

**Chapter 312**

**RENT CONTROL**

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**[HISTORY: Adopted by the Board of Commissioners of the Town of West New York 7-21-1982 by Ord. No. 1550. Amendments noted where applicable.]**

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**§ 312-0.1. Preamble.**

WHEREAS, the Board of Commissioners of the Town of West New York has determined that a critical shortage of housing space still exists in the Town of West New York as a result of which an emergency exists within the Town of West New York with respect to the rental of housing space and, that in the absence of a Rent Control Ordinance, numerous rent increases, excessive and unwarranted, would result thereby causing severe hardship to tenants and their families, which in turn would cause other deprivations and adversely affect the health, safety and general welfare of the community, all of which warrants legislative action by the governing body of the Town of West New York continuing rent control in the public interest; and

WHEREAS, under the police powers granted to the Mayor and Board of Commissioners of the Town of West New York, New Jersey, in order to protect the health, safety and welfare of the citizens of the community, it has been determined that a Rent Control Board is necessary and must likewise be continued in the order to effectuate and carry out the effective regulation, stabilization and control of rents within the Town of West New York:

**§ 312-1. Definitions. [Amended 10-20-2010 by Ord. No. 23/10; 8-7-2024 by Ord. No. 23/24]**

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

**CAPITAL IMPROVEMENT** — An addition to the property that substantially enhances in value or substantially prolongs its life. It is not a replacement or improvement to cure a code violation or otherwise to comply with the repair of something required by law. It is in the nature of a fixed asset which has a minimum useful life of five years.

**DWELLING** — Includes any buildings or structures or trailer or land used as a trailer park rented or offered for rent to one or more tenants or family units and contains the usual facilities of a residence which includes a permanent kitchen, bathroom and at least one room sufficient in size to accommodate sleeping quarters for at least one person or family unit. It includes condominium and cooperative apartments that are rented.

**HOUSING SPACE** — Includes that portion of a dwelling, rented or offered for rent for living and dwelling purposes to one 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** — Includes all tenants, including those tenants who do not have a written lease. Comment: A "periodic tenant" could be a weekly tenant.

**PRICE INDEX** — The Consumer Price Index (all items) for the region of the United States of which West New York, New Jersey, is a part, published periodically by the Bureau of Labor Statistics, United States Department of Labor.

**RENT** — Any price for the use of a housing space. Price includes any charge, no matter how set forth, paid by the tenant for the use of any service in connection with the housing space. No charges shall be permitted for late rent payments of 15 days late or less, whether termed as a late fee, attorney fee, interest on rent paid late or any fee, returned check fees, or any other similar charges, more than \$25. No charges shall be permitted for late rent payments more than 15 days late, whether termed as a late fee, attorney fee, interest on rent paid late or any fee, returned check fees, or any other similar charges, more than \$50. Security deposit and charges for accessories, such as boats and/or automobiles, not used in connection with the housing space shall not be construed as rent.

**RENTAL STATEMENT** — The statement the landlord shall be required to sign when requested by the tenant and vice versa describing the housing space rented, the related services and equipment involved (whether or not including use of basement, garage, clothesline, washing, utilities, heat, hot water, garbage removal, repairs, maintenance and the like) and the base rental as of March 1, 1973.

**RENT INCREASES, RENT DECREASES and RENT ADJUSTMENTS** — It is the intent and policy of the governing body to interfere in landlord-tenant good relations and legitimate operation, ownership, occupancy and development of real estate only when necessary to protect the public interest. Rent increases, rent decreases and rent adjustments shall consist, in the first instance, of the notice sent by the landlord to the tenant or by the tenant to the landlord in letter or other form, setting forth proposed notice of rent increase or rent decrease or other rent adjustment. Each notice shall set forth all the reasons justifying or requiring such increase, decrease or adjustment and an itemized computation of elements thereof.

**SERVICES** — Includes services and equipment associated with the base rental at no extra rent or cost. It includes but shall not be limited to the provision of light, heat, hot water, maintenance, painting, elevator service, air conditioning, storm window, screens, superintendent services and any other benefit, privilege or facility connected with the use or occupation of any dwelling or housing space.

**SUBSTANTIAL COMPLIANCE** — The housing space and dwelling are free from all heat, hot water, elevator and all health, safety and fire hazards as well as 90% qualitative free of all other violations of the ordinances of the Town of West New York and the Property Maintenance Code of the State of New Jersey or any other law or regulation governing the operation and maintenance of residential dwelling as applicable.

**SUBSTANTIALLY REHABILITATED** — Any building or structure in which at least 80% of its residential units are vacant as of September 1, 2010, and thereafter renovated for residential use and occupancy by reconstruction or rehabilitation of residential units by the replacement of a combination of plumbing and electrical systems, interior walls, ceilings and interior finishes where the actual costs of such work (including reasonable soft costs) exceeds the equalized value of the structure (exclusive of its land) as of October 1, 2009.

### § 312-2. Service of notices.

All notices shall be served on the tenant by certified mail, return receipt requested, or any other form of receipted delivery at least one month before the effective date, which date shall be the date rent is legally due. A copy of such notice shall likewise be served by the landlord upon the Rent Control Board by certified mail, return receipt requested, simultaneously with service upon the tenant. Certified mail that is refused may be remailed by ordinary mail and will be effective as though the certified mail notice has been accepted. The landlord shall also file a notarized affidavit of service with the Rent Control Board.

### § 312-3. Establishment of rent controls; exemptions.

- A. Subject to the provisions of this chapter during the period beginning with the effective date of this chapter and ending on the date this chapter ceases to be in effect, no person shall demand, accept or receive any rent for the use or occupancy of any controlled housing space greater than the maximum rent established under the authority of Ordinance Nos. 1116, 1141, 1149, 1164 and 1172, as amended.<sup>1</sup>
- B. The following structures are exempt from this chapter: [**Amended 8-15-1984 by Ord. No. 1651; 4-20-1994 by Ord. No. 19/94; 9-7-1995 by Ord. No. 43/95**]
- (1) Motels, hotels and similar-type buildings intended for transient use.
  - (2) Owner-occupied two-, three- and four-family dwellings. Condominiums and cooperative units which are rented are not exempt from this chapter, and the residence of the owner of said units, except if it falls within the exemption set forth in Subsection B(5) below in the same dwelling, shall not be a basis for exemption under this section; provided, however, that rental units of four-family owner-occupied dwellings shall only become exempt upon the tenant who resided in the unit on or before April 20, 1994, vacating said unit. Any tenant whose initial occupancy in an owner-occupied four-family dwelling occurs, after April 20, 1994, is not protected by this chapter.
  - (3) Commercial buildings containing not more than three residential units in addition to a single

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1. Editor's Note: These ordinances contain former provisions on rent control continued by this chapter.

commercial use where the individual who owns, rents or leases the commercial use also resides in one of the three residential units, and provided that the owner for purposes of this exemption is a natural person whose individual interest in the premises constitutes 100% of the legal ownership of the property, or is an owner of such one-hundred-percent interest jointly with his or her spouse. **[Amended 10-20-2010 by Ord. No. 23/10]**

- (4) Premises newly constructed (from the ground up) where construction has commenced after October 1, 1995. This exemption shall continue for the initial and all subsequent rentals.
  - (5) Any condominium or cooperative apartment that is rented on or after August 1, 1995, and has a monthly base rent in excess of \$1,000.
  - (6) Premises which have approved rental agreements pursuant to Ordinance No. 1461,<sup>2</sup> provided that any rental increases sought above that established by an approved rental agreement shall be subject to the provisions of this chapter.
  - (7) All residential units in a building or structure which has been substantially rehabilitated as such term is defined herein, but excluding from this exception any residential unit that is not so renovated. Any such unrenovated residential unit shall be exempted upon its later substantial rehabilitation and nothing in this chapter shall be construed to prohibit a landlord from rehabilitating such unit(s) upon the subsequent vacancy of such unit(s) or upon the relocation of its tenant(s) for purposes of such rehabilitation. **[Added 10-20-2010 by Ord. No. 23/10]**
- C. All rents for rental of housing space and services are hereby continued at the base rent level received or established as of March 1, 1973, and no rent increases shall hereafter be demanded, paid or accepted, except as provided in this chapter.
- D. Any unexpired lease, the term of which commenced prior to March 25, 1975, or any option to renew any lease in existence prior to March 25, 1975, which option provided for a specified rent, shall not be affected by this chapter, but no new leases shall be executed or performed, except as provided in this chapter; and the base rent level for leased housing space shall be the rental legally in effect at the expiration of the lease, after which date the tenant may remain as a periodic tenant at such base rental and the premises shall thenceforth remain subject to the provisions of this chapter.
- E. At the expiration of a lease or at the termination date or renewal date of a periodic tenant, no landlord may request or receive an increase in rent, subject to the limitation set forth in Subsection F, which is greater than the percentage difference between the Consumer Price Index 90 days prior to the expiration or termination or renewal of the tenancy or lease and the Consumer Price Index for the preceding twelve-month period.
- F. Such increases shall be deemed basic economic cost-of-living increases and shall be limited to one such increase, if otherwise justified, in any one twelve-month period, without prejudice to any other rent increase or decrease provided for in this chapter. Such increase shall be limited to 5% in any one year, subject nevertheless to the following: No landlord shall charge or receive and no tenant shall pay such basic economic cost-of-living increase at 5% unless and until the landlord has certified to the tenant and to the Rent Control Board that he is in substantial compliance with all municipal and state laws and regulations pertaining to the maintenance and servicing of the premises in question and, in addition, has filed with the Rent Control Board simultaneously with service upon the tenant, a copy of the notice to the tenant. **[Amended 4-20-1994 by Ord. No. 21/94]**

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2. Editor's Note: See § 312-26, Review of rental agreements.

- G. With respect to the letting or rental of any apartment subject to the provisions of this chapter, the landlord shall furnish to the tenant, no later than receipt of the first month's rent, a statement in writing stating the name of the previous tenant, the rent charged for said apartment and the date and amount of the last rental increase. A copy of such written notice furnished to the tenant shall, within 10 days of delivery to the tenant, be filed with the Rent Control Board with a certification by the landlord of service upon the tenant or, in lieu thereof, an acknowledgment by the tenant thereon of the receipt of such statement.

**§ 312-4. Rental adjustments not in compliance to be deemed void.**

Any rental in excess of the maximum rental established by this chapter shall be void and of no effect, and only an increase, decrease or adjustment legally established or determined pursuant to this chapter shall have any effect.

**§ 312-5. Landlords seeking increases to notify tenants.**

Any landlord seeking an increase in rent for whatsoever reason under this chapter shall notify the tenant of the proposed increase in writing by certified mail, return receipt requested, with copies to the Rent Control Board, likewise by certified mail, return receipt requested. Said notice shall specifically set forth the reasons and calculations involved in computation of the proposed increase including the Consumer Price Index at the date of the last rent increase, the Consumer Price Index 90 days before the latest increase, the allowable percentage increase and the allowable rental increase. Oral or verbal notices of increase shall be ineffectual and void.

**§ 312-6. Reduction or rebate in taxes.**

In cases in which a tenant is paying a tax surcharge, which was allowed under a previously enacted rent leveling ordinance which is superseded by this chapter for a particular year, if by virtue of a successful tax appeal the landlord shall become entitled to a reduction or rebate in taxes for that particular year, the tenant shall receive 100% of said reduction or rebate as applied to the number of rooms of rentable housing space of the tenant after deducting all reasonable expenses actually paid by the landlord in connection with said rebate or reduction.

**§ 312-7. Computation of tax rebate to tenant.**

In cases in which a tenant is paying a tax surcharge, the tenant shall be entitled to a tax rebate in the event of a reduction in municipal property taxes. The landlord shall compute the rebate to which the tenant is entitled as follows: The landlord shall divide the decrease in the present property tax over the property tax of the previous year by the total number of rooms in the dwelling. The tenant shall be entitled to receive 100% of such decrease. Payment shall be made in the form of a credit against the monthly rate in equal monthly increments for the next succeeding six monthly rent payments or, at the option of the landlord, a check made payable to the tenant within 30 days from the landlord's receipt of notice of the reduction.

**§ 312-8. Application for increased rent.**

In the event that a landlord is suffering a hardship and demonstrates that he is unable to realize a reasonable return on his investment or, in the event that a landlord makes major capital improvements to the dwelling, he may make application to the Rent Control Board for additional rental by reason of hardship or capital improvement expenditures. Prior to any such application to the Board, the landlord shall serve on each tenant a notice of said application, setting forth the basis in detail for such hardship or capital improvement application. Said notice shall be served by certified mail, return receipt requested, at least 20 days before

any hearing thereon, and the landlord shall be required to file an affidavit or sworn certification of proof of such services; same to be filed with the Rent Control Board. In considering hardship (and capital improvement) applications, the Board, in addition to other relevant factors and information pertaining to each individual building, shall be guided by the following standards and considerations:

- A. All claims for relief must be sustained by the applicant by clear and convincing evidence, and all supporting documents required by the Board should be submitted prior to the hearing with sufficient copies of distribution to all members; no application shall be deemed complete and accepted for filing until it has been reviewed by the Secretary as to contents of the application, supporting documents and payment of fee.
- B. The Board may consider whether rent being paid in one building is substantially lower than rent being received for comparable apartments within the municipality.
- C. Hardship may exist under either one of the following two approaches:
  - (1) Where the annual operating expenses for any one building exceeds at least 75% of the total annual gross income. Operating expenses shall include all reasonable expenses necessary to carry out the proper operation and maintenance of the property, including property taxes allocated to the year. Operating expenses shall exclude mortgage amortization, mortgage interest or costs of financing, attorney's, expert's or engineer's fees related to the filing of hardship or capital improvement applications, depreciation or expenditures for capital improvement or rehabilitation. Total management fees may not exceed 7% including superintendent services. In reviewing operating expenses, the Board should consider normal expenses and may make any adjustments in its computations for extraordinarily high or low operating expenses in any given year. Annual gross income shall include all income realized in connection with the operation of the premises, including rentals from all residential and commercial units, as well as fees collected for parking, rental from machines, concessions and garages or other services.
  - (2) Where the landlord is not earning a fair return on his equity in the real property investment. Equity shall be determined in this approach by the actual purchase price minus any and all existing liens on the property plus any payments towards amortization of any financing incurred at the time of the purchase of the property. The amount of return shall be measured by the net income before depreciation. A fair return on the equity investment and real property shall be considered to be up to 6% above the maximum passbook demand deposit savings account interest rate available in the Town of West New York. Six percent is reflective of the higher risk and the reduced liquidity of a real estate investment in comparison to other investments. Operating expenses shall exclude mortgage amortization, mortgage interest, interest or costs of financing, attorney's fees, expert or engineer's fees related to filing the hardship or capital improvement applications, depreciation or expenditures for capital improvements or rehabilitation. Total management fees may not exceed 7% including superintendent services. In reviewing operating expenses, the Board should consider normal expenses and may make adjustments in its computations for the extraordinarily high or low operating expenses in any given year. Interest on a mortgage may be allowed as an operating expense if the Board specifically finds that the landlord made a reasonably prudent investment in purchasing the property, level of his cash investment in the property and terms of financing, including but not limited to the mortgage interest rates. The Board may also consider the level of risk that the landlord took in looking at the level of cash investment of the property. The Board must also find that the property was purchased in an arm's-length transaction and the level of debt is not disproportionately high in relation to the net worth of the purchase. Interest shall not be allowed

on a mortgage instrument other than mortgage which arises at the time of the purchase of the property by the landlord.

- D. The Board, in determining which of the two formulas (ratio of income to expenses or fair return on equity) it will employ when considering a hardship application, shall consider each of the formulas, but shall adopt that formula which the Board shall determine, consistent with the intent of this Ordinance and for reasons stated on the record, most nearly provides a fair return to the landlord and that is fair to the tenants. **[Amended 8-4-1982 by Ord. No. 1554; 4-20-1994 by Ord. No. 20/94]**
- E. <sup>3</sup>In considering a hardship application, the Board shall give due consideration to any and all factors it deems relevant, including but not limited to the following:
- (1) Compliance with local and state housing codes; level and quality of service rendered by the landlord in maintaining and operating the building.
  - (2) Whether the landlord made a reasonably prudent investment in purchasing the property and in arranging financing on said property. The Board may consider the purchase price and fair market value of the property to determine if the debt servicing expenses are excessive. The Board may also consider the amount of cash invested in the property in relation to said fair market value and purchase price, the interest rate of the mortgage, the term of the mortgage and whether the mortgage instrument was arrived at and executed in an arm's-length transaction. The Board may also consider the level of cash investment in the property to determine the level of risk that the landlord has incurred in purchasing the property.
  - (3) The presence or absence of reasonably efficient and economical management and whether the operating expenses are reasonably incurred.
- F. An applicant for hardship relief shall submit to the Secretary of the Board nine copies of the following:
- (1) A statement for three preceding twelve-month periods of gross rentals and actual expenses incurred for said 12 months in connection with the operation of the building.
  - (2) Federal tax returns pertaining to the property for the same preceding three years.
  - (3) A statement containing the date of purchase, purchase price, original investment and financing arrangements and present assessed value.
  - (4) Any and all appraisals of the property prepared in connection with a property tax appeal or for any other purpose.
  - (5) A list of all present owners of the property which must show the full name and address of each partner or shareholder owning an equity interest in excess of 10% of the entity which is the owner of record.
  - (6) A full copy of any tax appeal application filed by the owner within a five-year period prior to the filing of the application. Any tax appeal pending during the year of the application filed with the Board.
- G. An application for capital improvement surcharge shall be accompanied by nine copies of the following: invoice bills, proposals or contracts for work performed with proof of payment. Each of

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3. Editor's Note: Former Subsection E, Proof of ownership, was repealed 9-7-1995 by Ord. No. 43/95.

same shall show the specific charge from the contractor for the expenditures for the subject building. Allocation of bulk purchases or commingled invoices will not be acceptable. The applicant must attach a copy of its canceled check as proof of payment of each charge. The landlord shall also certify that the capital improvement has been completed and paid for in full prior to the application. Interest on loans or other financing charges incurred by the landlord in order to make the capital improvements shall not be allowed as part of the capital improvement application nor shall such charges be allowed as an operating expense on a hardship application.

- H. Any landlord who seeks a hardship or capital improvement increase under § 312-14 of this chapter must file with his application a certification from the Office of the Construction Official to the effect that the building and grounds are in substantial compliance with the Town of West New York Building and Housing Codes and the Property Maintenance Code of the State of New Jersey, which certification shall be based on an application made by the landlord to the Construction Official not more than one month before the filing of his complaint with the Board. "Substantial compliance" means that the housing space and dwelling are free from all heat, hot water, elevator and all health, safety and fire hazards, as well as 90% qualitative free of all other violations of the ordinances of the Town of West New York and the Property Maintenance Code of the State of New Jersey or any other law or regulation governing the operation and maintenance of residential dwellings, as applicable. No such increase may be granted until such certification has been filed, and, if a tenant contests the accuracy of such certification, then until the Board has determined that there is substantial compliance. If the landlord fails to file a certificate with his application for increase but later does so, then the Board may process the application, but any increase granted by the Board shall be retroactive to the date of the certificate. Whenever there is an issue as to whether or not a landlord is in substantial compliance, that issue shall be determined by the Rent Control Board<sup>4</sup> after a hearing based on the evidence adduced at the hearing. At that hearing, any certification or inspection by the Office of the Construction Official regarding substantial compliance shall be evidential but shall not be determinative. Whenever a party who is seeking a certificate regarding substantial compliance from the Office of the Construction Official notifies the Rent Control Board that the party seeks the assistance of the Board in expediting that department's inspection, then the Rent Control Board shall utilize its best efforts to have the Office of the Construction Official expedite said inspection. Nothing contained in this section shall prevent the Rent Control Board from considering testimony by the landlord and tenant as to the condition of the property. With respect to certification of substantial compliance with capital improvement applications, the certification shall also include a statement that the inspector has inspected the subject dwelling unit/building and he certifies that the capital improvements set forth in the application have in fact been performed. **[Amended 9-7-1995 by Ord. No. 43/95]**
- I. Capital improvement surcharge. **[Amended 12-19-1984 by Ord. No. 1662; 4-20-1994 by Ord. No. 22/94]**
- (1) A landlord seeking an increase in rental for completing capital improvements or increased services shall serve upon each tenant a copy of the application showing the costs of the completed capital improvement or service, the number of years of the useful life of the improvement as claimed by the landlord for purpose of depreciation or income tax purposes, the total number of rooms or, in the alternative, the square feet occupied by the tenant and the capital improvement surcharge he is seeking from each tenant. The Board shall determine if said improvement is, in fact, a major capital improvement and, if so, shall permit said increase to

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4. Editor's Note: Ordinance No. 23/10 stated that 'all references in the existing provisions of the Code to "Rent Leveling Board" shall be construed to refer to the present Rent Control Board.' References to the Rent Leveling Board were changed to "Rent Control Board" throughout this chapter.

take effect over the number of years of useful life of said improvement. A capital improvement increase shall not be considered rental or calculated in the cost-of-living increases. In the event that the capital improvement is removed or significantly modified prior to the number of years of useful life of said improvement, the tenant's obligation to pay the capital surcharge increase shall cease.

- (2) In no event shall a capital improvement surcharge be allowed for the cost of converting a central heating system of an individual apartment unit heating system under which the tenant is required to pay the cost of heat and/or hot water.
  - (3) The Board shall consider the useful life of capital improvements set forth on the attached Schedule A,<sup>5</sup> in applications that come before it.
  - (4) Prior to the applicant submitting an application for a capital improvements surcharge in accordance with the provisions of this chapter, the landlord shall, prior to constructing the improvement, file a preliminary application for approval of the proposed capital improvement with the Rent Board Secretary indicating the nature of the proposed improvement and the estimated cost, attaching a copy of the proposal for said improvement and the estimated date of start up of construction and estimated date of completion of said construction. The Rent Board Secretary shall within 45 days of receipt of this application either approve or disapprove the preliminary application for the proposed capital improvement. Following completion of construction, the applicant shall seek final approval for the surcharge pursuant to the applicable other sections of this chapter. **[Added 9-7-1995 by Ord. No. 43/95]**
- J. The Board may not accept more than one hardship application in any twelve-month period for any building. Any increases in rent resulting from hardship applications and/or capital improvement applications shall be limited to 12 1/2% in the aggregate of the existing rental in any one twelve-month period. The Rent Control Board, upon submission to it of an application by a landlord or tenant as aforesaid, together with all supporting documents, evidence and other information that the Board may require, shall determine the application. If either the landlord or the tenant requests a hearing within 10 days of the service of the hardship or capital improvement application on the tenant or the Board, on its own motion, requests a hearing, a hearing date shall be set to determine the application based upon the documents submitted. Either party may appeal a determination of the Rent Control Board<sup>6</sup> to the Rent Control Board where the determination has been rendered on the documents submitted without a hearing on written notice to the Secretary of the West New York Rent Control Board within 10 days of the date of their receipt of the Board's determination. The Board at said hearing shall consider proofs and testimony relevant to said application. The Board shall grant or deny said application and may modify or otherwise adjust all rentals by increasing or decreasing same, and said Rent Control Board may make such determinations as to conditions, services, equipment terms and related matters pertaining to rentals and controlled premises as may be warranted within the intent and purview of this chapter. Hearings on any of the aforesaid applications should be scheduled no later than 60 days after the submission of the applications and any other documents, evidence or information required to be submitted by the Board so as to deem the application complete.
- K. No single guideline, standard or consideration set forth in the preceding subsections shall be deemed or construed as requiring, in and of itself, an increase, adjustment or decrease in rental, and the Board

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5. Editor's Note: Schedule A is included as an attachment to this chapter.

6. Editor's Note: Ordinance No. 23/10 stated that 'all references in the existing provisions of the Code to "Rent Leveling Board" shall be construed to refer to the present Rent Control Board.' References to the Rent Leveling Board were changed to "Rent Control Board" throughout this chapter.

shall consider all of the factors contained in all of the preceding subsections in rendering its decision on the applications provided for herein. None of the aforesaid subsections shall be construed or deemed to limit any additional considerations or information that the Board deems relevant or material to the applications herein provided for.

- L. The Rent Control Board shall not consider a landlord's application for a hardship increase where the landlord is found to be "warehousing" apartments, herein defined as any apartment unit that remains vacant for a period of 60 days from the date that the last tenancy is terminated. The Rent Control Board may consider justifiable reasons for the apartment remaining vacant beyond the sixty-day period, but shall be limited to considerations such as: **[Added 2-19-1986 by Ord. No. 1707]**
- (1) The landlord has advised that the apartment unit cannot be occupied by housing inspection personnel of the state or Town of West New York.
  - (2) The landlord has made reasonable efforts to locate a new tenant to occupy the unit without success.
- M. All landlord applications for capital improvements shall be \$150 per unit, and hardship applications shall be \$125 per unit. **[Added 4-18-2012 by Ord. No. 10/12]**

**§ 312-9. Application for reduction in rent. [Amended 4-18-2012 by Ord. No. 10/12]**

When services, care or maintenance decline in any dwelling, any tenant may apply to the Rent Control Board for a decrease in rent. Said notice shall be served on the landlord and all other tenants, setting forth the reasons in detail for such application. At least 15 days shall elapse before a hearing thereon is held, and notices shall be served by certified mail, return receipt requested. Said hearing shall be conducted before the Rent Control Board. The Secretary of the Rent Control Board shall provide all relevant information prior to the meeting.

**§ 312-10. Conversion of heating and/or hot-water systems. [Added 10-17-1984 by Ord. No. 1656]**

- A. When a landlord seeks to convert the heating and/or hot water systems in the dwelling, the landlord must file with the Rent Control Board, prior to applying for any permit, the following information: **[Amended 4-18-2012 by Ord. No. 10/12]**
- (1) An application with the Rent Control Board on forms to be supplied by the Rent Control Board, indicating its intention to convert its heating and/or hot water system.
  - (2) The application shall include the following:
    - (a) A statement from Public Service Electric and Gas Company estimating the costs to supply heat and/or hot water for each apartment unit. The dollar figure shall set forth the estimated cost that each tenant shall be required to pay to supply heat and/or hot water for their individual apartment unit.
    - (b) A cost estimate from the company retained by the landlord to install the conversion equipment indicating the cost to supply heat and/or hot water per apartment unit. This dollar figure shall set forth the estimated cost that each tenant shall be required to pay to supply heat and/or hot water for their individual apartment unit. This estimate shall also include the date of the commencement of the contract for conversion and the estimated date of completion.
    - (c) A certification that he has served a copy of the application with attachments on each tenant

and the date of service.

- B. The Rent Board shall schedule a hearing, upon receipt of said application, on notice to the tenant and landlord at which time it will enter an order decreasing the rent for each apartment in an amount which considers the increased costs that the tenants will incur after the conversion is completed. Said decrease in rents shall be effective upon completion of the conversion.
- C. The Plumbing Inspector shall not issue a plumbing permit until the landlord has filed a copy of a stamped, filed copy of the application with the Rent Control Board required under this section.
- D. The landlord's fee for an application under this section is \$125 per unit. **[Added 4-18-2012 by Ord. No. 10/12]**

**§ 312-11. Automatic rent reduction. [Added 1-6-1985 by Ord. No. 1669; amended 4-18-2012 by Ord. No. 10/12]**

Any tenant or apartment unit that is the subject of a heating conversion under which the tenant shall be required to pay the increased cost of utilities shall be entitled to an automatic rent reduction in the amount of the monthly utility bill that the tenant is required to pay. This automatic rent reduction may be modified upon application by the landlord or tenant to the Rent Control Board in accordance with the procedures set forth in §312-10.

**§ 312-12. Limitations on rent rebates.<sup>7</sup> [Added 8-18-1999 by Ord. No. 14/99; amended 4-18-2012 by Ord. No. 10/12; 11-19-2012 by Ord. No. 35/12]**

Any tenant seeking a rental adjustment based upon an illegal increase shall be required to file an application for said decrease and/or adjustment in rent to be entitled to have his rent adjusted prospectively by the Rent Control Board. The tenant shall be entitled to a prospective rental adjustment by the Rent Board as well as any rebate of the illegally collected rent during the period said rent was received by the landlord, up to and including three years prior to the date that said application is granted.

**§ 312-13. Sewerage utility pass-along charge. [Added 8-18-1999 by Ord. No. 14/99]**

- A. From and after the effective date of this section, a landlord shall be able to pass along the increase for that year (1999) or any succeeding year against the base calendar year 1998 of sewerage utility bills on to each apartment unit under the following formula. The amount of the increase in a particular year over the base year 1998 shall be divided by the total number of rooms in the dwelling available for rent to obtain the sewerage utility pass-along surcharge for a particular unit. The tenant shall pay the computed sum in 12 equal monthly installments. For cooperatives, the entire sewerage utility increase above the base year 1998 shall be divided by the individuals in the building at the rate equal to the amount of shares owned.
- B. No pass-alongs will be allowed for buildings with commercial use unless there is a separate meter installed to determine the residential use only.
- C. The landlord is encouraged to install separate water meters in multidwellings to more accurately measure the sewerage use of each unit. Where separate meters are installed the apportionment shall be based upon actual use rather than the number of rooms against the base year 1998.

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7. Editor's Note: Original § 182-10, Certificate of exemption for rehabilitated dwellings, was repealed 8-15-1984 by Ord. No. 1651. Said ordinance also provided that "The Rent Control Board shall be authorized to hear and determine only those substantial rehabilitation applications which were fully documented prior to the introduction of the moratorium under Ordinance No. 1644 (May 7, 1984) under the format existing in Ordinance No. 1550 as amended prior to the adoption of this ordinance."

- D. Senior citizens who satisfy the most recent income guidelines established and promulgated under the Pharmaceutical Assistance for the Aged and Disabled Persons (PAAD) shall be exempt from the provisions of this section.
- E. Notice requirement. Any landlord seeking or attempting to seek a sewerage pass-along shall notify the tenant and Rent Board Secretary in writing of the calculations involved at arriving at the sewerage charge, including copies of the sewerage utility bill for and during the year for which the landlord is seeking the sewerage utility surcharge and for the base year 1998. This notice shall include a statement to the effect that the tenants have a right to object in writing to the Rent Board Secretary indicating the reason of the objection within 10 days of receipt of the notice. If there is an objection filed, the Secretary shall schedule a hearing. Either party may appeal the determination of the Rent Board Secretary to the Rent Control Board by filing a written request for appeal within 20 days from the date of the Rent Board Secretary's determination. The appeal shall set forth in detail the grounds of the appeal. A filing fee of \$25 in the case of a property owner's appeal and \$5 in the case of a tenant's appeal shall be paid with that application.
- F. The landlord must be current on all sewerage payments and municipal taxes in order to qualify for the sewerage utility pass-along.
- G. The landlord shall be required to obtain a certification of substantial compliance and file same with this application before being entitled to a sewerage utility pass-along.

**§ 312-14. Rent Control Board continued. [Amended 10-20-2010 by Ord. No. 23/10]**

The Rent Control Board consisting of seven members as heretofore established under Section 12 of Ordinance Nos. 1116, 1141 and 1164<sup>8</sup> is hereby continued in existence and maintained until the termination of this chapter as the Rent Control Board of the Town of West New York. Said Board shall consist of seven members. The members of said Board shall be appointed by the governing body, and the terms of office shall be for a period of one year each. Each member is to serve without compensation for their services.

**§ 312-15. Powers of Rent Control Board.**

The Rent Control Board is hereby granted and shall have and exercise all the 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, including but not limited to the use of subpoenas, which rules and regulations shall have the force of law until revised, repealed or amended from time to time by the Board of Commissioners in the exercise of its discretion, provided that such rules are filed with the Town 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 and adjudicate applications from landlords for adjustment or additional rental as herein provided.
- D. To hold hearings and adjudicate applications from tenants for adjustments or reduced rental as herein provided.

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8. Editor's Note: These ordinances contain former provisions on rent control continued by this chapter.

- E. To administer and hold hearings on appeal pursuant to Chapter 226 of the Laws of 1981<sup>9</sup> and Ordinance No. 1542<sup>10</sup> concerning the administration of the Senior Citizens Tenant's Protection Act for condominium and cooperative conversions.
- F. A quorum for hearing shall consist of at least four members and a majority of the quorum present shall be authorized to issue orders relating to the powers and functions of the Rent Control Board. Said Board shall give both landlord and tenant, with or without counsel, reasonable opportunity to be heard before making any determination.
- G. To require a landlord to produce for examination his, her or its books, records, tax returns, balance sheets and profit and loss statements and such other records as the Board may require in connection with any application, hearing, proceeding or purpose as set forth in this section.
- H. The Rent Control Board, upon an application by a landlord or upon an application by a tenant or upon application by an interest party or upon its own motion, may set a date for hearing, consider proofs and grant, deny, modify or otherwise adjust all rentals by increasing or decreasing same, and said Rent Control Board may make such determinations as to conditions, services, equipment, terms and related matters pertaining to rentals and controlled premises as may be warranted within the intent and purview of this chapter and applicable state laws.
- I. The Rent Control Board may delegate to the Rent Control Board Secretary any determinations for rental adjustments, legal rent calculations, applications for reduction of rent, conversion of heating and/or hot-water systems and reductions required thereunder and capital improvement applications. **[Added 9-7-1995 by Ord. No. 43/95; amended 11-23-2009 by Ord. No. 28/09; 8-15-2012 by Ord. No. 27/12]**
- (1) The Rent Control Board may delegate to the Rent Control Board Secretary the authority to determine whether any application submitted to the Rent Control Board is administratively complete. Such regulation shall provide, at a minimum, that the Rent Control Board Secretary shall make a determination as to an application's administrative completeness within 10 days of receipt. If such application is deemed administratively incomplete, the Rent Control Board Secretary shall return such application to the applicant with an explanation as to the nature of the incompleteness.
  - (2) The Rent Control Board [or the Rent Control Board Secretary empowered to conduct administrative review of applications by regulation pursuant to Subsection I(1) of this section] shall provide a report to the Tenant Advocate, on all applications rejected, in the month following the last previous meeting of the Rent Control Board, and the reason for such rejection, at least one week prior to the next regularly scheduled meeting of the Rent Control Board. The Rent Control Board Secretary shall provide such a report to the Rent Control Board at the same time the Rent Control Board Secretary provides such report to the Tenant Advocate if the Rent Control Board Secretary is empowered to conduct administrative review of applications by regulation pursuant to Subsection I(1) of this section.
  - (3) The Rent Control Board Secretary shall provide any reports requested of the Secretary by the Board of Commissioners, the Municipal Administrator, the Town Attorney, the Rent Control Board Attorney, the Tenant Advocate, or any other Board of the Town of West New York.
- J. Secretary of Rent Control Board. The Secretary to the Rent Control Board shall be appointed by the

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9. Editor's Note: See N.J.S.A. 2A:18-61.1.

10. Editor's Note: See Ch. 90, Condominium Conversions.

Commissioner of the Department in which the Rent Control Board is assigned. The Secretary shall perform all of the administrative functions required for the implementation of the Rent Control provisions of the Town Code, and the Secretary's duties shall include attendance at all meetings of the Rent Control Board and at such other proceedings as may be required. The administrative supervision of the person designated as Secretary shall be vested in the Commissioner heading the Department of the Town in which the Rent Control Board is assigned, or such subordinate as that Commissioner shall direct in order to ensure the day-to-day compliance with the requirements of the Rent Control provisions and the personnel requirements of the Town. **[Added 10-20-2010 by Ord. No. 23/10]**

**§ 312-16. Appeals. [Amended 10-16-1985 by Ord. No. 1690; 9-7-1995 by Ord. No. 43/95; 4-18-2012 by Ord. No. 10/12]**

All determinations of the Rent Control Board are final, and any appeal of said determinations may be made to the Superior Court of New Jersey pursuant to the rules of that Court. The Rent Control Board, on its own motion, may reconsider any of its prior determinations, or those of the Secretary.

**§ 312-17. Landlord to maintain standards of service.**

During the term of this chapter, the landlord shall maintain all standards of service, maintenance, furniture, furnishing use and equipment in the housing space and dwelling as he provided or was required to do by law or lease as of March 1, 1973, or such other date as establishes the base rent level.

**§ 312-18. Limits on rent.**

- A. The base rent shall be deemed to be the lawful rent for the housing space which was in effect on March 1, 1973, and no lease or rental for the housing space shall exceed such base rent plus any surcharge or increase authorized by the provisions of this act, less any decrease ordered hereunder.
- B. In addition to the other powers conferred upon the Rent Control Board hereinabove, the Rent Control Board shall provide information on and in accordance with the procedure hereinabove described and shall enforce any federal or state legislation or regulations pertaining to rent control unless prohibited from such action by federal or state law.

**§ 312-19. Maximum increase.**

In all cases, combined rent increases for all causes shall be limited to 15% in any one twelve-month period. The landlord shall make every effort to assert all increases authorized under this chapter in a single annual notice to tenants to be effective on the date on which the cost-of-living increase becomes effective.

**§ 312-20. Fees.**

The following fees shall apply to all applications or other proceedings of the Rent Control Board or appeals therefrom to the Board of Commissioners hereunder:

- A. Landlord applications to the Rent Control Board: \$100 per unit. **[Amended 9-21-1983 by Ord. No. 1615; 4-18-2012 by Ord. No. 10/12]**
- B. Landlord applications to the Board of Commissioners: \$100 per unit. **[Amended 9-21-1983 by Ord. No. 1615; 4-18-2012 by Ord. No. 10/12]**
- C. Tenant applications to Rent Control Board: \$5 per leasehold or tenancy application; \$25 per building, association or group containing more than four leasehold or tenancy applications.

- D. Tenant applications to Board of Commissioners: \$5 per leasehold or tenancy application; \$25 per association or group containing more than four leasehold or tenancy applications. Fees shall be paid only by check or money order, made payable to Town of West New York. No cash shall be accepted.
- E. The landlord shall also pay a fee for the inspection required for the issuance of a certificate of substantial compliance. Said fee shall be \$25 for apartment unit; except that, in the case of a capital improvement application or applications for approval of written rental agreements which require a certification by the inspectors that the improvements have in fact been performed, the landlord shall pay a fee of \$50 per apartment unit. **[Amended 9-7-1995 by Ord. No. 43/95]**
- F. Applications for overcharges are to be \$15 per unit. **[Added 4-18-2012 by Ord. No. 10/12]**

**§ 312-21. Construal of provisions.**

This chapter, being necessary for the welfare of the town and its inhabitants, shall be liberally construed to effectuate the purposes thereof.

**§ 312-22. Rules and regulations governing hardship applications.**

Previously adopted rules and regulations of the Rent Control Board governing hardship applications have been incorporated in this chapter, and said rules and regulations are hereby adopted and reaffirmed as of the effective date of adoption of such rules and regulations by the Rent Control Board on or about March 1975 to the adoption of this chapter, at which time, the provisions of this chapter shall apply.

**§ 312-23. Violations and penalties. [Amended 12-21-2017 by Ord. No. 29/17]**

- A. A violation of any provisions of this chapter, including but not limited to the filing with the Rent Control Board or Board of Commissioners of any material misstatement of fact, shall be punishable by a fine of not more than \$500 or by imprisonment for not more than 30 days, or both. A violation affecting more than one leasehold or tenancy shall be considered a separate violation as to each leasehold or tenancy.
- B. The Secretary of the Rent Control Board shall have the authority to file a complaint with the Municipal Court, which shall be by way of summons for any alleged violation of any of the provisions of this chapter. The Municipal Court shall have jurisdiction to preside over any summons issued pursuant to this section.
- C. In the event that any landlord is found by the Municipal Court to have violated any of the provisions of this chapter, the Court, in addition to assessing those penalties cited above, shall assess against the landlord reasonable court costs, and the reimbursement of any attorney's fees incurred by the Town of West New York, including but not limited to those attorney's fees charged to the Town by either the Rent Control Board Attorney or the Tenant Advocate for the matter or matters concerning the violation found by the Court. Such attorney's fees shall not be limited to the attorney's fees incurred for the time of any Municipal Court appearance associated with the violation but may include all such fees incurred by the Town, as related to the found violation.

**§ 312-24. Provisions of previous legislation continued; legislative intent. [Amended 5-14-1986 by Ord. No. 1719]**

- A. All of the rights, privileges, duties and obligations conferred or imposed upon any tenant or landlord or upon any person, firm, legal entity or corporation by Ordinance Nos. 1116, 1141, 1149 and 1172,<sup>11</sup> with amendments, are hereby continued in full force and effect during the lifetime of this chapter

except as rights, privileges, duties or obligations have been specifically modified, altered, amended or rescinded by this chapter. Ordinance No. 1368 is repealed; Ordinance No. 1461<sup>12</sup> is saved from repeal and shall survive the adoption of this chapter.

- B. It is the intent of this chapter in rescinding the fuel surcharge and tax surcharge sections of previously adopted ordinances which are now superseded by this chapter that landlords shall be permitted to continue to collect tax surcharges properly asserted under the previously adopted ordinances prior to June 30, 1982 (Ordinance No. 1557); from the effective date of this chapter, no landlord shall be permitted to collect a fuel surcharge from a tenant, and from the effective date of Ordinance No. 1550, as amended by Ordinance No. 1557, any additional increase in taxes shall be considered in a hardship application pursuant to § 312-8 of this chapter. Notwithstanding the foregoing provisions, or any provision of the ordinances of the Town of West New York governing rent control or any interpretation or construction thereof, the costs of fuel and taxes borne by a landlord may be considered by the Rent Control Board in its determination of a hardship application hereunder. **[Amended 10-20-2010 by Ord. No. 23/10]**

**§ 312-25. Term of effectiveness. [Amended 9-1-1982 by Ord. No. 1557; 5-16-1984 by Ord. No. 1641; 5-21-1986 by Ord. No. 1715; 7-20-1988 by Ord. No. 1816; 5-16-1990 by Ord. No. 1880; 2-19-1992 by Ord. No. 1969; 4-19-1995 by Ord. No. 18/95; 10-1-1997 by Ord. No. 27/97]**

This chapter is to take effect immediately upon passage and publication as required by law, retroactive to June 1, 1996. It is the intent that Rent Control Ordinance No. 1550, as amended and incorporated under Chapter 182<sup>13</sup> of the Code of the Town of West New York, shall be in full force and effect and continuous from the adoption of Ordinance No. 1550 on or about July 1982.

**§ 312-26. Review of rental agreements.<sup>14</sup> [Amended 9-16-1992 by Ord. No. 2000; 11-23-1994 by Ord. No. 122/94; 1-18-1995 by Ord. No. 138/94<sup>15</sup>]**

- A. The Rental Control Board or Secretary to the Rent Control Board shall have authority to review and approve all written rental agreements executed between tenants and landlords with respect to tenancies that would be governed by the provisions of this chapter, as amended. **[Amended 8-15-2012 by Ord. No. 27/12]**
- B. The application for the review of said rental agreement shall be made by the landlord to the Secretary to the Rent Control Board. The application shall contain the following information:
- (1) A copy of the proposed rental agreement.
  - (2) The basis for the proposed increase.
  - (3) A current rent roll setting forth the existing rent and the proposed rent under the rental

11. Editor's Note: These ordinances contain former provisions on rent control continued by this chapter. Ordinance No. 1172, adopted 3-25-1975, as amended, comprised former Chapter 182, Rent Control (now Chapter 312).

12. Editor's Note: See § 312-26, Review of rental agreements.

13. Editor's Note: Now Ch. 312.

14. Editor's Note: This section was originally added by Ord. No. 1461, which ordinance was specifically saved from repeal by § 312-24.

15. Editor's Note: Ordinance No. 14/99, adopted 8-18-1999 provided as follows: "Section [312-26] of the Code is amended to read as follows: From or after the effective date of this ordinance, all hearings on rental agreement applications shall be initially held and determined by the West New York Rent Control Board Secretary and all locations in the existing ordinance where the term "Rent Control Board" is used, more particularly (§ 312-26), the term Rent Control Board Secretary shall be inserted in its place instead. Determinations on these applications by the Rent Board Secretary shall be subject to appeal before the Rent Control Board by filing a written request for appeal within 20 days from the date the Rent Board Secretary's determination in which appeal shall set forth in detail the grounds for appeal. A filing fee of \$25 shall be paid with the appeal."

agreement.

- (4) A certification by the landlord and the affected tenants that they fully understand and agree to the terms of the rental agreement.
  - (5) A series of photographs which show the condition of the apartment before the improvements and the condition of the apartment after the improvements.
  - (6) A copy of all bills, invoices and canceled checks showing the improvements.
- C. The landlord shall serve a copy of the application on each tenant by personal service or by certified mail, return receipt requested, at least 15 days before any hearing thereon, and the landlord shall be required to file a proof of service with the Secretary to the Rent Control Board. Upon receipt of said application, the Secretary to the Rent Control Board shall schedule a hearing, and the landlord shall serve upon each tenant, personally or by certified mail, return receipt requested, at least 10 days in advance of said hearings, a second notice advising the tenants that the application for approval of the rental agreement previously served would be heard by the Rent Control Board or Secretary to the Rent Control Board on that date. Said notice shall also advise the tenants that any objections to the proposed rental agreement would be heard on that date. This notice shall also be posted in a conspicuous location in the public area of the building. **[Amended 8-15-2012 by Ord. No. 27/12]**
- D. In reviewing said application, the Rent Control Board or Rent Control Board Secretary shall consider but not be limited to the following factors: **[Amended 8-15-2012 by Ord. No. 27/12]**
- (1) Whether the landlord has made significant improvements to the apartment which improve the living conditions of the tenant.
  - (2) The amount of the increase, it being the general policy that no increase should be approved which is unconscionable in relation to the prior approved base rent.
  - (3) Whether the agreement is fair and reasonable.
  - (4) Whether the agreement has been accepted by a great majority of tenants in the building.
  - (5) All other factors which the Rent Control Board deems relevant and proper.
- E. Any approval of a rental agreement by the Rent Control Board or Rent Control Board Secretary shall be by resolution. **[Amended 8-15-2012 by Ord. No. 27/12]**
- F. The application shall be accompanied by a fee of \$125 per household or dwelling unit or \$600 per building containing more than five dwelling units. The applicant shall also be responsible for stenographer fees established by the Secretary to the Rent Control Board Office, which shall be filed with the application. **[Amended 4-18-2012 by Ord. No. 10/12]**
- G. No rental agreement and application filed under this chapter shall be valid unless it is executed by the tenant and the landlord or the landlord's agent in the presence of the Secretary to the Rent Control Board or his designee, prior to the application's coming before the Rent Control Board or Rent Control Board Secretary. The Rent Board Secretary shall certify to the Rent Control Board that: **[Amended 8-15-2012 by Ord. No. 27/12]**
- (1) The landlord and tenant approved before them and the date.
  - (2) The Rent Control Board Secretary explained to the tenant and landlord the appropriate provisions of the Rent Control Ordinance and that the tenant is agreeing to pay a rent higher

than that which would be allowed under the Rent Control Ordinance for that apartment.

- H. The landlord shall file with his application a certificate of substantial compliance issued by the office of the Construction Official or his designee, who shall inspect the subject apartment and the common areas and certify that the apartment to be rented and common areas are in substantial compliance with the appropriate local and state Housing Maintenance Codes. The certificate of substantial compliance shall also contain a statement by the inspector that he has inspected the apartment, the date of inspection and that the improvements set forth in the application have, in fact, been performed. **[Amended 8-15-2012 by Ord. No. 27/12]**
- I. The application shall be filed by the landlord with the Secretary to the Rent Control Board within 30 days of the tenant's taking occupancy of the apartment. The Rent Control Board or the Secretary to the Rent Control Board shall have the discretion to extend said time period for good cause and shall have the discretion to order a credit to the tenant for the rental increase paid beyond said thirty-day period. **[Amended 8-15-2012 by Ord. No. 27/12]**

**§ 312-27. Expert fees. [Added 9-21-1983 by Ord. No. 1616]**

Upon receipt of an application for hardship, capital improvement or substantial rehabilitation application and in addition to any fees required by § 312-20 hereof, the applicant may be required to pay for expert fees that the Board deems necessary in order to evaluate the application filed by the landlord. The fees of the proposed expert shall be forwarded to the landlord, and said fee schedule shall be reasonable.

**§ 312-28. Rent registration statement. [Added 7-17-1985 by Ord. No. 1683]**

- A. Landlords of all dwellings which are subject to the provisions of this chapter shall file within 60 days of the final adoption of this section a rent registration statement and a filing fee of \$20 with the Rent Control Office. This registration statement shall include the following information to be provided on a form provided by the Rent Control Office: **[Amended 4-18-2012 by Ord. No. 10/12]**
- (1) The name of each tenant and the apartment number.
  - (2) The number of rooms for each apartment.
  - (3) The current base rent for each apartment.
  - (4) The amount of the last increase for each apartment unit.
  - (5) The date of the last increase for each apartment unit.
  - (6) The date of lease expiration for each apartment unit.
  - (7) (If applicable) services provided to the building.
  - (8) The name, address and phone number of the record owner or owners of the dwelling.
  - (9) If the record owner is a corporation, the name, address and phone number of the registered agent and corporate officers of the corporation.
  - (10) If the address of any record owner or owners is not located in the County of Hudson, the name, address and phone number of a person who resides in the County of Hudson or has an office in the County of Hudson and is authorized to accept notices from tenants and to issue receipts for notices from tenants and to accept service of process on behalf of the record owner or owners.

- (11) The name, address and phone number of the managing agent of the dwelling, if any.
  - (12) The name, address and phone number, including the dwelling unit, apartment or room number, of the superintendent, janitor, custodian or any other individual employed by the record owner or managing agent to provide regular maintenance service, if any.
  - (13) The name, address and telephone number of any individual representative of the record owner or managing agent who may be called at any time in case of an emergency affecting the dwelling or any housing space within the dwelling, including such emergencies as the failure of any essential service or system, and who has the authority to make emergency decisions concerning the building and any repair to the building or any expenditure in connection with the building.
- B. Every landlord required to file an information statement described in this subsection shall file an amended information statement within seven days after any change in the information required to be included in the information statement.
  - C. Within 30 days following the effective date of this section and at the time of the creation of a new tenancy, every landlord subject to this chapter shall provide each occupant or tenant in his dwelling a written statement containing all of the information required to be filed with the Town Clerk in accordance with this section. Commencing 30 days following the effective date of this ordinance, this information shall be posted at all times in the lobby, hallway or other conspicuous place within the dwelling. If any information contained in the statement changes, the landlord shall inform each occupant or tenant of the change in writing within 30 days and correct the information posted within seven days after the change.
  - D. This statement must be maintained on a yearly basis by filing with the Town Clerk, with a filing fee of \$10, an annual registration statement not later than October 1 of each year. Failure to register or reregister, or false registrations, shall be punishable pursuant to § 312-23. A copy of the annual registration shall be presented to any tenant upon demand.
  - E. For the purpose of disclosure, the registration statement shall be considered a public document, which shall be made available for inspection pursuant to reasonable regulations established by the Town Clerk.
  - F. Should the landlord of a rent-controlled building fail to ever file a rent registration statement, the establishment of the amount of base rent shall be through the tenant. In those cases, the tenant shall provide proof of rent from the first instance that said payments were made, or as soon thereafter. Proof may consist of receipts, leases, and/or anything else that is deemed satisfactory by the Secretary to the Rent Control Board. **[Added 9-19-2012 by Ord. No. 32/12]**
  - G. In such cases as demonstrated in Subsection F above, the present rent of the tenant shall be calculated by increasing the base rent by the CPI increases for each year that the building should have been registered. Landlords shall be required to file and to pay for each of the rent registration statements that are necessitated under the circumstances described within this subsection. **[Added 9-19-2012 by Ord. No. 32/12]**

**§ 312-29. Application to retire building from residential use. [Added 1-22-1986 by Ord. No. 1701]**

- A. Every landlord who intends to remove a multifamily dwelling (herein defined as any dwelling with more than three residential units) from residential use shall, within 10 days from the date a six-month notice is served on the tenants, file an application with the Rent Control Board, which application shall include the following information:

- (1) The name and address of the landlord.
  - (2) The address of the property.
  - (3) The number of units in the building.
  - (4) The name and apartment number of each tenant.
  - (5) The attached copy of notice served on each tenant and the date of service.
  - (6) Set forth in detail, the use the landlord intends for the property after removal from residential use.
- B. The application shall be turned over to the appropriate zoning officer or zoning agency who shall determine if further proceedings will be necessary.
- C. There shall be a fee of \$50 for each building filed with this application.
- D. Any person who violates this section shall be subject to the fine of not more than \$500 and/or imprisonment of not more than 90 days.
- E. Eviction of tenants. **[Added 2-21-1990 by Ord. No. 1868]**
- (1) Any property owner who seeks to evict any tenant in a building he owns pursuant to N.J.S.A. 2A:18-61.1g(1) or N.J.S.A. 2A:18-61.1h shall be required to file the following information with the Rent Control Board of the Town of West New York within 10 days of the date of service of the notice of eviction required pursuant to N.J.S.A. 2A:18-61.2: The name and address of the current tenant, his base rent and forwarding address. The owner shall also provide to the tenants who have received notice of termination pursuant to N.J.S.A. 2A:18-61.1g(1) or h information regarding their rights pursuant to 2A:18-61.1d and e. A copy of this notice shall be submitted to the Rent Control Board. The Rent Control Board Secretary shall also keep a municipal registry for former tenants and file current addresses for receiving notice pursuant to N.J.S.A. 2A:18-61.1e.
  - (2) There shall be a fee of \$50 for each building filed with this application.
  - (3) Any person who violates this subsection shall be subject to the fine of not more than \$500 and/or imprisonment for not more than 90 days.

**§ 312-30. Notification of retirement of building from residential use. [Added 2-19-1986 by Ord. No. 1705]**

- A. In the event that a landlord of a multifamily dwelling seeks to retire a multifamily dwelling, subject to the provisions of this chapter, from residential use, the landlord shall within 10 days from the date he determines to retire the property from residential use or within 10 days from the date he serves a notice on the tenants advising them of his intent to retire the property from residential use, whichever first occurs, file a notification with the Rent Control Board which shall include the following information:
- (1) The name and address of the landlord.
  - (2) The address of the property.
  - (3) The number of units in the building.

- (4) The name and apartment number of each tenant and the monthly rent each tenant is paying.
  - (5) An attached copy of the notice served on each tenant and the date of service.
  - (6) Set forth in detail, the use the landlord intends for the property after removal from residential use.
- B. In the event that the landlord who files the application or any subsequent owner of the property returns the dwelling to residential use, the base rent for each apartment shall be the lawful rent that was charged to the last tenant that occupied the dwelling unit.
- C. This amendment shall take effect immediately upon passage and publication as required by law. This amendment shall also apply retroactively to all landlords who have filed notices to retire their property from residential use from January 1, 1985, to the effective date of this section. The landlords to whom this amendment applies retroactively shall file the required notification within 10 days from the effective date of this section.

**§ 312-31. Rental and registration of vacant apartments; responsibilities of landlord. [Added 2-19-1986 by Ord. No. 1706; amended 1-15-1987 by Ord. No. 1753; 5-20-1987 by Ord. No. 1776; 10-19-1988 by Ord. No. 1828]**

- A. Applicability; exempt dwellings.
- (1) The owner of any dwelling unit, other than those exempted below, shall be subject to the provisions of this section.
  - (2) The following are exempt from the provisions of this section:
    - (a) Units in owner-occupied dwellings where there are three units or fewer and one of the units is owner-occupied.
    - (b) Units in newly constructed buildings which are being rented for the first time. After the first rental, such units will be subject to the provisions of this section.
    - (c) Units in a dwelling where the owner has transmitted his first sixty-day notice of his intention to convert the building into condominium or cooperative and his full plan of conversion to the Acting Town Clerk pursuant to N.J.S.A. 2A:18-61.8, so long as the conversion plan is not abandoned.
    - (d) Units in dwellings, the owners of which have transmitted notice under N.J.S.A. 2A:18-61.1g(1) or h. This exemption shall remain in effect so long as the owner is in compliance with provisions of the section under which notice was given.
    - (e) Units in hotels or motels.
- B. Requirements. All such units shall be rented and occupied by a tenant within 60 days after the end of the preceding tenancy, which shall be defined as the last day of residence by the preceding tenant(s), except where an extension has been granted by the Department of Housing under the provisions of Subsection C below, in which event the unit shall be rented and occupied within the time period specified in the extension. Failure to comply with the requirements of Subsection C shall be considered a violation of this section and subject the owner to the penalties set forth in Subsection E below.
- C. Extension of time period.

- (1) An owner may apply for an extension of the time period set forth in Subsection B, where the condition of the unit or other special circumstances make rental within such time period impossible. In order to obtain an extension, the owner must submit an application, in writing, to the Department of Housing within 30 days or less from the date the preceding tenancy ended, setting forth with specificity:
    - (a) The reasons that the unit cannot be rented within such time period.
    - (b) The steps the owner shall take to remedy the conditions that make it impossible to rent the dwelling unit.
    - (c) The date by which the dwelling unit shall be rented and occupied.
  - (2) The owner shall provide the Department of Housing with all documentation necessary to support the application, including but not limited to code violation reports, engineering or inspection reports, copies of advertisements, etc.
  - (3) Any extension granted by the Department of Housing shall specify the date by which the dwelling unit must be rented and occupied. Additional extensions may be sought by the owner, but the total extension permitted in the aggregate shall not extend beyond six months from the date the previous tenancy ended, except as provided in Subsection C(5) below.
  - (4) The following circumstances shall constitute grounds for the granting of an extension pursuant to Subsection C(1) above by the Department of Housing:
    - (a) An owner wishes to reserve a vacant dwelling unit for a family member. The owner shall provide in the extension application full documentation, including the name of the future tenant, the family relationship and the date of occupancy.
    - (b) Any owner desires to maintain a dwelling unit vacant in order to improve the conditions of said dwelling unit. The owner shall provide full documentation in the application, including up-to-date building and housing inspection reports, improvement plans, all related required permits and the date by which the unit shall be rented and occupied.
    - (c) An owner maintains a vacant dwelling unit in order to correct code violations in said unit. The owner shall provide in the application full documentation, such as code violation reports, correction plans, permits and the date by which the dwelling unit shall be rented and occupied.
  - (5) Extension of the time period provided in Subsection B of this section beyond the maximum time prescribed by Subsection C(4) above shall be only granted upon a clear and convincing showing by the owner that a good faith effort has been made to rent the dwelling unit at the legal rent and that no tenant can be found. In this circumstance, the maximum extension granted beyond the maximum time provided in Subsection C(4) above shall be 60 days, renewable upon a new showing by the owner.
- D. Every landlord and/or managing agent of a multifamily rental dwelling (herein defined as any dwelling with four or more rental apartments, whether or not owner-occupied, or any dwelling with two or three rental apartments that is no owner-occupied) shall register any apartment unit that is not rented and occupied by a bona fide tenant within 30 days after the termination of a prior tenancy with the Tenant Relations Office of the Town of West New York, which registration shall be in writing, by certified mail, return receipt requested. The registration shall include the following:

- (1) The name, address and telephone number of the landlord and/or managing agent.
- (2) The name, address and telephone number of the Superintendent for the building in question.
- (3) The total number of apartment units in the building.
- (4) The apartment number, number of rooms and monthly rent of the vacant apartment, the name of the tenant that has vacated the apartment and the rent he was paying when he vacated.
- (5) Any other information the Tenant Relations Office deems appropriate.

E. Violations.

- (1) Any individual affected by the action or inaction of a owner of a dwelling unit subject to the provisions of this section, any civic organization and any appropriate municipal agency may file a complaint of violation of this section with the Department of Housing. If the Department of Housing finds probable cause that a violation has occurred, the Department of Housing shall file a complaint in the Municipal Court.
- (2) A first violation of Subsections B and D of this section or the conditions upon which an extension has been granted by the Department of Housing pursuant to Subsection C of this section shall be punishable by a fine of not more than \$500 for each unit in violation. Subsequent violations shall be punished by a fine of not less than \$100 nor more than \$500. Each day during which an owner is in violation of Subsections B and D or the conditions upon which a waiver has been granted by the Department of Housing pursuant to Subsection C of this section shall constitute a separate violation hereunder.

- F. Conflicts with state law. This section is intended and shall be construed to avoid any conflict with state law, in particular but not limited to state statutes regulating the possession of apartments and regulating the conversion of rental units into other forms of ownership.

**§ 312-32. Harassment of tenants. [Added 9-7-1995 by Ord. No. 43/95]**

- A. Any conduct, direct or indirect, committed by a landlord, or anyone on his behalf, which results in the harassment of a tenant, including but not limited to a reduction of services, bothersome telephone calls or letters, bellringing, frivolous eviction threats or legal proceedings, shall be unlawful and shall constitute a violation of this chapter. A complaint for this violation can be brought in the West New York Municipal Court and must be filed within 90 days of the alleged act of harassment.
- B. Upon a finding that a landlord was guilty of harassment under this chapter, the court shall impose a fine of up to \$1,000 per act of harassment, with a minimum mandatory fine of \$150 for a first offense, \$300 for a second offense and \$500 thereafter.

**§ 312-33. Moratorium and suspension on rent increases. [Added 5-20-2020 by Ord. No. 13/20]**

- A. Incorporation. The above recitals are incorporated herein as if set forth at length herein.<sup>16</sup>
- B. Definitions. Terms used in this section, whether capitalized or not, shall have the same definition as set forth in the Rent Control Ordinance, as same has been previously interpreted by the West New York Rent Control Board. For the purpose of avoiding any ambiguity, it is expressly stated that for purposes of this section the term "landlord" shall mean an owner, lessor, sublessor, assignee, or other

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**16. Editor's Note: This refers to the recitals of Ord. No. 13/20.**

person receiving or entitled to receive rent or any agent of a person receiving or entitled to receive rent for use, rental or occupancy of a housing space, whether by written or oral rental agreement, letting, or otherwise, or an agent or successor of any of the foregoing.

- C. Moratorium. A moratorium shall be and is hereby effectuated to prevent any increases in rent within the Town of West New York, even as otherwise permitted by the Rent Control Ordinance, from taking effect. Such moratorium shall be deemed effective as of the date of the PRIM, and such moratorium shall remain in effect for no longer than two months following the cessation of the state of emergency declared by Governor Murphy due to the COVID-19 pandemic.
- D. Suspension of certain increases.
- (1) Any increases in rent that may have been noticed or otherwise enacted subsequent to the March 15, 2020, proclamation, but prior to the PRIM, are hereby suspended effective as of the date of the PRIM, and such suspension shall remain in effect for no longer than two months following the cessation of the state of emergency declared by Governor Murphy due to the COVID-19 pandemic.
  - (2) No claim for refund of increases in rent paid prior to the PRIM may be had under the terms of this section, even if such increased rent was paid pursuant to an increase in rent noticed or enacted after March 15, 2020.
- E. Notices of future increases. Nothing in this section or the PRIM shall be read as prohibiting the giving of notice of an otherwise lawful rent increase slated to take effect after two months following the cessation of the state of emergency declared by Governor Murphy due to the COVID-19 pandemic if such notice is not otherwise in violation of the Rent Control Ordinance, or other law or of a rental agreement.
- F. Prohibited increases null and void. Any increases in rent enacted or imposed in violation of this section or the PRIM shall be null and void and shall not be considered legally due and owing for any purpose.
- G. Prohibited increases not legally due and owing. Any amount, or portion thereof, that would otherwise have been due as an increase in rent, except for the terms of this section or the PRIM, shall not be considered legally due and owing for any purpose.
- H. Attempts at collection of barred rent increases; violation. Any attempt to collect any increase in rent in violation of this section or the PRIM shall be considered a violation of this section. Every receipt of any increase in rent or any portion of such increase from any tenant in violation of this section shall be considered a separate and distinct violation hereof.
- I. Safe harbor. To the extent any amount of rent increases barred from collection by this section or the PRIM are collected prior two months following the cessation of the state of emergency declared by Governor Murphy due to the COVID-19 pandemic, an affirmative defense to any violation for the collection of same, shall be that within 30 days of such collection, the landlord either: (i) returned such amount to the tenant, or (ii) the tenant agreed in a writing to an offer by the landlord to apply such amount as an offset to future rent due; and (iii) that the landlord was either without actual knowledge of the terms of this section or the increase was paid without solicitation of the landlord after the PRIM.
- J. Prohibited increases not to be collected as back rent or other fee or charge.
- (1) Any amount, or portion thereof, that would otherwise have been due as an increase in rent

- except for the terms of this section, or the PRIM, shall not be attempted to be recouped, even after the lapse of the moratorium and suspension instituted by the terms of this section or the PRIM ("moratorium and suspension period") such as by: (i) charging a tenant or tenants any "back rent;" or (ii) through other artifice, such as by way of example, the imposition of any surcharge or any fee or other charge not enacted for a bona fide reason, except as may otherwise be provided by the Rent Control Ordinance.
- (2) No fee or charge collected and authorized by a rental agreement prior to the passage of this section or the PRIM may be increased during the term of the moratorium and suspension period, even if such fee or charge does not qualify as rent.
  - (3) No fee or charge that was collected and authorized by the rental agreement prior to this section or the PRIM, but that does not qualify as rent, may be increased after the lapse of the moratorium and suspension period, absent a bona fide reason.
  - (4) For purposes of this subsection, recoupment of any increase in rent foregone as a result of this section or the PRIM is not a bona fide reason.
  - (5) Any attempt at recouping the foregone rent increase in a manner prohibited by this subsection either during or after the lapse of the moratorium and suspension period shall be considered a violation of this section.
  - (6) Every receipt, of any portion, of any amount sought recouped from any tenant or tenants in a manner prohibited by this subsection shall be considered a separate and distinct violation of this section.
- K. Refund of certain rent increases and offsets. Any amount of increase in rent, however denominated, collected in violation of the terms of this section or the PRIM, whether during or after the lapse of the moratorium and suspension period, shall be refunded. If within 30 days of collection such amount is either: (i) not returned to a tenant or tenants; or (ii) the landlord has not offered to apply such amount to future rents due, as otherwise provided for in this section, thereafter the tenant or tenants who paid such amount may elect, in a writing to the landlord, to have such amount offset or deducted from future rents, and any amount not returned may be considered by the Rent Control Board in making determinations, in favor of a tenant only, under the Rent Control Ordinance, or by the Superior Court in making any determination in action for eviction or ejectment. No increase of rent enacted in violation of this section shall be considered as part of the base rent under the Rent Control Ordinance for any purpose, except if consideration of same would be favorable to the interests of a tenant.
- L. Private right of action; defense to eviction. Without limiting any other rights a tenant may have, any tenant who was charged and paid any increase of rent, or any other sum, in violation of the terms of this section or the PRIM, shall be permitted to make an application for recovery of same with the Rent Control Board, and/or any court of competent jurisdiction, or otherwise raise the terms of this section or the PRIM as a defense to any action for eviction or ejectment based on nonpayment of rent up to the amount of rent increase or other sums collected by the landlord in violation of the terms of thereof, in the event that: (i) any amount of increase in rent or sum collected in violation of the terms of this section or PRIM shall not have been refunded by landlord to the tenant who paid such amount within 30 days of collection of same; (ii) the tenant has not otherwise previously elected in a writing to the landlord to have such amount offset or deducted from future rents; and (iii) in the case where payment is raised as a defense to eviction or ejectment, such amounts have not yet been utilized to offset or deduct future rents due.
- M. No ratification of otherwise improper rent increases; rights and remedies cumulative. Nothing in this

section or the PRIM shall be read as ratifying or otherwise permitting any rent increase, fee or charge in violation of Rent Control Ordinance or any other ordinance, the laws of this state, or of any rental agreement, or in derogation of any other rights a tenant may otherwise have under a rental agreement or against a landlord of whatever kind, the rights remedies provided for herein being remedial and cumulative.

- N. Violations and penalties. Any violation of this section or the PRIM shall also be considered a separate violation of the Rent Control Ordinance. Furthermore, any person or entity violating the terms of this section or the PRIM shall be subject to an additional fine of up to \$2,000 and an additional fine of up to the amount collected in violation of the terms of this section, and shall otherwise be subject to the penalties set forth in § 1-16 of the Code of the Town of West New York.
- O. Severability. The provisions of this section are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not effect the validity of the remaining sections, subsections, sentences, clauses and phrases of this section, but same shall remain in effect; it being the legislative intent that this section shall stand notwithstanding the invalidity of any part.
- P. Repealer. The PRIM and all ordinances or parts thereof in conflict or inconsistent with this section are hereby repealed, but only, however, to the extent of such conflict or inconsistency.
- Q. Codification. The Town Clerk shall have this section incorporated in the official copies of the Code of the Town of West New York. The Town Clerk and the Town Attorney be and are hereby authorized and directed to correct any typographical errors, change any heading, chapter numbers, article numbers and section numbers in the event that the codification of this section reveals that there is a conflict between those headings and numbers and existing provisions of the Code of the Town of West New York, or as they may otherwise deem appropriate, even if the headings, chapter numbers, article numbers and section numbers thus modified are otherwise provided for in this section.
- R. When effective.
- (1) This section shall take effect as of the date of introduction as it is necessary for the immediate preservation of the public peace, health and safety of the Town given the urgency herein described, if it is passed by a two-thirds vote of the Board of Commissioners on introduction, pursuant to N.J.S.A. 40:74-4.
  - (2) Furthermore, for purposes of N.J.S.A. 40:41A-101, if this section is not passed by two-thirds vote of the Board of Commissioners on introduction, it will take effect immediately upon adoption on second reading, as it is necessary to ensure the safety of the public, the Resolution of Emergency Declaration having been adopted by at least two-thirds of the Board of Commissioners.
  - (3) This section shall be published as otherwise required.
- S. Retroactive effect. The terms of this section are expressly made retroactive to the date of the PRIM, and as otherwise set forth herein