

**BILL NO. 23-23**

**1<sup>st</sup> Reading: 11/27/2023**

**2<sup>nd</sup> Reading: 12/11/2023**

**CITY OF NEWARK  
DELAWARE**

**ORDINANCE NO. 23-21**

An Ordinance Amending Chapter 7, Building, Chapter 13, Finance, Revenue, and Taxation, and Chapter 17, Housing and Property Maintenance, Code of the City of Newark, Delaware, By Increasing Rental License Fees Effective January 1, 2024, Moving Rental License Fees and Related Regulations to Chapter 13 from Chapter 17, and Adding New Section Reference to Continue Having Rental License Appeals Be Made to the Board of Building, Fire, Property Maintenance and Sidewalk Appeals

THE COUNCIL OF THE CITY OF NEWARK HEREBY ORDAINS:

That Chapter 7, Building, Chapter 13, Finance, Revenue, and Taxation, and Chapter 17, Housing and Property Maintenance, Code of the City of Newark, Delaware, be hereby amended in the following respects:

**AMENDMENT 1:** Amend Section 7-1, General, by adding the underscored text as follows to subsection (d)(1):

“(d) *Appeals.*

(1) *General.* Any person shall have the right to appeal the decision of a city official regarding the application and interpretation of chapter 7, chapter 13, section 13-60, chapter 14, chapter 17 or chapter 26, article III. There shall be and is hereby created a board of building, fire, property maintenance and sidewalk appeals. ...”

**AMENDMENT 2:** Amend Section 13-44, Definitions, by deleting the stricken text and adding the underscored text as follows:

“(a) For the purposes of this article, certain words and phrases used herein and italicized shall be interpreted and defined as follows:

(1) *Aerosol paint container* shall mean any aerosol container that is adapted or made for the purpose of applying paint or other substances capable of defacing property.

(2) *Broad-tipped marker* shall mean any felt-tip, indelible marker, or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth of an inch, containing ink or other pigmented liquid that is not water soluble.

(4) (3) *Business* shall include any and all activities or acts on the part of any person engaged in any trade, occupation, business, profession, pursuit or calling, with the object of gain, benefit or advantage, either direct or indirect, as permitted in Chapter 32, Zoning, and it shall include, among other things, the production, manufacture or fabrication as well as the sale or delivery of any goods, ware, commodities, merchandise and personal property of any nature, kind or description whatsoever, at retail or at wholesale, as well as the operation of any building, or the leasing of office space, the activities and conduct of banks, trust companies, savings and loan associations, any amusement enterprise, theaters, picture shows, radio broadcasting stations, television broadcasting stations, amusement parks, dance halls, pool or billiard halls, or any business charging admission for any exhibition for amusement; provided that any religious, or other nonprofit organization shall be exempt from the payment of a license fee for conducting and operation exclusively by them and where the proceeds therefrom are utilized for their sole benefit. "Business" shall also include the practice of any profession or any business in which the services of a professional, personal, technical or scientific nature are rendered and paid for on a fee basis or by any other consideration, and "business" shall also include the operation of all nonprofessional service enterprises, including, among other things, laundries, undertaking establishments, barbershops, beauty parlors, retail oil and filling stations, tire repair and service stations, storage garages, repair establishments of all kinds, tailors, cleaning or pressing of clothes, or other articles, publication or distribution of newspapers, magazines or any other kinds of periodicals, the selling of real estate or the business of acting as agent, broker or factor in the sale of real estate, stocks, bonds, securities or businesses, and also to persons engaged in any transportation service of any kind. The rental of contractor's equipment or automotive equipment, with or without operators, shall be regarded and considered as business within the meaning of this article, as is the transmission of messages of conversations originating within the city by telephone, telegraph, or radio to other points within the city.

Any person engaging in the business of soliciting or selling or rendering services as well as selling tangible personal property at either retail or wholesale, or both, in the city as a contractor, or subcontractor, or the performance of any work, either under contract or otherwise, shall also be deemed to be engaged in business in the city.

Notwithstanding any provisions appearing herein to the contrary, the term "business" when used in this article shall not

apply to any domestic or foreign corporation whose only activities within the city are the maintenance of a statutory office, so as to comply with any statute of the state or of any act of Congress of the United States, nor shall this chapter be applicable to railroad companies subject to Part 1 of the Interstate Commerce Act.

- ~~(2)~~ (4) *Caterer* shall mean businesses that serve primarily fresh food cooked and prepared to order for consumption off the premises at locations designated by the customer.
- (5) Code Official as used herein, shall mean the planning and development department director or their designee of the City of Newark and/or any of the authorized officers or inspectors of the code enforcement division.
- ~~(3)~~ (6) *Commercial/industrial class*, as used herein shall refer to the category of business to which individual companies, owners, or persons are assigned by the director of planning and development or his or her their designee. Types of businesses within classes shall be as defined in Chapter 32, Zoning.
- ~~(4)~~ (7) *Company, owner, or person*, is used interchangeably throughout this article, except where the context indicates a different meaning, pertains to, means and includes any individual, estate, trust receiver, trustee in bankruptcy, business trust, corporation, firm, co-partnership, joint venture, association, or any other group or combination acting as a unit.
- (8) Condominium shall mean an individually owned, fee simple residential unit in a multi-family building or mixed-use building or complex of like units on a single parcel.
- ~~(5)~~ (9) *Employee* shall mean and include the owner, manager, or operator of any place of business, or husband or wife thereof, or any member of the family of such persons above-named, if the place of business is operated by any such persons without any other help, or any person employed in the operation of such place of business in any capacity or in the performance of any duties whatsoever. The license application shall set forth the number of persons in the employ of the applicant, and the license fee provided for by Sections 13-56 and 13-57 shall be payable in accordance with the information set out in the application; and provided further that the term "employee" as herein defined shall not apply to or include any member of the board of directors of any corporation licensed hereunder, unless such director is also an officer or employee of such licensee and thereby subject to the provisions of the Social Security and federal or state unemployment insurance laws.
- (10) Graffiti implement shall mean an aerosol paint container, broad tipped marker, gum label, paint stick, or graffiti stick, etching equipment, or any other device capable of visible scarring or leaving a visible mark on any natural or man-made surface.

- ~~(6)~~ (11) *Licensee* means any person liable for any license fee payable under this article.
- ~~(7)~~ (12) *License fee ration*, as used herein, shall refer to a numeric value assigned to classes of businesses to represent an estimate of the cost and demand for municipal services assignable to business in the city.
- ~~(8)~~ (13) *License fee rate* shall be the annual cost of licenses as established herein.
- (14) *Minor* shall mean any person under the age of 18.
- ~~(9)~~ (15) *Municipal services evaluation*, as used herein, shall mean the methodology developed by the director of planning and development or his or her their designee at the request of a committee of the city council—the business license study committee—for evaluating the cost and demand for municipal services assignable to the commercial and industrial section of the Newark economy. The license fee ration in general, will be based on the estimated municipal services evaluation.
- (16) *Paint stick or graffiti stick* shall mean any devices containing a solid form of paint, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-eighth of an inch in width.
- (17) *Property Emergency* shall mean a situation at a property which causes the property or structure to pose an immediate threat to life, health, property or environment of the occupants, the general public, or other property, or which has caused or will cause the code official to take action in accordance with the unsafe structures and equipment and/or emergency measures sections of the adopted International Property Maintenance Code.
- ~~(10)~~ (18) *Private club* shall mean an organization for social, fraternal or public service purposes whose buildings and services are maintained primarily for members and their invited guests and not generally open to the public.
- ~~(11)~~ (19) *Retailer* shall mean, apply to, and include the selling of any goods, wares, merchandise, and personal property of every kind and nature to the ultimate consumer within the city, or the taking of any order therein for delivery therein of any goods, wares, merchandise and personal property of every kind and nature.
- (20) *Townhouse-style Apartment* shall mean a single family dwelling unit constructed in a group of three or more attached units, in which each unit extends from foundation to roof and with a yard or public way on not less than two sides and located on the same parcel as two (2) or more similar units owned and operated by the same owner.
- ~~(12)~~ (21) *Wholesaler or wholesaling* shall include all sales made otherwise than by a "retailer" as defined in this article and particularly, but without limitation, the term shall apply to and include any sales of any goods, wares, merchandise and personal

property of any kind and nature, made by a merchandise broker, jobber, factory representative, manufacturer's sale or agent or commission merchant, or to sales made by any person who conducts a business under or by any other methods not herein specifically mentioned or defined.”

**AMENDMENT 3:**

Create a new Section 13-60, Rental licenses, by adding the underscored text as follows:

**“Sec. 13-60. - Rental licenses.**

**(a) Rental license required:** An annual rental license is required prior to letting, leasing, sub-leasing, renting, or otherwise allowing the occupancy of the following structures:

- (1) Every non-owner-occupied single family and/or two-family dwelling.
- (2) Every owner-occupied dwelling taking in more than two boarders or roomers unrelated to the owner by blood, marriage, or legal adoption.
- (3) Every multi-family dwelling (defined as a structure containing three or more dwelling units) including condominiums.
- (4) Every rooming house.
- (5) Every boarding house.
- (6) Any structure housing a mixture of occupancies that includes residential.
- (7) All fraternities and sororities as defined in Chapter 32, Zoning.

**(b) Rental license requirements:** The following shall be required as part of the rental license:

- (1) Application - Applications shall be submitted in writing, on a form provided by the City and signed by the owner or their authorized agent. A rental license renewal invoice shall be permitted to substitute for the application, if signed.
- (2) Fee – Effective January 1, 2024, the annual rental license fee for all rental property types shall be as follows:
  - a. Two hundred twenty dollars (\$220.00) per dwelling unit for single family or two-family dwellings.
  - b. One hundred fifty dollars (\$150.00) per dwelling unit for townhouse style apartments, or condominium dwellings.
  - c. Eighty dollars (\$80.00) per dwelling unit for multifamily dwellings in buildings with three (3) or more dwelling units.
  - d. Forty-five dollars (\$45.00) per occupant for fraternities, sororities, and boarding houses.
  - e. A late fee of five-percent (5%) of the amount of the current bill remaining unpaid shall be added to the amount due for each unit if paid after the due date. An additional 1.5% penalty shall be assessed per month thereafter.

1. Rental license fee subject to adjustment for inflation.

Annually, beginning January 1, 2025, the amount of the rental license fees set forth in Sec. 13-60 (b)(2) of this Code shall automatically be increased and rounded to the nearest whole dollar increment to reflect inflation based upon changes in the consumer price index as established by the U.S. Department of Labor for the Philadelphia-Wilmington-Atlantic City (Pennsylvania, New Jersey, Delaware, Maryland) region for the preceding 12 months as of December 1; provided however, that the City Council may act, by resolution, to waive or to increase the adjustment more than the posted change in the CPI for the following year.

(3) Inspection - The interior and exterior of the premises shall be inspected by the code official prior to the approval of the rental license for the purposes of determining a rental property's compliance with Chapters 7, 11, 14, 17, 25, 30, and 32 of this Code as well as applicable occupancy limitations contained in this Code. Thereafter, the exterior of the premises for all non-owner occupied single- and multi-family dwelling units and common areas of multi-family developments, will be inspected by the Code Official on an annual basis at license renewal. While on premises for the exterior and common areas (where applicable) inspection, the code official shall offer the person in control of the property and/or unit(s), if present, an opportunity to inspect the interior of the property and/or unit(s) for code compliance and provide information regarding the components of an interior inspection. If the person in control of the property and/or unit(s) is not present the code official shall leave notice of the exterior and common areas (where applicable) inspection and information on how to request an interior inspection at any time.

Exceptions:

a. A unit or multi-family development for which a rental license application or renewal is requested that has received a nonconditional Certificate of Occupancy from the City within 12 months of the date of license application.

(4) Emergency Contact - For every unit with a rental license, there shall be an emergency contact person designated by the owner, whose contact information is on file with the code official. The

designated emergency contact must be authorized to receive notices and process on behalf of the owner and/or operator in connection with the enforcement of the code. The designated emergency contact must be available for property emergencies and must respond in person or send authorized person(s) to the subject property, at the request of the code official, within one hour of notice in property emergency situations. In addition, the owner shall provide the code official with the names and telephone numbers of alternative responsible persons if the emergency contact is not available to perform such duties. It is the owner's responsibility to ensure that the required designated emergency contact information for their property(ies) is accurate and current at all times. Failure to meet the provisions of this section shall result in a violation of this Chapter.

- (5) Lease - Any agreement, contract, lease or sublease which provides for, permits, allows, contemplates, or facilitates the occupancy of any structure for which a rental license is required herein shall be in writing, if such agreement, contract, lease, or sublease is for a period in excess of thirty (30) days. Such written agreements shall be submitted to the official upon request.
- a. Unlawful leases - No owner or landlord shall enter into any agreement, contract, lease, or sublease which provides for, permits, allows, contemplates, or facilitates occupancy of any structure which would require a rental license in accordance with this Chapter, contrary to the use requirements of Chapter 32, Zoning, Code of the City of Newark. Any agreement, contract, lease or sublease which provides for, permits, allows, contemplates, or facilitates such occupancy by more persons than permitted in the aforementioned code sections is unlawful and hereby declared to be contrary to public policy.
- b. The city shall notify the landlord, owner, or owner's agent if a renter in a unit for which a rental permit is required as stipulated in this section, is cited for violating Chapter 20A, Noise, and/or Section 22-74.1, Disorderly Premises, and/or Section 22-74.3, Unruly Social Gathering, Code of the City of Newark, Delaware. Notice shall be deemed to be properly served upon the owner or owner's agent if a copy thereof is delivered to the owner or owner's agent; or leaving a notice at the usual place of abode, in the presence of someone in the family of suitable age and discretion, who shall be informed of the contents thereof, or by certified mail addressed to the owner or owner's agent at the last known address with return receipt requested; or by posting a copy

thereof in a conspicuous place in or about the structure affected by such notice; or by email if a valid email address has been provided to the City.

- c. Maximum occupancy - The owner and/or operator of any one-family and/or a two-family dwelling type unit(s) shall provide the person(s) to whom the dwelling or dwelling unit(s) is let or rented a copy of the posting of maximum occupancy as set forth in this section at the time of letting or renting.

- (6) Posting of maximum occupancies in rental dwellings - Each owner of a one-family and/or a two-family dwelling type structure which requires a rental permit as specified in this chapter shall post the maximum occupancy permitted within said dwelling, as set forth in Chapter 32 of this Code, and the number of available on-site off street parking spaces associated with said dwelling, so that the posting is readily visible to all tenants residing on the property. The occupancy statement shall include the maximum number of unrelated persons who may lawfully inhabit the dwelling pursuant to a valid lease, statement of penalties as established herein for failure to comply with the requirements of this Chapter, the name and telephone number of the owner and/or the owner's agent, and the telephone number of the City of Newark code enforcement division.

- a. Such posting of maximum occupancy shall not be construed or interpreted as implying in any way that the property and/or unit(s) is in compliance with the provisions of this Chapter or any rule or regulation for the enforcement or implementation of this Chapter or any ordinance or other law or regulation of the City or the State.

- (c) Permitted occupancy in residential districts - Dwelling units shall not be occupied by more occupants than permitted by the approved rental license, the restrictions in Chapter 17, or by the requirements and restrictions of Chapter 32, Zoning.

Exceptions:

1. Rental licenses granted to a property prior to the date these restrictions were adopted, and maintained without interruption;
2. Properties on streets listed below shall not be limited by Chapter

32 Zoning:

- a. Annabelle Street
- b. Ashley Road
- c. Benny Street
- d. Chambers Street
- e. Choate Street
- f. Church Street



- g. Courtney Street
- h. East Cleveland Avenue, west of North Chapel Street
- i. George Read Village
- j. Haines Street, south of Delaware Avenue
- k. Continental Avenue
- l. Holton Place
- m. Margaret Street
- n. New London Road, south of Corbit Street and the University's Laird Campus
- o. North Street
- p. North Chapel Street, north of Main Street
- q. North College Avenue to White Clay Drive
- r. Prospect Avenue
- s. South Chapel Street, south of Delaware Avenue to Wyoming Road
- t. South College Avenue, east side, between the Amtrak Railroad right-of-way and East Park Place
- u. South College Avenue, west side, south of Park Place to the Amtrak Railroad right-of-way
- v. West Cleveland Avenue
- w. West Delaware Avenue
- x. West Main Street, east of Hillside Road
- y. White Clay Drive
- z. Wilbur Street
- aa. Wilson Street
- bb. Wyoming Road, west of South Chapel Street

- (d) Enforcement - Pursuant to the procedures herein, the Code official is hereby empowered to deny issuance of or revoke any rental license applied for or issued as described herein if it is discovered either that the applicant, owner, or holder has misrepresented themselves or the state of their property(ies), or any time subsequent to the issuance of said license, becomes violative of this Chapter or applicable City code provisions. The revocation of or failure to issue any license may be appealed to the Board of Building, Fire, Property Maintenance and Sidewalk Appeals within twenty (20) days of the City providing notice to the license holder or applicant.
- (e) Penalty - Any person, partnership, LLP, LLC, firm, corporation, or other legal entity, or representative thereof, who fails to comply with section 13-60 (a) of this chapter shall be guilty of a violation, and upon conviction, shall be punished by a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1000.00). Any person, partnership, LLP, LLC, firm, corporation, or other legal entity, or representative thereof, who fails to comply with section 13-60 (b) of this chapter shall be guilty of a violation, and upon conviction, shall be punished by a fine of not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00)."

**AMENDMENT 4:**

Create a new Section 13-61, Sale and display of graffiti implements, by adding the underscored text as follows:

**"Sec. 13-61. – Sale and display of graffiti implements.**

- (a) Display and storage.
- (1) Every person who owns, conducts, operates, or manages a retail commercial establishment selling any type of graffiti implements shall store such implements in an area continuously observable through direct visual observation or surveillance equipment by employees of the retail establishment during the regular course of business.
  - (2) In the event that a commercial retail establishment is unable to store the graffiti implements it sells in an area as provided above, the establishment shall store such implements in an area not accessible to the public in the regular course of business without employee assistance.
  - (3) A minor who is an employee of a person who, or an entity which is a vendor of graffiti implements may, in the course of his or her duties, possess such implements for purposes of lawful sale or transfer, but shall not purchase or obtain possession of the same for any other purpose.
  - (4) No minor shall, at the time of purchase as specified in this section, knowingly furnish fraudulent evidence of majority.
- (b) Required Signage. Every person who operates a retail commercial establishment selling any type of graffiti implement shall place a sign with a minimum height of 14 inches and a width of 12 inches, with lettering of at least one-half of one inch in height which is in clear public view at or near the display of such products and which states:
- "WARNING: IT IS ILLEGAL TO SELL OR DISTRIBUTE AEROSOL PAINT, PAINT STICKS, OR BROAD-TIPPED MARKERS TO ANY PERSON UNDER THE AGE OF 18 YEARS OF AGE OR FOR ANY PERSON UNDER THE AGE OF 18 YEARS OF AGE TO POSSESS OR ATTEMPT TO PURCHASE THE SAME. IF YOU ARE OVER 18 YEARS OF AGE IT IS ILLEGAL FOR YOU TO PURCHASE AEROSOL PAINT, PAINT STICKS, OR BROAD TIPPED MARKERS FOR A PERSON UNDER 18 YEARS OF AGE IF YOU ARE NOT SUCH PERSON'S PARENT, GUARDIAN, SCHOOL TEACHER, OR ART OR CRAFT INSTRUCTOR."
- (c) Distribution. It shall be unlawful for any person, other than a parent, legal guardian, school teacher, art or craft instructor, or employer to

sell, exchange, give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any graffiti implement to any minor.

(d) Penalties:

- (1) The penalty for a first offense of this chapter shall be a mandatory fine of not less than \$200.00 or more than \$500.00. For the second and subsequent offenses the fine shall be \$500.00.
- (2) Portions of fines may be used to pay for the cost of public and private property graffiti removal. Distributions of fines for private property graffiti removal, if available, shall be administered by the finance director or their designee as specified in Chapter 17, Housing and Property Maintenance of this Code.
- (3) Community service. In lieu of, or as part of, the penalties specified in this section, an adult may be required to perform community service as prescribed by the court based on the following minimum requirements:
  - a. The individual shall perform a minimum of 30 hours of community service.
  - b. The entire period of community service shall be assigned by and performed under the supervision of a City employee designated by either the Chief of Police of the City of Newark.
  - c. Reasonable effort shall be made to assign the individual to a type of community service that is reasonably expected to have the most rehabilitative effect on such person, including community service that involves graffiti removal.

**AMENDMENT 5:**

Renumber existing Sections 13-60, Liability, and 13-61, Severability, and delete the existing Section 13-62, Effective date, by deleting the stricken text and adding the underscored text as follows:

**~~“Sec. 13-60. – Liability.~~ Sec. 13-62. - Liability.**

Nothing in this article shall be construed as to create any liability to the City of Newark, its agents and employees with respect to the requirements of this article.

**~~Sec. 13-61. – Severability.~~ Sec. 13-63. - Severability.**

It is hereby declared to be the policy of the City of Newark that if the sections, paragraphs, sentences, clauses and phrases of this article shall be

declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this article.

**~~Sec. 13-62. Effective date.~~**

~~This article shall take effect July 1, 1984, except that license fees shall be due and payable for the full calendar year 1984.~~

**~~Secs. 13-63—13-79. Reserved. Secs. 13-64—13-79. - Reserved.~~**

**AMENDMENT 6:**

Amend Section 17-4, Amendments made to the 2009 International PM Code with Supplements, by deleting the stricken text and adding the underscored text as follows to subsection (p):

“(p) 302.9 Amend Section 302.9, Defacement of Property, by deleting it in its entirety and substituting in lieu thereof of a new Section 302.9 to read as follows:  
" 302.9 Defacement of property.

(a) Definitions. ...

(b) ~~Display and storage.~~

1. ~~Every person who owns, conducts, operates, or manages a retail commercial establishment selling any type of graffiti implements shall store such implements in an area continuously observable through direct visual observation or surveillance equipment by employees of the retail establishment during the regular course of business.~~
2. ~~In the event that a commercial retail establishment is unable to store the graffiti implements it sells in an area as provided above, the establishment shall store such implements in an area not accessible to the public in the regular course of business without employee assistance.~~
3. ~~A minor who is an employee of a person who, or an entity which is a vendor of graffiti implements may, in the course of his or her duties, possess such implements for purposes of lawful sale or transfer, but shall not purchase or obtain possession of the same for any other purpose.~~
4. ~~No minor shall, at the time of purchase as specified in this section, knowingly furnish fraudulent evidence of majority.~~

(c) ~~Required Sign.~~ Every person who operates a retail commercial establishment selling any type of graffiti implement shall place a sign with a minimum height of 14 inches and a width of 12 inches, with lettering of at least one half of one inch in height which is in clear public view at or near the display of such products and which states:

~~"WARNING: IT IS ILLEGAL TO SELL OR DISTRIBUTE AEROSOL PAINT, PAINT STICKS, OR BROAD-TIPPED MARKERS TO ANY PERSON UNDER THE AGE OF 18 YEARS OF AGE OR FOR ANY PERSON UNDER THE AGE OF 18 YEARS~~

~~OF AGE TO POSSESS OR ATTEMPT TO PURCHASE THE SAME. IF YOU ARE OVER 18 YEARS OF AGE IT IS ILLEGAL FOR YOU TO PURCHASE AEROSOL PAINT, PAINT STICKS, OR BROAD TIPPED MARKERS FOR A PERSON UNDER 18 YEARS OF AGE IF YOU ARE NOT SUCH PERSON'S PARENT, GUARDIAN, SCHOOL TEACHER, OR ART OR CRAFT INSTRUCTOR."~~

~~(d)(b)~~ *Prohibited Act. ..."*

**AMENDMENT 7:**

Amend Section 17-4, Amendments made to the 2009 International PM Code with Supplements, by deleting the stricken text and adding the underscored text as follows to subsections (w), (x), (x.1), (x.2), (x.3), (x.4), (x.5):

- (w) ~~Reserved. 404.8 Rental permits required. Delete in its entirety and insert a new Section 404.8 Rental license required to read as follows:~~  
"404.8 Rental license required: An annual rental license is required prior to letting, leasing, sub-leasing, renting, or otherwise allowing the occupancy of the following structures:
- ~~1. Every non-owner occupied single family and/or two family dwelling.~~
  - ~~2. Every owner occupied dwelling taking in more than two boarders or roomers unrelated to the owner by blood, marriage, or legal adoption.~~
  - ~~3. Every multi family dwelling (defined as a structure containing three or more dwelling units) including condominiums.~~
  - ~~4. Every rooming house.~~
  - ~~5. Every boarding house.~~
  - ~~6. Any structure housing a mixture of occupancies that includes residential.~~
  - ~~7. All fraternities and sororities as defined in Chapter 32, Zoning."~~
- (x) ~~Reserved. 404.8.1 Rental license requirements: The following shall be required as part of the rental license:~~
- ~~1. Application — applications shall be submitted in writing, on a form provided by the city and signed by the owner or their authorized agent. A rental license renewal invoice shall be permitted to substitute for the application, if signed.~~
  - ~~2. Fee — payment of the fee as required by Section 404.8.2.~~
  - ~~3. Inspection — the interior and exterior of the premises shall be inspected annually by the code official prior to the approval or renewal of the rental license.~~
  - ~~4. Lease — any agreement, contract, lease or sublease which provides for, permits, allows, contemplates, or facilitates the occupancy of any structure for which a rental license is required herein shall be in writing, if such agreement, contract, lease, or sublease is for a period in excess of thirty (30) days. Such written agreements shall be submitted to the official upon request.~~
- (x.1) ~~404.8.2 License Fees: The annual license fee shall be as follows:~~
- ~~1. Two hundred dollars (\$200.00) per dwelling unit for single family or two family dwellings.~~

2. ~~Fifty five dollars (\$55.00) per dwelling or rooming unit in any other residential occupancy with 14 or fewer dwelling or rooming units including mixed use occupancies except fraternities or sororities.~~
3. ~~Forty five dollars (\$45.00) per dwelling or rooming unit in any other residential occupancy with 15 or more dwelling or rooming units including mixed use occupancies except fraternities or sororities.~~
4. ~~Fraternities and sororities are based on the following table:~~

Number of occupants	1—8	9—18	19—30	31—44	45—60	61—78	79—98
Fee	\$300.00	\$600.00	\$900.00	\$1200.00	\$1500.00	\$1800.00	\$2100.00

These fees are based on the maximum occupancy of the building as established by the code official. These fees shall be reduced by one third (1/3) if the written lease or recorded deed for the property prohibits the use of alcohol by the tenants or occupants of the fraternity or sorority. Where a fraternity or sorority occupies more than one building, each building shall have a separate rental license.

5. ~~A late fee of fifty dollars (\$50.00) shall be due for each unit, if paid after the due date.~~
  6. ~~The annual license fees set forth in paragraphs 1, 2, and 3 above will not be increased, except in proportion to the net increases in the Consumer Price Index ("CPI"), before January 9, 2020. CPI increases may occur not more than once in any twelve (12) month period, beginning no sooner than twelve (12) months after enactment of this Ordinance. Any annual increase shall not exceed the percentage increase for the previous twelve (12) months for the Consumer Price Index for all Urban Consumers (1991 = 100), U.S. Department of Labor (or any successor index).~~
  7. ~~If any clause or provision of this Ordinance shall be adjudged invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, it shall not affect the validity of any other clause or provision, which shall remain in full force and effect.~~
- (x.2) ~~404.8.3 Unlawful leases. Add a new subsection 404.8.3 to read as follows:~~
- "(a) ~~No owner or landlord shall enter into any agreement, contract, lease, or sublease which provides for, permits, allows, contemplates, or facilitates occupancy of any structure which would require a rental permit in accordance with subsection 404.8 of this code, contrary to the use requirements of [Section 32-9](#), RH, RT, and RS districts, [Section 32-10](#), RD districts, [Section 32-11](#), RM districts, and Sections [32-13](#), RR districts, Code of the City of Newark. Any agreement, contract, lease or sublease which provides for, permits, allows, contemplates, or facilitates such~~

~~occupancy by more persons than permitted in  
aforementioned code sections is unlawful and hereby declared to  
be contrary to public policy.~~

(b) ~~Agreements, contracts, leases, or subleases for the occupancy of  
dwelling units requiring rental permit units as specified in this  
section:~~

1. ~~Prominently stipulate that the conviction of any renter,  
boarder, or roomer who violates Chapter 20A, Noise; the  
occupancy limitations of this chapter and Chapter 32,  
Zoning, Code of the City of Newark; any property  
maintenance requirements of this chapter attributable  
to a renter, boarder, or roomer; any on-site violations  
of chapter 22, Police Offenses, attributable to a renter,  
boarder, or roomer, and, on-site violations of Chapter 19,  
Minors, Section 19-5, prohibiting minors from possessing  
or consuming alcoholic beverages, more than one time  
within a one year period, shall result in the giving of  
notice to all renters, boarders, or roomers residing in the  
relevant leased premises of the commencement of  
eviction proceedings pursuant to the provisions of the  
Delaware Landlord Tenant Code (hereinafter the DLTC).  
Thereafter the landlord of the leased premises, or an  
agent thereof, shall proceed to conclude such eviction  
proceedings pursuant to the relevant provisions of the  
DLTC. Offenses at any single leased premises shall be  
cumulative. Convictions under this section of two  
different renters, boarders, or roomers of the leased  
premises for violations as listed herein shall result in  
commencement of eviction proceedings as set forth in  
this section. This section shall not prohibit the execution  
of a new lease between the owner of the relevant  
premises and any person named as a renter, boarder, or  
roomer on a prior lease who was not subject to either of  
the two convictions which resulted in the termination of  
the prior lease and the commencement of lawful eviction  
proceedings. It shall be a further violation of this section  
for an owner to enter into a new lease of the same  
premises with a person who has been convicted of an  
offense listed in this section and lawfully evicted for a  
period of one year following the date of the eviction of  
such person.~~
2. ~~Prominently stipulate the number and names of who  
may occupy the premises, under appropriate city and  
state laws or regulations, and that any violation of the  
allowable number of occupants of the premises, and  
providing that the said renter(s) shall have not more than  
seven days to vacate the dwelling unit.~~

If it is necessary to evict the tenant, the landlord shall immediately initiate and pursue in good faith summary proceedings for possession as specified in 25 Del. C., Part III, Landlord Tenant Code. If the landlord or owner fails to initiate and pursue in good faith summary proceedings as stipulated herein, the building code official shall revoke one year the rental permit of the affected dwelling unit.

3. ~~Prominently stipulate that, as specified herein, the exterior and interior of the premises shall be inspected on an annual basis by the Code Enforcement Division, subject to the provisions of 25 Del. C., Part III, Landlord-Tenant Code.~~

(c) ~~Landlords or owners shall be required to stipulate in writing, as part of their application for rental permits, that the lease(s) for the dwelling unit(s) for which application is made contains the prominent notification to renters as specified in this section.~~

(d) ~~The city shall notify the landlord, owner, or owner's agent if a renter in a unit for which a rental permit is required as stipulated in this section, is convicted of violating Chapter 20A, Noise, and/or Section 22-74.1, Disorderly Premises, Code of the City of Newark, Notice shall be deemed to be properly served upon the owner or owner's agent if a copy thereof is delivered to the owner or owner's agent; or leaving a notice at the usual place of abode, in the presence of someone in the family of suitable age and discretion, who shall be informed of the contents thereof, or by certified mail addressed to the owner or owner's agent at the last known address with return receipt requested; or by posting a copy thereof in a conspicuous place in or about the structure affected by such notice."~~

- (x.3) ~~404.8.4 Posting of maximum occupancies in rental dwellings. Add a new subsection 404.8.4 to read as follows:~~

~~"404.8.4 Posting of maximum occupancies in rental dwellings: Each owner of a one-family and/or a two-family dwelling type structure which requires a rental permit as specified in this chapter shall post the maximum occupancy permitted within said dwelling, as set forth in Chapter 32 of this code, and the number of available on-site off street parking spaces associated with said dwelling, so that the posting is readily visible to all tenants residing on the property. The occupancy statement shall include the maximum number of unrelated persons who may lawfully inhabit the dwelling pursuant to a valid lease, statement of penalties, as established herein for failure to comply with the requirements of this chapter, the name and telephone number of the owner or the owner's agent, and the telephone number of the City of Newark code enforcement division."~~

- (x.4) ~~404.8.5 Enforcement: Pursuant to the procedures herein, the Code official is hereby empowered to deny issuance of or revoke any rental license applied for or issued as described herein if its discovered either~~



~~that the applicant, owner or holder has misrepresented himself or the state of his property, or any time subsequent to the issuance of said permit, becomes violative of this section.~~

(x.5) ~~404.8.6 Penalty: "Any person, firm, corporation, partnership, or other commercial entity, or representative thereof, who fails to comply with Section 404.8 of this chapter shall be guilty of a violation, and upon conviction, shall be punished by a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1000.00), or imprisonment for not more than sixty (60) days, or both; any person, firm, corporation, partnership, or other commercial entity, or representative thereof, who fails to comply with Sections 404.8.1 — 404.8.4 of this chapter shall be guilty of a violation, and upon conviction, shall be punished by a fine of not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00), or imprisonment for not more than thirty (30) days, or both."~~

MOTION for Acceptance as First Reading on November 27, 2023.

by Council Member Bancroft.

Second Reading and Final Passage on December 11, 2023.

VOTE: 5 to 0.

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Mayor

Attest:

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City Secretary

Approved as to Legality & Form:

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City Solicitor