing, kicking, restraining, throwing objects or otherwise touching another with unwanted physical aggression)*
- *Verbal abuse (using derogatory or emotionally hurtful language with the intent to invoke fear or lower self-esteem)*
- *Sexual abuse*
- *Emotional abuse*
- *Intimidation*
- *Threatening*
- *Stalking*

TWELVE (12) MONTH PERIOD — — For purposes of this subpart, twelve-month period shall be calculated by counting 12 months back from the most recent disruptive conduct report.

§ 308-131. Investigation and report; suspension and/or revocation of housing permit.

~~Investigation and report of disruptive conduct.~~ Police officers or public officers shall investigate alleged incidents of disruptive conduct. They shall complete a disruptive conduct ~~report form~~ upon a finding that the reported incident constitutes disruptive conduct as defined herein. The information filed in said ~~report form~~ shall include, ~~if possible~~, the identity of the alleged perpetrators of the disruptive conduct and all other obtainable information, including the factual basis for the disruptive conduct described on the prescribed form. *A copy of the disruptive conduct form will be provided to the occupant. If the finding is considered valid by the Reading Police Department, a copy of the disruptive conduct report shall be given* ~~or~~ mailed to the occupant and mailed to the owner within ~~40~~ 15 working days of the date ~~the form is issued to the occupant of the occurrence of the alleged disruptive conduct.~~

A. Eviction. After two disruptive conduct incidents in any twelve-month period by an occupant documented by disruptive conduct reports, the owner shall have 10 working days from the date of the written notice to begin eviction proceedings against the occupant(s) ~~and or pursue the same through any an appeal to the Berks County Court of Common Pleas if reasonably requested by the Property Maintenance Division.~~ This subsection is not intended to limit or inhibit the owner's right to initiate eviction action.

B. Suspension or revocation of housing permit. Failure of an owner or local authorized Agent to take action required in Subsection A above will result in the commencement of the process to suspend ~~a~~ *the* Housing Permit for the property *where the disruptive conduct incident occurred* in accordance with/per the process established herein, notwithstanding any other requirements therefor.

~~C. Suspension or revocation of housing permit. Failure of an owner or local authorized Agent to take action required in Subsection B above will result in the commencement of the process to suspend a Housing Permit in accordance with/per the process established herein, notwithstanding any other requirements therefor.~~

D. Reinstatement of housing permit. The ~~rental housing~~ unit involved shall not have its Housing Permit reinstated until the applicable reinstatement fee is paid and the disruptive occupants have been evicted, ~~the Housing Board of Appeals unless the appeal filed by the property owner or occupant has concluded and was approved has ruled in the occupant's favor, the Housing Board of Appeals has ruled in the owner's favor but has not ordered the eviction of the occupant(s), or the occupants have filed an appeal to a higher court thereby preventing their eviction.~~ Notwithstanding this subsection, if there are violations assessed against the owner per the provisions of this Part which require suspension or revocation, a Housing Permit shall not be reinstated until compliance with the requirements therefor have occurred.

E. Report against all occupants. The content of the disruptive conduct report shall count

against all occupants of the ~~rental~~ *housing* unit. The content of the disruptive conduct report shall not count against all occupants of the rental unit if the complaint is initiated by one of the ~~rental~~ *housing* unit occupants. More than one disruptive conduct report filed against the occupants of a ~~rental~~ *housing* unit in a twenty-four-hour period shall count as a single disruptive conduct report for the purpose of the preceding subsection.

F. Maintenance of list of disruptive conduct report tenants and occupants and evicted occupants. The ~~Codes Enforcement Office~~ *Property Maintenance Division* shall maintain a list of the names of all occupants and tenants against whom a disruptive conduct report is issued as a result of this Part. The Property Maintenance Division shall also maintain a list of all occupants and tenants evicted as a result of this Part. The names shall remain on the list for a period of five years.

§ 308-132. Housing Board of Appeals.

A. Appeals. The occupant and/or owner may appeal the contents of said disruptive conduct report. Additionally, any person aggrieved by the suspension, nonrenewal, denial or revocation of a Housing Permit may appeal. All appeals must be filed, in writing, with the ~~Administrator~~ *Manager* of the Property Maintenance Division, with the appropriate filing fee, as per the City of Reading Fee Schedule *Chapter 212*, within 15 working days from the date of ~~receipt of~~ appearing on the disruptive conduct report or notice of suspension, nonrenewal, denial or revocation of a Housing Permit mailed to the occupant or property owner.

B. Organization.

(1) Membership. The Housing Board of Appeals shall be a body of seven (7) members consisting of: the Managing Director or his/her designee who shall serve as Chairperson; a Councilperson *or his/her designee who shall also be a Councilperson*, ~~Administrator~~ *Manager* of the Property Maintenance Division or his/her designee; the Chief of Police or his/her designee; an owner of a ~~rental~~ *housing* unit(s) in Reading; an occupant of a ~~rental~~ *housing* unit residing in the City of Reading; and a member of a community group recognized by the City of Reading. *An attorney from the City Law Department shall serve as the Hearing Master and shall provide legal advice to the Board.*

(2) Alternates. There shall be three alternate members: an owner, an occupant of a ~~rental~~ *housing* unit residing in the City of Reading and a member of a community group recognized by the City of Reading.

(3) Appointment. All members of the Board shall be appointed by the Mayor with the advice and consent of the Council of the City of Reading, with the exception of the Council member, who shall be appointed by the Council President.

(4) Term. A member or alternate member shall serve a term of ~~not more than~~ three years from the time of appointment or reappointment or until his/her successor shall take office. *Members may be appointed to serve successive terms.* Members and alternates of the initial board shall be appointed to staggered terms of one, two and three years.

(5) Powers of designee and alternates. Designees and alternate members may be requested to attend meetings in absence of a regular member and shall have all the powers of a regular member at such meetings.

(6) Oaths and subpoenas. The Board shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

(7) Quorum and majority vote. Four members shall constitute a quorum of the Board. A majority vote of the members of the quorum of the Board shall prevail. A tie vote shall be deemed as ~~a denial~~ *an approval* of the appeal.

(8) Removal of members. Any member may be removed for misconduct or neglect of duty or for other just cause by a majority vote of Council taken after the member has received 15 days advance notice of the intent to take such vote. Failure of a member to attend three consecutive regular meetings of the Board will constitute grounds for immediate removal from the Board by City Council. Failure of a member to attend at least 50% of the regular meetings of the Board in a calendar year will constitute grounds for immediate removal from the Board by City Council. The Chairperson of the Board shall inform the City Clerk in writing when a member has failed to comply with this attendance policy. Following such notification, City Council may vote to remove the member and seek applicants to fill the vacant position.

C. Powers. The Board shall have the following powers:

(1) Promulgate rules and regulations. To adopt and administer the rules of procedure regarding its organization, officers (except the Chairperson), times and places of meetings, conduct of meetings and other legal procedures relating to the hearing and determination of appeals and other matters within the Board's jurisdiction.

(2) Hear and decide appeals. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the police officer or public officer in the enforcement of the provisions of this Part.

(3) Grant modification or variance. To modify any notice of violation or order and to authorize a variance from the terms of this code when, because of special circumstances, undue hardship would result from literal enforcement, and where such variance substantially complies with the spirit and intent of the Code.

(4) Grant extension of time. To grant a reasonable extension of time for the compliance, as described in the City's Property Maintenance Code (Chapter 180, Part 13) and other applicable sections of the Code of the City of Reading of any order where there is a demonstrated case of hardship and evidence of bona fide intent to comply within a reasonable time period.

(5) Timeliness. In exercising the above-mentioned powers, the Board shall act with reasonable promptness and seek to prevent unwarranted delays prejudicial to the party involved and to the public interest; ~~provided, however, that~~ *and* the Board shall file its decision *no later than within* 15 working days after the *date of the* appeal hearing.

(6) Oaths and subpoenas. The Board shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties.

(7) Authority. The Board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as justice would require, and, to that

end, shall have all the powers of the police officer or public officer; provided, however, that the Housing Board of Appeals, in its determination, shall be bound by this Part and shall not ignore the clear provisions and intent of this Part.

D. Effect of appeals. Any decision or order issued under, per and in accord with this Part shall be held in abeyance upon the timely filing of an appeal thereof with the Housing Board of Appeals. Said abeyance shall include, but not be limited to, revocation, suspension, denial or nonrenewal of a Housing Permit until the appeal is resolved. An appeal of the two disruptive conduct reports within a twelve-month period shall stop the eviction proceedings against the occupants until the appeal is resolved, only if the eviction proceedings were a direct result of the second disruptive conduct report.

E. Enforcement upon resolution of appeal of Housing Board. ~~If this appeal is of a second disruptive conduct report and the decision of the police officer or public officer has been affirmed, within 10-15 working days and time for compliance as required by the decision of the Housing Board of Appeals, the public officer shall re-inspect to determine compliance as to whether the occupant has voluntarily moved from the premises or the owner has initiated eviction proceedings. If, when so required by a second disruptive conduct report, the occupant has not voluntarily moved or the owner has not initiated eviction proceedings, and for compliance as required by the decision of the Board has expired, the public officer shall institute the revocation of the Housing Permit pursuant to the provisions set forth in this Part.~~

Upon a successful appeal to the Housing Board, that disruptive conduct report will be withdrawn and discounted within that 12 month period. However, once all appeals to the Housing Board have been exhausted and a second disruptive conduct report has been confirmed, the public officer shall re-inspect the premises in question 15 business days from the date of decision to ensure either that the unit is vacant, or that the owner has commenced the eviction process. Failure to comply will result in revocation of the unit's Housing Permit.

§ 308-133. Appeal to Court of ~~Common Pleas~~ Proper Jurisdiction.

~~Once a DCR is issued, any person, including the police officer or public officer for the City,~~ aggrieved by any decision of the Housing Board of Appeals, may *immediately* appeal to the Court of Common Pleas of Berks County, *or a court of proper jurisdiction*. Such appeal shall be made by a duly verified petition in accordance with the Pennsylvania Rules of Civil Procedure and shall set forth the factual and legal basis upon which the decision of the Board is alleged to be incorrect or illegal, in whole or in part. ~~Said A timely petition shall be filed with the Court of Common Pleas within 30 days after service the date of the decision. Notice of the appeal shall be served upon all parties to the appeal before the Housing Board of Appeals, including the Board and City of Reading, at the time of its filing. An appeal to the Court of Common Pleas of a decision of the Housing Board of Appeals and shall not hold automatically stay enforcement of the Board's decision. A successful appeal to the Court shall rescind all prior disruptive conduct reports issued within a 12 month period.~~

§ 308-134. Share information.

The City of Reading Property Maintenance Division is authorized to share any and all

information obtained under this code with the other departments and divisions of the City of Reading.

§ 308-135. Compliance with other City of Reading ordinances.

Every owner of every dwelling, in addition to the provisions set forth herein, shall comply with the provisions (sections) of all other applicable City ordinances including, but not limited to, the international/City of Reading Building Code (Chapter 180, Part 8), Existing Building Code (Chapter 180, Part 5), Plumbing Code (Chapter 180, Part 9), Mechanical Code (Chapter 180, Part 6) Electrical Code (Chapter 180, Part 7), Fire Code (Chapter 180, Part 14), and Residential Code (Chapter 180, Part 4), Property Maintenance Code (Chapter 180, Part 13) Solid Waste and Recycling Ordinance (Chapter 496, Part 1 and 2) Health Code (Chapter 288, Part 1), and Zoning Ordinance (Chapter 600).