

CHAPTER XV RENT CONTROL*

15-1 DEFINITIONS.

As used in this section:

Available for rent to tenants shall mean fit for habitation, as defined by the Statutes, Codes and ordinances in full force and effect in the State of New Jersey, County of Essex and Township of West Orange, and occupied or unoccupied and offered for rent.

Dwelling shall mean and include any building or structure rented or offered for rent to one (1) or more tenants or family units. Exempt from this chapter are hotels, motels, multifamily housing of three (3) units or less and four (4) family houses where the owner is an occupant of one (1) of the units. Housing units, newly constructed and rented for the first time, are exempted and the initial rent may be determined by the landlord. All subsequent rents will be subject to the provisions of this chapter.

Housing space shall mean and include that portion of a dwelling, rented or offered for rent for living and dwelling purposes to one (1) individual or family unit together with all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy of such portion of the property.

Periodic tenant shall mean a tenant whose lease, whether oral or written, shall be reviewable for periods of less than one (1) year, including but not limited to month-to-month tenancies and tenancies at will.
(1972 Code § 17-1; Ord. No. 453-77 § 1; Ord. No. 1182-93 § 1)

15-2 RENT INCREASES.

15-2.1 Establishment of Rent.

Establishment of rents between a landlord and tenant to whom this act is applicable shall hereafter be determined by the provisions of this chapter. At the expiration of a lease or at the termination of a lease of a periodic tenant, a landlord may request or receive a percentage increase in rent up to three (3%) percent per annum over and above the rent charged in the previous lease or previous tenancy, provided, however, that where the tenant pays for the cost of his or her heat, the percentage increase in rent shall be no more than two (2%) percent per annum. (1972 Code § 17-2.1; Ord. No. 453-77 § 2; Ord. No. 560-80 § 1; Ord. No. 758-84 § 1; Ord. No. 835-86 § 1; Ord. No. 1063-91 § 1)

15-2.2 Rental Increase.

- a. All landlords shall file with the Rent Leveling Board no later than thirty (30) days after the effective date of this chapter as herein amended a list of rents charged as of April 1, 1993, for any dwelling or housing space under their control. The list of rents charged shall be by building, unit number and tenant name.
- b. Upon the sale of, transfer of title to or the construction of dwelling or housing space to which this chapter is applicable, the new landlord shall file a copy of the rents charged for each rental unit. Such filing must be made within sixty (60) days of the closing of title and/or issuance of a Certificate of Habitability.
- c. Any rental increase at a time other than at the expiration of a lease or termination of a period tenancy shall be void. Any rental increase in excess of that authorized herein shall be void and the excess shall be refunded to the tenant by the landlord within thirty (30) days after the Rent Leveling Board has made its findings. Refunds shall be made in the form of a credit against future monthly rents or by a check made payable to the tenant.
(1972 Code § 17-2.2; Ord. No. 1182-93 § 1)

15-2.3 Notice of Rental Increase Required.

- a. Any landlord seeking an increase in rent, including the rent of a period tenant, shall notify the tenant by certified mail or by personal service with affidavit of service to be provided, of the proposed rental increase and the proposed percentage increase, the prior year's rent, the allowable rental increase and allowable percentage increase under the provisions of this chapter at the same time notice is sent to the Rent Leveling Board, as recited below.
Any landlord seeking a rent increase shall notify the Rent Leveling Board by certified mail or by personal service with affidavit of service to be provided, of all proposed rent increases by apartment number and name of tenant. The notification shall include the percentage increase sought and proof that notice of such rent increase was sent to all tenants involved.
No rent increase shall be approved for any landlord who has failed to comply with all of the provisions of Chapter 15 of the Revised General Ordinances of the Township of West Orange and with all of the provisions of N.J.S.A. 46:8-28 et seq. and N.J.S.A. 46:8-27 et seq. Landlords shall furnish satisfactory evidence of such compliance as the Board shall prescribe.
- b. All landlords must file a statement of rent charged at the expiration of a lease or periodic tenancy if no increase is being sought pursuant to paragraph a. above.
(1972 Code § 17-2.3; Ord. No. 321-74 § 1; Ord. No. 453-77 § 2; Ord. No. 758-84 § 2; Ord. No. 1182-93 § 1)

15-2.4 Rental of Parking Space.

All charges to a tenant for rental of a parking space, where not separately stated, shall be added to the rent and be considered a part of the total rent. There shall be no independent increases in rent on parking spaces. (1972 Code § 17-2.4; Ord. No. 287-73 § 2)

15-2.5 Approval of Rental Increase; Objection.

Any proposed rental increase in conformity with the provisions of this chapter shall be approved by the Rent Leveling Board unless objection is filed by the tenant to the Board within thirty (30) days of notification of the proposed rental increase. If objection to the proposed rental increase is properly filed, the Board shall meet within thirty (30) days of notification in order to conduct hearings on the proposed increase. The Secretary of the Rent Leveling Board shall notify the tenant and the landlord of the scheduled date for hearing in writing so as to give ample prior notice.

No rent increase shall be approved for any landlord who has failed to comply with all of the provisions of N.J.S.A. 46:8-38 et seq. Landlords shall furnish satisfactory evidence in such form as the Board shall prescribe. (1972 Code § 17-2.5; Ord. No. 453-77 § 2)

15-2.6 Notice of Tenants' Rights.

Every lease shall contain a provision which shall advise the tenant in a conspicuous manner of the name and address of the Rent Leveling Board, the maximum rent allowable, the tenant's right to object to a proposed rental increase, the tenant's right to a hearing before the Rent Leveling Board if objection is filed within thirty (30) days of notification of any proposed rental increase, and the tenant's right to appeal the findings of the Board to the Township Council. This notice of tenant's rights shall be given at the inception of every lease and annually in the case of renewals.

In the case of a periodic tenant, the same notice of tenant's rights shall be given at the inception and at the anniversary of each tenancy. (1972 Code § 17-2.6; Ord. No. 453-77 § 2; Ord. No. 1182-93 § 1)

15-2.7 Tenant Tax Rebate.

In the event a Township property tax appeal is successfully prosecuted by the landlord and the taxes are reduced, the tenants shall receive one hundred (100%) percent of any tax refund, after deducting all actual expenses incurred by the landlord in prosecuting the appeal. The full amounts of the rebates to which tenants are entitled, pursuant to this section, shall be remitted by the landlord to the tenants within sixty (60) calendar days of the refund date.

In the event any of the tenants have moved out of the subject premises or relocated elsewhere, the landlord shall make every reasonable effort to locate the former tenants and give them their proportionate share of the rebate.

Prior to the landlord being entitled to deduct all actual expenses, as set forth above, the landlord shall demonstrate compliance with the provisions of this section. In addition the landlord shall provide the Rent Leveling Board with an itemization of these expenses. (1972 Code § 17-2.7; Ord. No. 758-84 § 3; Ord. No. 1155-92 § 1)

15-2.8 Collection of Garbage; Rebate.

- a. All tenants in any apartment complex which consists of more than four (4) rental units and where the landlord is receiving garbage and refuse collection services from a garbage and refuse collection contractor hired by the Township, or who is reimbursed by the Township for the costs of collection, shall receive from the landlord a rebate of eight (\$8.00) dollars from each month's rent or, in the alternative, a credit in the same amount against each month's rent.
- b. *Enforcement.*
 1. Enforcement of the provisions of this subsection shall be the responsibility of the West Orange Rent Leveling Board.
 2. The Board shall have and exercise all reasonable powers necessary and appropriate to carry out and execute the provisions of this section including, but not limited to, the powers set forth in subsection 15-3.2 of this chapter.
(Ord. No. 1132-92 § 1,2)

15-3 RENT LEVELING BOARD.

15-3.1 Rent Leveling Board; Creation; Organization.

- a. There is hereby created a West Orange Rent Leveling Board (Board) which shall consist of seven (7) members appointed as hereinafter set forth. All members must be bona fide residents of the Township and shall serve without compensation except as otherwise provided by ordinance.
- b. Each member of the Township Council shall appoint one (1) member of the Board who shall serve coterminous with the Councilmember making the appointment.
- c. In addition to those Board members appointed by each Councilmember there shall be two (2) Board members appointed by majority vote of the Township Council, each of whom shall be appointed for a two (2) year term except that the terms of these members first appointed shall be as follows:
 1. One (1) member shall be appointed for a term of one (1) year.
 2. One (1) member shall be appointed for a term of two (2) years.Thereafter the successor of each member appointed by a majority vote of the Council shall be appointed for a term of two (2) years and until the appointment and qualification of a successor.
- d. A vacancy during the term of any member shall be filled for the unexpired portion thereof only.
- e. The Township Council may remove any regular member of the Board for cause upon written charges served upon the member and after a hearing thereon at which the members shall be entitled to be heard and represented by counsel.
- f. A member shall not be permitted to act on any matter in which he/she has either directly or indirectly any personal or financial interest.
- g. All appointments to the Board shall be by resolution of the Township Council.
(1972 Code § 17-3.1; Ord. No. 318-74 § 1; Ord. No. 632-81 § 1; Ord. No. 645-82 § 1; Ord. No. 1030-90 § 1)

15-3.2 Powers.

The Rent Leveling Board is hereby granted, and shall have and exercise, in addition to other powers herein granted, all powers necessary and appropriate to carry out and execute the purposes of this chapter, including, but not limited to, the following:

- a. To issue and promulgate such rules and regulations as it deems necessary to implement the purposes of this chapter which rules and regulations shall have the force of law until revised, repealed or amended from time to time by the Board in the exercise of its discretion, providing that such rules are filed with the Township Clerk.
- b. To supply information and assistance to landlords and tenants to help them comply with the provisions of this chapter.
- c. To hold hearings as a quasi-judicial body and adjudicate applications from tenants for reduced rental as hereinafter provided.
- d. To hold hearings as a quasi-judicial body and adjudicate applications from landlords for increased rental as herein provided.
The Board shall give both landlord and tenant reasonable opportunity to be heard before making any determination.
- e. To appoint legal counsel to represent the Rent Leveling Board. Such counsel's compensation shall be determined from time to time by such Board, subject to the approval and budget appropriation voted by the Township Council.
(1972 Code § 17-3.2; Ord. No. 453-77 § 4; Ord. No. 1182-93 § 1)

15-3.3 Appeal to the Board.

- a. *Hardship Rent Increase.* In the event that a landlord cannot meet his/her mortgage payments and maintenance, he/she may appeal to the Rent Leveling Board for increased rent. The Board may grant the landlord a hardship rent increase to meet these payments and to allow a just and reasonable return on his/her investment. Prior to any such appeal to the Board, a landlord must post in the lobby of the building or, if no lobby is present, then in a conspicuous place in and about the premises a notice of the appeal setting forth the basis for the appeal and the date and place of any hearing before the Rent Leveling Board. The notice must be posted for at least ten (10) days prior to the hearing date. The landlord shall also serve notice of such application and date and place of hearing by certified mail, return receipt requested, or by personal service, with affidavit of service to be provided on each tenant no less than ten (10) days prior to the hearing.
- b. *Increase for Major Capital Improvements.* The landlord may seek additional rental for major capital improvements or services. Capital improvements shall be defined as set forth in the Internal Revenue Code. Each tenant must be notified by certified mail or by personal service, with affidavit of service to be provided, of the total cost of the completed capital improvement or service, the number of years of useful life of the improvement as claimed by the landlord for purposes of depreciation for income tax purposes, the average cost of the improvement, the total number of square feet of the dwelling or housing space, the total square feet occupied by the tenant and the capital improvement surcharge being sought from each tenant. The landlord seeking a capital improvement or service surcharge shall apply to the Rent Leveling Board for the surcharge and the Board shall determine if the improvement is a major improvement; and, if so, shall permit the increase to take place. In any event, no increase authorized by this section shall exceed ten (10%) percent of the tenant's average rent for the preceding twelve (12) months. The Secretary of the Board shall give reasonable written notice to the landlord and tenants of the date, time and place of the hearing on the landlord's application.
(1972 Code § 17-3.3; Ord. No. 453-77 § 4; Ord. No. 1182-93 § 1)

15-3.4 Standards of Service.

During the term of this chapter, the landlord shall maintain the same standards of service, maintenance, furniture, furnishings and equipment in the housing space and dwelling as he or she provided or was required to do by law or lease at the date into which the lease was entered.

An individual tenant or a group of tenants who are not receiving substantially the accepted standards of service, maintenance, furniture or furnishings or equipment may have the Rent Leveling Board determine the reasonable rental value of the housing unit or dwelling in view of this deficiency. The tenant or group of tenants shall pay the reasonable rental value as full payment for rent until the landlord abates the deficiency.

No landlord after September 11, 1973, shall charge any rents in excess of that which he or she was receiving on September 11, 1973, except for increases authorized by this chapter and such excess rent shall be refunded to the tenant by the landlord. Payment shall be made to the tenant as provided in subsection 15-2.2. The base rent shall be deemed to be the lawful rent for the housing space which was in effect on February 1, 1973. That rent for housing space shall not exceed base rent plus any surcharge or increase authorized by the provisions of this chapter.

The Rent Leveling Board shall provide information on and in accordance with the procedures hereinabove described. It shall enforce any Federal legislation or regulations unless prohibited from such action by Federal or State law. (1972 Code § 17-3.4; Ord. No. 276-73)

15-3.5 Filing Fee.

- a. No application or petition will be accepted by the Rent Leveling Board from a tenant or a group of tenants unless it is accompanied by a fee of ten (\$10.00) dollars.

- b. No application or petition will be accepted from a landlord for a hardship and/or capital improvement increase unless it is accompanied by a fee which complies with the following schedule:
1. Buildings or complexes of ten (10) or less units—fifty (\$50.00) dollars.
 2. Buildings or complexes of eleven (11) to twenty (20) units—one hundred (\$100.00) dollars.
 3. Buildings or complexes of more than twenty (20) units—two hundred (\$200.00) dollars.
(Ord. No. 1182-93 § 1)

15-4 EXCEPTION.

- a. *Initial Renting.* The owner of housing space or a dwelling being rented for the first time shall not be restricted in the initial rent he/she charges. Any subsequent rental increases, however, shall be subject to the provisions of this chapter.
- b. *Vacancy Decontrol.* Notwithstanding any limitations on permissible rent increases under any other provisions of this chapter, upon the voluntary uncoerced vacation of any apartment, rent increases for which are controlled in this chapter, the landlord shall have the right to fix the rent for such vacated apartment at such sums deemed appropriate subject to the following:
1. In order to qualify for a vacancy decontrol rent increase, the landlord shall first be required to file with the Rent Leveling Board a written statement signed by the vacating tenant certifying to the Board that the landlord has not, in any way, harassed or pressured the tenant into vacating the housing unit and that the vacating of such unit was a voluntary act on the part of the tenant.

Such statement shall also include the rent paid by the vacating tenant and the date the tenant will be vacating the unit. For the purposes of this section a vacation caused or necessitated by substandard, unsafe or unsanitary conditions shall not be deemed a voluntary vacation. Such noncoercion certification shall not be required in order for the landlord to qualify for the vacancy decontrol increase if:
 - (a) The increase does not exceed the total of all permissible increases authorized by any other provisions of this chapter;
 - (b) The tenant has moved from the unit without notice to the landlord;
 - (c) The unit has been vacated pursuant to a judicially mandated eviction;
 - (d) The tenant has refused to sign such certification, and upon appeal by the landlord the Rent Leveling Board has found that such refusal was unwarranted and that there was in fact no coercion exerted by the landlord upon the vacating tenant.
 A hearing pursuant to paragraph (d) above shall be held before the Rent Leveling Board upon at least seven (7) days notice to the public and the vacating tenant. The decontrol provision of this section shall apply only to dwelling units which are physically vacated subsequent to the effective date of this section.
(1972 Code § 17-4; Ord. No. 552-79 § 1; Ord. No. 758-84 § 4; Ord. No. 1182-93 § 1)

15-5 APARTMENT VACATED; STATEMENT BY LANDLORD.

Upon the re-renting of any dwelling, the landlord shall file a statement with the Rent Leveling Board certifying to the Board:

- a. The unit and building numbers of such dwelling.
- b. The date such dwelling became vacant.
- c. The rent paid by the prior tenant.
- d. The rent agreed to by the new tenant.
- e. The date of any new lease.
- f. A statement that all proper occupancy approvals have been obtained from the Township.
(1972 Code § 17-4A; Ord. No. 552-79 § 2; Ord. No. 1182-93 § 1)

15-6 PENALTY.

A willful violation of any provision of this chapter including, but not limited to, the willful filing with the Rent Leveling Board of any material misstatement of fact, shall be liable to the penalty in Chapter I, Section 1-5. A violation affecting more than one (1) leasehold shall be considered a separate violation as to each leasehold.

Any landlord, agent, employee or designee of a landlord, who shall by coercion, threat or by any action of reprisal against any tenant or tenant group from exercising rights guaranteed under this chapter, shall be subject to punishment as hereinbefore provided. (1972 Code § 17-5)

15-7 EFFECTIVE DATE; TERMINATION; RENEWAL.

Note: Ordinance No. 2400-14 which readopted this Section 15-7 was adopted February 25, 2014.

15-7.1 Effective Date.

This chapter is to take effect immediately on October 17, 1972 and shall remain in full force and effect for a period not to exceed two (2) years from the effective date and shall automatically terminate, cease and be of no force and effect unless specifically extended by the Township Council by ordinance extending the term for no more than two (2) years at a time.

Any extension action shall be taken by the Township Council prior to the second anniversary date of this chapter and any subsequent extensions shall be taken prior to the respective second anniversary dates of this chapter thereafter, or any ordinance readopting this chapter. (1972 Code § 17-6.1; Ord. No. 364-75 § 1; Ord. No. 2400-14)

15-7.2 Renewal.

The Township Council has determined that the housing shortage which has existed in the Township since 1972 has not abated. This chapter, therefore, is hereby extended for two (2) years from the date of re-adoption of this section. (Ord. No. 364-75 § 1; Ord. No. 394-76 § 1; Ord. No. 441-77; Ord. No. 507-78 § 1; Ord. No. 542-79 § 1; Ord. No. 588-08 § 1; Ord. No. 624-81 § 1; Ord. No. 671-82 § 1; Ord. No. 713-83 § 1; Ord. No. 805-85 § 1; Ord. No. 849-86 § 1; Ord. No. 889-87 § 1; Ord. No. 931-88 § 1; Ord. No. 971-89 § 1; Ord. No. 1024-90 § 1; Ord. No. 1083-91 § 1; Ord. No. 1133-92 § 1; Ord. No. 1225-93 § 1; Ord. No. 1263-94 § 1; Ord. No. 1415-96 § 1; Ord. No. 1459-97 § 1; Ord. No. 1564-98 § 1; Ord. No. 1676-99 § 1; Ord. No. 1729-00 § 1; Ord. No. 1953-04 § II; Ord. No. 1990-04 § II; Ord. No. 2096-06 § 1; Ord. No. 2205-09 § 1; Ord. No. 2234 § 1; Ord. No. 2400-14)

15-7.3 Retroactive Application.

This chapter shall apply retroactively, in its entirety, for the time period from October 2010 through the date of adoption. (Ord. No. 2400-14)

¹⁰ Editor's Note: The power to control rent is part of the general Police power granted by N.J.S.A. 69A:29, 30.