

Municipal Code of Edison Township

Chapter 5.52

RENT CONTROL

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Section 5.52.010 Definitions.

For the purpose of this chapter:

"Available for rent to tenant" means fit for habitation as defined by the statutes, codes and ordinances in full force and effect in the state of New Jersey, county of Middlesex and township of Edison, and occupied or unoccupied and offered for rent.

"Base rent" means, for the first twelve (12) months after the effective date of this ordinance, the present monthly rental, excluding hardship surcharge and improvement surcharge. Thereafter, "base rent" shall mean the base rent for the prior twelve (12) month period, excluding hardship surcharge and improvement surcharge.

"Completion of construction" means issuance of a certificate of occupancy pursuant to section 15 of the "State Uniform Construction Code Act," P.L. 1975, c.217 (C. 52:27D-133);

"Constructed" means constructed, erected or converted but excludes rehabilitation of premises rented previously for residential purposes without an intervening use for other purposes for a period of at least two years prior to conversion. Mere vacancy shall not be considered an intervening use for the purposes of this subsection;

"Constructed for senior citizens" means constructed under a governmental program restricting occupancy of at least 90% of the dwelling units to senior citizens and any members of their

immediate households or their occupant surviving spouses, or constructed as a retirement subdivision or retirement community as defined in the "Retirement Community Full Disclosure Act," P.L. 1969, c.215 (C.45:22A-1 et seq.)

"Dwelling" includes any building or structure or manufactured home or land used as a manufactured home community, rented or offered for rent to one or more tenants or family units. Excluded from this definition, and from the operation of this chapter, are motels, hotels and similar types of buildings, those buildings in which one-third or more of the occupied floor space is devoted to commercial purposes and housing units which are less than three units.

"Equity in real property investment," as used in Section 5.52.100(A)(4)(a), means the actual cash contribution of the purchaser-landlord at the time of closing of title and any principal payments to outstanding mortgages.

"Housing space" means that portion of a dwelling rented or offered for rent for living and dwelling purposes to an individual or family unit, together with all privileges, services, furnishing, furniture, equipment, facilities and improvements connected with the use or occupancy of such portion of the property.

"Just cause" means any action by or on behalf of a landlord in refusing to let, rent, re-let or re-rent residential premises to a tenant, or any action toward a dispossess, including but not limited to the following:

1. Failure on the part of the tenant to pay rent due and owing whether the same shall have become due by virtue of a written lease, an oral letting or a month-to-month tenancy;
2. Disorderly, disturbing, damaging or malicious conduct on the part of the tenant that is harmful to the peace and tranquility of the landlord, other tenants or neighbors or destructive of personal property;
3. Intentional or neglectful conduct that creates or permits dirt, filth, noise, damage or destruction of any kind;
4. Frequent or repeated violations by the tenant of contractual obligations contained in the lease or of reasonable rules or regulations established by the landlord previously having been agreed to;
5. Substantial breach of terms and conditions contained in a lease;
6. Clear and convincing proof that the owner intends to occupy the premises personally. Any owner seeking eviction of a tenant or possession of the premises on the ground that it shall be for his or her own use must occupy the premises within sixty (60) days and for not less than one year;
7. Owner seeks to close the premises down and will not permit any further occupancy in the future.

"Municipal dwelling" means any building or structure and land appurtenant thereto containing four or more dwelling units, other than dwelling units constructed for occupation by senior citizens, rented or offered for rent to four or more tenants or family units;

"Period of amortization" means the time during which the principal amount of the mortgage loan and interest thereon would be paid entirely through periodic payments, whether or not the term of the mortgage loan is for a shorter period concluding with a balloon payment; and

"Price index" means the consumer price index (all items) for that region of the United States in which the township is included, which index is periodically published by the Bureau of Labor Statistics of the United States Department of Labor.

"Senior citizens" means persons 62 years of age or older.

(O.1336-2002, Amended, 01/08/2003, definitions added; O.1335-2002, Amended, 01/08/2003)

Section 5.52.020 Establishment of rents.

A. Rates and Increases. Establishment of rents between the landlord and tenants to whom this chapter is applicable shall be determined by the provisions of this chapter.

B. Maximum Rent Increase. Beginning with the sixtieth (60th) day preceding the adoption of this Ordinance, at the expiration of a lease or at the termination of the lease of a periodic tenant, no

landlord shall request or receive a percentage increase in rent above the base rent which is greater than the percentage Five per cent (5%) per annum.

C. Other Charges.

1. No landlord shall charge to any tenant a separate charge or fee for any privilege, service or facility normally connected with the use or occupancy of a dwelling.

2. Any separate charge or fee presently in effect for services or facilities, such as garage spaces, parking spaces, swimming pool membership or similar services and facilities, if mandatory, shall be subject to the same percentage increase as shall the base rent.

3. No landlord shall charge any application fee to prospective tenants unless said fee bears a reasonable relationship to some expense incurred by the landlord in processing the application. Any fee in excess of twenty-five dollars (\$25.00) shall be presumed unreasonable and subject to prosecution unless the landlord can establish the reasonableness of same.

4. No tenant shall be charged any brokerage commission or charge. Any such charge shall be borne solely by the landlord.

5. No landlord may rent a dwelling as a furnished dwelling for any additional charge or rental unless the dwelling is equipped with furniture sufficient in and of itself to make the dwelling habitable. No landlord may sell any item of personalty to a tenant for more than the cost of same to the landlord, less a reasonable adjustment for depreciation. No landlord shall rent or lease any item of personalty to a tenant for a monthly charge or fee more than one-thirty-sixth of the cost of same to the landlord, less a reasonable adjustment for depreciation.

D. Rent Rolls. All Landlords of rental units subject to regulation by this Chapter shall provide the Fair Rental Housing Board with certified yearly rent rolls on February 1, 2003 and on February 1 every year thereafter. The rent rolls shall include all units.

(O.1335-2002, Amended, 01/08/2002)

Section 5.52.025 Vacancy decontrol.

A. Notwithstanding the language contained in Sections 5.52.020, the provisions of this chapter limiting rent increases shall not apply upon the vacancy of a dwelling unit and its subsequent re-rental to a new tenant. Upon the re-rental of the dwelling unit to a new tenant, the landlord is free to rent the unit at a rental price mutually agreeable to the landlord and the prospective tenant for the initial one year term of the lease. Thereafter the provision of this chapter shall apply.

B. Upon the vacancy and re-rental of a dwelling unit the landlord shall within thirty [30] days after the commencement of the new lease file an amendment to its multiple-dwelling registration statement as required to be filed pursuant to Title 49. The amendment shall be on a form prescribed by the Fair Rental Housing Board and shall indicate the apartment number, the new base rental, the date of the commencement of the new lease and such other information as the Fair Rental Housing Boards deems reasonable to include.

C. Upon the vacancy and re-rental of a dwelling unit, the landlord shall file with the Fair Rental Housing Board a certification on a form prescribed by the board stating that the vacancy was accomplished by voluntary choice of the former tenant or by legal process of law or by willful abandonment by the former tenant. The certification shall also contain a statement by landlord that the vacancy was not induced by harassment or annoyance by landlord.

D. It is unlawful for any landlord or his or her agents to willfully harass, annoy, intimidate or take any similar action designed to induce a tenant to quit the premises except such action as a landlord is entitled to pursue under the laws of the state of New Jersey.

E. A landlord shall not unreasonably deny a request by a tenant to transfer to a different unit in the complex. Should a tenant request and should the landlord approve a move by tenant from one apartment in a multiple dwelling to another apartment in a multiple dwelling, the apartment vacated by the tenant shall no longer be subject to the application of this section, whereas the apartment to which the tenant removes himself shall remain subject to the application of this section.

(O.1337-2002, Added, 01/08/2002)

Section 5.52.030 Rental increases.

Any rental increase at a time other than at the expiration of a lease or termination of a periodic lease is prohibited and void. Any rental increase in excess of that authorized by the provisions of this chapter is prohibited and void. (Prior code § 55-3)

Section 5.52.040 Notice of intent to increase rent.

Any landlord seeking an increase in rent shall first notify the tenant, by ordinary mail, with proof of mailing, of the calculations involved in computing the allowable increase against the previous year's base rent. The notice shall be sent no later than sixty (60) days prior to the date that the increased rent sought is to be effective, and notice shall detail the prior rent, the amount of the increase in dollars and the new base rent sought. (Prior code § 55-4)

Section 5.52.050 Tax appeals.

In the event that a landlord perfects a successful tax appeal, the tenant shall receive one hundred [100%] percent of all reductions as applied pro rata to the tenant's living space so leased, after deducting all reasonable expenses incurred by the landlord in perfecting the tax appeal.

(O.1338-2002, Amended, 01/08/2003, change in title; O.1338-2002, Amended, 01/08/2003)

Section 5.52.060 Increases due to hardship or capital improvement.

A. Financial hardship.

1. After public hearing and upon a finding that a landlord cannot meet his or her mortgage payments, taxes, current operating expenses on the multiple dwelling or cannot otherwise earn a fair and reasonable rate of return upon his or her investment in the dwelling, the Fair Rental Housing Board may grant to the landlord a specific hardship increase for each unit of housing space in the dwelling, based upon the number of square feet of each unit of housing space.

2. The hardship surcharge so allowed shall not be considered base rent for purposes of computing the annual percentage increase provided in Section 5.52.020, nor shall such surcharge be continued for a duration in excess of one year without first being reconsidered by the Fair Rental Housing Board after due and timely notice to tenants as hereinafter provided. The board may, upon good cause shown and upon notice to tenants, continue a surcharge for more than one year without being reconsidered by the board, but such extension shall not exceed one additional year and shall be granted only if the landlord agrees to terms and conditions required in the discretion of the board, including security and a rollback in the event that it is subsequently determined that the hardship surcharge was not warranted for more than the initial one-year period.

3. Any application by a landlord for a hardship increase shall be accompanied by such financial statements and other documentation as the Fair Rental Housing Board shall require. Such application shall be accompanied by a sworn statement or certification that each tenant was notified of the date, time and place of the public hearing at least five business days prior thereto, and the notice shall contain the amount of surcharge requested by the landlord for each apartment. The notice shall advise each tenant of the right to examine copies of all documentation submitted to the Fair Rental Housing Board. As a condition precedent to each application being considered, the landlord must make a copy of the complete application, including copies of financial documentation, available to the tenants affected during normal business hours.

4. In determining the inability of the landlord to earn a fair and reasonable rate of return upon his investment in the dwelling such as to justify the hardship increase, the Fair Rental Housing Board may consider the following factors:

- a. Taxes;
- b. Costs of maintenance and operation of the property;
- c. The kind, quality and quantity of the services being furnished or withheld by the landlord;
- d. The number and frequency of prior hardship or capital improvement increases for the multiple dwelling;
- e. The landlord's original and current investment;
- f. The dates, amounts, terms and interest rates of all past and current mortgages;
- g. The amount of current professional and management fees and the relation, if any, between the landlord and the recipients of such fees;
- h. The age of the dwelling as well as its original and current appraisal value;
- i. The present and past rates of vacancy;
- j. The efficiency of current management;
- k. Cash flow history;
- l. Fair return, meaning the percentage of return on equity in real property investment. The amount of return shall be measured by the net income before depreciation. The Board shall consider a fair rate of return in an efficiently run multiple dwelling to be six percent above the maximum passbook demand deposit savings account interest rate available in the municipality. The six percent is provided to reflect the higher risk [three percent] and lesser liquidity [three percent] of the real property investment in comparison to savings account investments. This factor is to be considered along with the other factors provided herein;
- m. Other factors which the board, through its experience, shall determine to affect the rate of return.

5. The board shall make its determination in writing, and the landlord shall serve a copy of the determination to each tenant by ordinary mail or personally.

B. Improvements.

1. The landlord may also seek rental increases where major capital improvements have been provided or where additional services, not previously accorded, have been instituted. As a prerequisite for such an increase, notices outlined in subsection A of this section must be given, which notices must contain the total cost of the completed capital improvement or service, projection of useful life of the project in years 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 the dwelling complex, the total square feet demised to the tenant and the capital improvement increase that the landlord is seeking from each tenant.

2. On receipt of such an appeal, the Fair Rental Housing Board shall determine if the improvement is major in character, and if so, may permit the increase up to but not in excess of fifteen [15] percent of the amount of the rent on the hearing date.

(O.1338-2002, Amended, 01/08/2003, repealed and replaced with this ordinance; O.1338-2002, Amended, 01/08/2003, title renamed)

Section 5.52.070 Escrow account.

A. Establishment of Account upon hardship or improvement surcharge application.

1. Upon submission of an application, the applicant shall be required to establish an escrow account with the township.

2. Upon receipt of such an appeal, the Fair Rental Housing Board shall determine if the improvement is major in character, and if so, may permit the increase up to but not in excess of fifteen [15] percent of the amount of the rent on the hearing date.

3. The applicant shall forthwith deposit such funds in the escrow account maintained by the tax

collector of the township. The professional experts shall submit vouchers for all reasonable and necessary fees for the professional services rendered, which fees shall be paid from the escrow account in the manner prescribed by N.J.S.A. 40A:5-16 through 18.

4. The professional expert shall, at the time of submission of any such voucher, forward a copy of same to the applicant. In the event that the applicant questions the reasonableness of any such voucher, the applicant shall, not later than five days after receipt of a copy of said voucher, make written protest of such voucher to the board. In no event shall the board authorize the payment of any voucher submitted pursuant to this section sooner than ten days from its submission.

5. Any of the aforesaid moneys left in the escrow account upon completion of the application shall be returned to the applicant as soon as it's practicably possible.

6. Should additional funds be required after the original funds are exhausted and should such funds be deemed necessary in the judgment of the board, then such funds shall be paid by the applicant to the tax collector of the township and placed in the escrow account.

7. The board shall take no formal action on any application unless and until all escrow funds have been deposited with the tax collector of the township.

B. Fee for application for improvement.

1. At or before the filing by a landlord for a capital improvement increase, the landlord shall pay to the township clerk a fee for the application in the amount of fifty dollars [\$50.00] for each separate capital improvement for which the landlord claims an increase.

2. Prior to processing any application for a capital improvement increase, the Fair Rental Housing Board shall be furnished with proof of payment of the application fee.

3. Should the board grant a capital improvement increase to the landlord, the amount of the increase shall take into consideration the application fee incurred by the landlord.

(O.1338-2002, Amended, 01/08/2003, repealed and replaced by this ordinance; O.1338-2002, Amended, 01/08/2003, Title renamed)

Section 5.52.080 Fair Rental Housing Board established

A. There is created a Fair Rental Housing Board within the township to be known as the "Edison Township Fair Rental Housing Board." This board shall consist of seven members who shall be appointed by the mayor with the approval of the municipal council. The terms of office of the seven board members shall be three years and shall be staggered in such a manner that two board members' terms will end in the first year, another two members' terms will end in the second year, and the remaining three members' terms will end in the third year from the date of the original appointments under this section.

B. The powers of the board hereinafter granted and defined are final. Four members thereof shall constitute a quorum; provided, however, that the quorum shall be increased to five members in cases of hardship applications and capital improvement applications. The majority vote at any hearing shall be legally sufficient to render a final determination. All determinations of the board reflecting the decisions, findings and determinations shall be final.

C. The adoption of this ordinance shall not effect the terms or appointment of any member of the Rent Control Board appointed prior to the adoption of this ordinance pursuant to an ordinance in effect at that time. Members so appointed shall continue for their terms as members of the Fair Rental Housing Board.

D. In addition to the seven regular members of the board, the mayor, with the approval of the council, shall also appoint two alternate members, who shall be so designated; and an alternate shall act only in the absence of a regular member of the board. The term of each alternate shall be three years. The alternates shall serve without compensation.

(O.1336-2002, Amended, 01/08/2003, section renamed and replaced)

Section 5.52.090 Fair Rental Housing Board - Powers

- A. Promulgate and issue rules and regulations to give effect to the purposes of this chapter and revise, repeal and amend the same from time to time. Sufficient copies of the current rules and regulations shall be on file with the township clerk;
 - B. Supply information and assistance to landlords and tenants and aid them in compliance with this chapter;
 - C. Hold hearings, after due notice, and record findings;
 - D. To order a landlord to adjust rental, surcharges and increases allowed under this chapter to the lawful amount after due and timely notice, after public hearing and with recorded findings;
 - E. To order a landlord to refund to affected tenants any overcharge in rental, surcharges or increases in rental after due and timely notice, after public hearing and with recorded findings;
 - F. Orders by the Fair Rental Housing Board directing a landlord to adjust rental, surcharges and/or increases or directing a landlord to refund overcharges in same shall be enforceable by criminal prosecution in the municipal court if the landlord refuses to comply and shall also be enforceable by civil proceedings brought by the board in the Superior Court of New Jersey;
 - G. In civil actions instituted by the board pursuant to subsection F of this section, the landlord shall be responsible for counsel fees and costs reasonably incurred by the board in instituting and prosecuting the civil proceedings to enforce its orders.
- (O.1336-2002, Amended, 01/08/2003, section renamed and replaced)

Section 5.52.100 Maintenance of standards

Landlords shall maintain the same standards of service and maintenance of all real and personal property and equipment in and around the housing spaces and dwellings in the same manner as was provided on the date of adoption of this chapter.

(O.1336-2002, Amended, 01/08/2003, repealed and replaced)

Section 5.52.110 Initial rents.

The owner of housing space or dwelling units being rented for the first time shall not be restricted to the initial rent they charge. Any subsequent rental increase, however, shall be subject to the provisions of this chapter.

(O.1336-2002, Amended, 01/08/2003, section repealed and replaced)

Section 5.52.120 Exemption

A. In accordance with the provisions of NJSA 2A:42-84.1 et. seq. this ordinance, which limits the periodic or regular increases in base rentals of dwelling units, shall not apply to multiple dwellings constructed after June 25, 1987, for a period of time not to exceed the period of amortization of any initial mortgage loan obtained for the multiple dwelling, or for 30 years following completion of construction, whichever is less.

B. In the event that there is no initial mortgage financing, the period of exemption from this ordinance shall be 30 years from the completion of construction.

C. Exemption Statement.

The owner of any multiple dwelling exempted from this ordinance pursuant to this section, shall, prior to entering into any lease with a person for tenancy of any premises located in the multiple dwelling, furnish the prospective tenant with a written statement that the multiple dwelling in which the premises is located is exempt from this ordinance for such time as may remain in the exemption period. Each lease offered to a prospective tenant for any dwelling unit therein during the period the multiple dwelling is so exempted shall contain a provision notifying the tenant of the exemption.

D. Filing of Exemption; Contents; Notice of Termination

1. The owner of any multiple dwelling claiming an exemption from this ordinance pursuant to this section shall file with the municipal construction official, within sixty (60) days of the passage of this ordinance, the following:

- a. a written statement of the owner's claim of exemption from this ordinance;
- b. a statement of the date upon which the exemption period so claimed commenced;
- c. the address of the multiple dwelling;
- d. the name and address of the owner of the multiple dwelling;
- e. the name and address of the superintendent and/or the name and address of the agent in charge of the multiple dwelling;
- f. a statement of the number of rental dwelling units in the multiple dwelling for which the exemption is claimed;
- g. the number of square feet in the entire multiple dwelling;
- h. the number or other designation of each dwelling unit;
- i. the total square footage for each dwelling unit;
- j. the immediately previous base rent charged for each dwelling unit;
- k. the most current hardship surcharge chargeable to each dwelling unit, if any;
- l. DELETED;
- m. any capital improvement surcharge chargeable to each dwelling unit;
- n. The effective date of the most recent lease, if any; and
- o. A copy of the lease containing a provision notifying the tenant of the exemption.

2. The owner shall, at least thirty (30) days prior to the date of the termination of the exemption period afforded pursuant to this section, file with the municipal construction official a notice of the date of termination of the exemption period for the affected multiple dwelling.

(O.1336-2002, Amended, 01/08/2003, repealed and replaced; O.1338-2002, Amended, 01/08/2003, repealed)

Section 5.52.130 Notice to tenants.

A landlord renting to a new tenant shall be required to submit the following information to the tenant, in writing, and the failure of the landlord to do so shall constitute a violation of this chapter.

A. The landlord shall supply a statement to each new tenant, in writing, that there is a rent control and stabilization ordinance or code within the township, and that copies of the rent control and stabilization code or ordinance are available to the tenant from the office of the municipal clerk at a minimal cost.

B. The landlord shall notify the tenant at the time of entering into a lease of all charges to be paid for by the tenant, including the base rent, hardship surcharges and improvement surcharges.

(O.1338-2002, Amended, 01/08/2003, repealed; O.1336-2002, Amended, 01/08/2003, repealed and replaced)

Section 5.52.140 Condominium conversion.

A. The Fair Rental Housing Board shall be designated as the local agency to administer the Senior Citizens and Disabled Protected Tenancy Act. In administering the Act, the Fair Rental Housing Board shall be governed by the provisions of Section 19 of P.L. 1981, c. 226*(5) and regulations promulgated by the Department of Community Affairs (N.J.A.C. 5:24-1 et seq.)

B. The Fair Rental Housing Board shall have the power to issue rules and regulations to administer the Act and regulations consistent with the provisions of the Act and regulations.

C. The mayor shall have the authority to appoint a panel of three hearing officers to hear appeals or challenges to determinations made by the Fair Rental Housing Board with regard to eligibility under the Senior Citizens and Disabled Protected Tenancy Act. Each member shall be an attorney at law of the state of New Jersey. The assignment of appeals shall be on an equal rotating basis. The appeal officer shall act in accordance with P.L. 1981, c. 226, and in accordance with the regulations of the rules promulgated by the Department of Community Affairs (N.J.A.C. 5:24-1).

D. Upon notification by a landlord/sponsor to the Fair Rental Housing Board of intention to convert, the landlord/sponsor shall pay to the township clerk a fee of ten dollars (\$10.00) per individual unit. This shall be paid at the time that the landlord/sponsor submits its tenant lists, forms and mailing envelopes. This fee shall be designed to cover the cost of administering the Act. It shall be reviewed annually to determine whether it is covering the cost to the municipality to administer the Act.

E. Any person requesting an appeal to an appeal officer shall pay an appeal fee to the township clerk in the amount of one hundred fifty dollars (\$150.00). This fee, less a reasonable administrative expense to the township, shall be paid to the hearing officer to cover his or her services in hearing the appeal and issuing a written determination.

(O.1336-2002, Amended, 01/08/2003, repealed and replaced)

Section 5.52.150 Violations - Penalties.

Willful violations of any of the provisions hereof, including but not limited to material misstatements contained in any of the notices required herein, shall be punishable in the municipal court by fines of not more than two hundred dollars (\$200.00) for a first offense and not more than one thousand dollars (\$1,000.00) for second offenses, and imprisonment for not more than thirty (30) days, or both. Violations affecting more than one leasehold shall be considered separate violations.

(O.1336-2002, Amended, 01/08/2003, repealed and replaced)

Section 5.52.160 Construction and severability.

A. This chapter, being necessary for the welfare of the township and its inhabitants, shall be liberally construed to effectuate the general intended purposes.

B. If any portion or clause of this Ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this Ordinance.

(O.1336-2002, Amended, 01/08/2003, repealed and replaced)