



Legislation Details (With Text)

File #: 23-1049 **Version:** 2 **Name:** Ordinance: Amending Title 2, Administration, Chapter 10, Department of E&HD, Section 10, Unconscionable Rent Increase

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Title: AN ORDINANCE AMENDING TITLE II, ADMINISTRATION, CHAPTER 10, DEPARTMENT OF ECONOMIC AND HOUSING DEVELOPMENT, SECTION 10, UNCONSCIONABLE RENT INCREASE, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY AMENDING THE DEFINITION OF UNCONSONABLE RENT AND ADDING PROVISIONS TO DETERMINE VIOLATIONS OF THIS ORDINANCE AND PENALTITES.

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
8/2/2023	1	Municipal Council	Close on Public Hearing and Adopt	Pass
7/19/2023	1	Municipal Council	Adopt on First Reading	Pass
6/27/2023	1	Municipal Council	Advance to First Reading	Pass

AN ORDINANCE AMENDING TITLE II, ADMINISTRATION, CHAPTER 10, DEPARTMENT OF ECONOMIC AND HOUSING DEVELOPMENT, SECTION 11, UNCONSCIONABLE RENT INCREASE, AND TITLE XVIII HOUSING CODE, CHAPTER 17, RENTAL PROPERTY REGISTRATION, SECTIONS 5, 18, 19 AND 20 OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY AMENDING THE DEFINITION OF UNCONSONABLE RENT AND ADDING PROVISIONS TO DETERMINE VIOLATIONS OF THIS ORDINANCE AND PENALTITES.

WHEREAS, a housing study in Newark conducted by CLiME, Rutgers Law School, prior to the COVID-19 pandemic, found that rents have increased by 66% in fifteen (15) years in the City of Newark (the “City” and/or “Newark”); while household incomes have only increased by 24% in that time; 45% of City residents live in small apartment buildings of two (2) to four (4) units; 78% of Newark residents are renters, an unusually high rate; 60% or 41,000 households of renters in Newark are rent-burdened; and

WHEREAS, the coronavirus pandemic brought unprecedented hardship to renters, the State of New Jersey has encountered unconscionable rent increases, coupled with rising consumer costs, that are harming New Jersey renters; and

WHEREAS, in adopting the Anti-Eviction Act, N.J.S.A. 2A:18-61.1 et seq., New Jersey’s legislature recognized that the acute shortages of supply and high levels of demand for residential dwellings in New Jersey motivated the removal of blameless tenants in order for landlords to profit from conversion to higher-income rental or ownership-interest residential use. NJSA 2A:18-61.1a.;

and

WHEREAS, the City wishes to adopt legislation that aligns with the legislative intent of New Jersey's Anti-Eviction Act, N.J.S.A. 2A:18-61.1 et seq.; and

WHEREAS, under Section (f) of the Anti-Eviction Act, N.J.S.A. 2A:18-61.1, a landlord cannot evict a tenant for failing to pay an unconscionable increase in rent; and

WHEREAS, the City recognizes the national trend of rents rising faster than income growth and in 2022, according to Zillow, New Jersey's rent shot up 11.7%, several states saw sharper increases, and average rents in Newark (Essex County) increased by 11.2%, increasing the average monthly rent from \$1,802.50 to \$2,004.78; and

WHEREAS, purchases of residential properties in Newark by corporate entities has contributed to the rise in rents and owner-occupancy to fall, according to the new Rutgers-Newark Study - "Who Owns Newark - Transferring Wealth from Newark Homeowners to Corporate Buyers" (the "Study"); and

WHEREAS, according to the Study, 47% of properties in the City of Newark were sold to institutional investor buyers from 2017-2020 and the Study recommends that in order for Newark to maintain affordable rents and homeownership, the City should impose equitable constraints on real estate markets to promote the general welfare of households and individuals; and

WHEREAS, this Ordinance seeks to include language defining these equitable constraints, as well as impose fees upon landlords who fail to comply with these constraints.

NOW THEREFORE BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY THAT:

Note: Additions are shown as **underlined and bold**. Deletions are shown as ~~strikethroughs~~.

SECTION 1: Title II, Administration, Chapter 10 Department of Economic and Housing Development, Section **11.1** Definitions, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amended as follows:

~~§ 2:10-4.0~~ **2:10-11.1** Definitions.

Unconscionable Rent

Shall mean any residential rental increase **for residential properties including but not limited to market and unsubsidized units** occurring outside the boundaries of City rent control measures, whose rental increases are exceedingly harsh or unreasonable that exceed the increase in the landlord's expenses; and is not comparable to rents charged at similar properties. **For properties that have entered into a redevelopment agreement and/ or financial agreement whose rent exceeds the approved pro-forma is per se unconscionable.** Rental increases more than 5% in any one year period that bear considerable financial harm to renters shall be considered excessive and unconscionable. **This shall not apply to residential units that are statutorily exempt from Rent Control, pursuant to N.J.S.A. 2A:42-84.1-84.6 and/or units that are controlled and**

governed by the United States Department of Housing and Urban Development (HUD).

Displacement by Fact

Shall mean a tenant is displaced by Landlord due to an increase in rent, and the eviction proceeding has been adjudicated by a court of competent jurisdiction and has been determined that such increase was unconscionable.

Displacement by Force

Shall mean a tenant is displaced when the Landlord attempts to constructively evict the tenant in a manner that includes but is not limited to the following:

- a. **A history of unconscionable rental increases on the property; and/or**
- b. **Failure to meet minimum standards of safety, wellbeing, and sanitation, including but not limited to the presence of mold, rodent infestation, adequate heat and water supply.**

SECTION 2: Title II, Administration, Chapter 10 Department of Economic and Housing Development, Section 10.4 **Title XVIII, Housing Code, Chapter 17, Rental Property Registration, Section 5** Indexing and filing of registration form, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amended as follows:

§ ~~2:10-10.4~~ 18:17-5 Indexing and filing of registration form.

EHD or Designee shall index and file the registration forms. In doing so EHD or Designee shall follow the mandates of N.J.S.A. 46:8-28.1, as amended and supplemented, so that the filing of the registration form will simultaneously satisfy the registration requirements of N.J.S.A. 46:8-28 to the extent that it applies to the property being registered and will also satisfy the registration requirements of this Chapter. EHD or Designee shall provide a copy of each registration and the Certificate of Habitability to the Office of the City Clerk and a copy of the registration shall also be kept on file in the Office of Rent Control. **The City of Newark shall create a rental registration portal, where forms and registration can be access and submitted electronically. In person submissions will also be permitted.**

SECTION 3: Title II, Administration, Chapter 10 Department of Economic and Housing Development **Title XVIII, Housing Code, Chapter 17, Rental Property Registration**, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, section **18:17-18** ~~10.2:10-9.17~~ by striking Revocation of Certificate of Habitability and replacing with Determination of Unconscionability:

~~2:10-9.17~~ 18:17-18 **Determination of Unconscionability.** ~~Revocation of certificate of habitability.~~

Unconscionability shall be determined by adjudication in New Jersey State Superior Court. Upon judicial findings of unconscionability the City shall give the landlord notice that it is prohibited from increasing rent for the ensuing three (3) years for the adjudicated property.

Grounds: In addition to any other penalty prescribed herein, an owner may be subject to the revocation or suspension of the certificate of habitability issued hereunder upon the happening of one or more of the following:

- (1) Conviction of a violation of this Chapter in the Municipal Court or any other court of competent jurisdiction.
- (2) Continuously permitting the rental unit to be occupied by more than the maximum number of occupants as defined in this Chapter.
- (3) Maintaining the rental unit or units on the property in which the rental unit is a part in a dangerous condition likely to result in injury to person or property.

SECTION 4: Title II, Administration, Chapter 10 Department of Economic and Housing Development **Title XVIII, Housing Code, Chapter 17, Rental Property Registration**, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, section **18:17-19** ~~10.2:10-9.18~~ by striking Violations and Penalties and replacing with Revocation of Certificate of Habitability:

§ 2:10-9.18 18:17-19 Revocation of certificate of habitability. ~~Violations and penalties.~~

Grounds. In addition to any other penalty prescribed herein, an owner may be subject to the revocation or suspension of the certificate of habitability issued hereunder upon the happening of one or more of the following:

- (1) Conviction of a violation of this Chapter in the Municipal Court or any other court of competent jurisdiction.**
- (2) Continuously permitting the rental unit to be occupied by more than the maximum number of occupants as defined in this Chapter.**
- (3) Maintaining the rental unit or units on the property in which the rental unit is a part in a dangerous condition likely to result in injury to person or property.**

Any person who violates any provision of this Chapter shall be a violation of this Ordinance. Each such violation shall constitute a separate offence, each punishable for a fine not exceeding \$1,250 for each violation that the violation(s) exist beyond the prescribed period of time.

Any person who is convicted of violating this Ordinance within one (1) year of the date of a previous violation of the same Ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the Ordinance, but shall be calculated separately from the fine imposed for the violation of the Ordinance.

If the Court determines that violation(s) exist, the Court shall not consider reducing the total amount of the penalties referred to herein until the Court has been satisfied that the violations are abated.

Any person who violates any provision of this Chapter shall be a violation of this Ordinance. Each such violation shall constitute a separate offence, each punishable for a fine not exceeding \$1,250 for each violation that the violation(s) exist beyond the prescribed period of time.

SECTION 5: Title II, Administration, Chapter 10 Department of Economic and Housing Development **Title XVIII, Housing Code, Chapter 17, Rental Property Registration**, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, creating section **18:17-20** Violations and penalties:

§ 2:10-9.19 18:17-20 Violations and Penalties.

Any person who is convicted of violating the rental registration component of this Ordinance within one (1) year of the date of a previous violation of the same Ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the Ordinance, but shall be calculated separately from the fine imposed for the violation of the Ordinance.

If the Court determines that violation(s) exist, the Court shall not consider reducing the total amount of the penalties referred to herein until the Court has been satisfied that the violations are abated.

Any person who has been proven to have violated the rental unconscionability component Ordinance by receiving a final judgment order by the Superior Court of New Jersey, which determined that rental increase was unconscionable shall be punished by a fine not less than \$2,000.00 per unit in which the rent was unconscionably increased.

SECTION 6: This Ordinance does not preclude landlords from applying for hardship increases pursuant to Newark, N.J., Rev. Gen. Ordinances §19:2-8 et seq.

SECTION 7: The provisions of this Ordinance are severable. To the extent any clause, phrase, sentence, paragraph or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, the remaining provisions shall continue in full force and effect.

SECTION 8: Codification. This Ordinance shall be a part of the Code of the City of Newark as though codified and fully set forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Code. The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Newark in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

SECTION 9: The Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

This Ordinance Amends Title II, Administration, Chapter 10, Department of Economic and Housing Development, by amending the definition of unconscionable rent and adding provision to determine violations of this ordinance and penalties.