



Legislation Text

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AN ORDINANCE TO AMEND AND SUPPLEMENT TITLE XIX, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY CREATING A NEW CHAPTER, WHICH ESTABLISHES ACCESS TO FREE LEGAL REPRESENTATION TO NEWARK'S LOW-INCOME RESIDENTS FACING EVICTION IN LANDLORD TENANT COURT BY CREATING THE OFFICE OF TENANT LEGAL SERVICES.

WHEREAS, the Governing Body of the City of Newark does hereby declare that an emergency exists, within the City of Newark, where numerous residents are homeless, or are at the risk of homelessness, and/or reside in uninhabitable living conditions due to a shortage of affordable housing and a lack of awareness of tenants' rights; and

WHEREAS, this emergency has been created, in part, by the filling of frivolous and/or retaliatory eviction actions by landlords renting residential property in the City of Newark, and this emergency has been further exacerbated by the deterioration of a substantial portion of the existing housing stock, insufficient construction of affordable housing units, increasing costs of construction, financing, and the fact that a substantial portion of current Newark residents rely on fixed or stagnating incomes. These issues have led to excessively high rents and have caused a substantial and increasing shortage of rental housing accommodations for families of low and moderate income; and

WHEREAS, according to the 2016-2017 United States Census Bureau data, approximately 78.2% of Newark residents rent their homes; and

WHEREAS, providing Newark residents with access to free legal services, in landlord-tenant court, will mitigate the aforementioned emergency and reduce the serious threats to the public health, safety and general welfare of the citizens of the City of Newark that said emergency has created; and

WHEREAS, a lack of knowledge and awareness of a tenant's legal rights, the fear of being evicted without good cause and being forced to seek housing in a limited housing market, discourages many Newark tenants from fighting eviction actions as well as reporting substandard housing conditions; it is this fear that contributes to homelessness, and warrants legislative action by the Governing Body; and

WHEREAS, this housing emergency is exacerbated by the fact that each year, approximately 40,000 residential eviction actions are filed in Essex County Superior Court, of which approximately 50 percent involve low to moderate income Newark residents; and

WHEREAS, this housing emergency destabilizes families and neighborhoods, especially the most vulnerable among us, resulting in homelessness, and harm to social tranquility and the general

welfare of the City of Newark; and

WHEREAS, due to a lack of resources and an inability to obtain legal representation, Newark's most vulnerable residents are frequently evicted by landlords represented by competent counsel; and

WHEREAS, the Governing Body of the City of Newark does hereby declare that these conditions pose a serious threat to the public health, safety and welfare of the residents of the City, as well as to the City's economic stability, viability and growth; and

WHEREAS, N.J.S.A. 40:48-2, allows a municipality to make ordinances, rules, regulations, and by-laws, as the municipality deems necessary and proper for the order, good government, and protection of its residents and for the protection of the health, welfare and safety of the municipality and its residents; and

WHEREAS, pursuant to these aforementioned police powers, in order to protect the health, safety and welfare of the citizens of the City of Newark, it is necessary to provide access to legal services to tenants who are subject to eviction proceedings.

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

Note: Additions are shown in **bold and underlined** and deletions are shown as ~~strikethrough~~.

Section 1. Title XIX entitled Rent Control of the Newark Municipal Code is hereby supplemented and amended by adding a new chapter, Chapter 3, entitled Provision of Legal Services in Eviction Proceedings:

DECLARATION OF PUBLIC NECESSITY.

- a. *The Governing Body of the City of Newark does hereby declare that an emergency exists, within the City of Newark, where many of its residents are homeless or are at risk of homelessness and/or reside in uninhabitable living conditions due to a shortage of affordable housing and a lack of knowledge and awareness of tenants' rights; and*
- b. *This emergency was created, in part, by the filing of frivolous and/or retaliatory eviction actions by landlords renting residential property in the City of Newark; and*
- c. *A landlord will be less likely to file a frivolous lawsuit if she/he is aware that her/his tenant will be assisted by legal counsel in preparing and asserting available legal defenses to the tenant's eviction action; this will mitigate the aforementioned emergency and reduce the serious threats to the public health, safety and general welfare of the citizens of the City of Newark created by said emergency; and*
- d. *A lack of knowledge and awareness of their legal rights, the fear of being evicted without good cause, and being forced to seek housing in a limited housing market, discourages many Newark tenants from fighting eviction actions and to complain about substandard housing conditions; it is this fear that contributes to homelessness as well as to the harmful, uninhabitable conditions in which many Newark tenants live; this warrants legislative action by the Governing Body; and*
- e. *The Governing Body of the City of Newark does hereby declare that these conditions pose a serious threat to the public health, safety and general welfare of the residents of the City of Newark, particularly the a*

pproximately 78.2% of Newark residents who, according to 2016-2017 U.S. Census Bureau data, are renters. N.J.S.A. 40:48-2, allows any municipality to make ordinances, rules, regulations, and by-laws, as the municipality deems necessary and proper for the good government, order and protection of its residents and for the protection of the health, welfare and safety of the municipality and its residents; and

- f. Pursuant to these aforementioned police powers, in order to protect the health, safety and welfare of the citizens of the City of Newark, it is necessary to provide access to legal services to tenants who are subject to eviction proceedings.

19:3-1. Provision of Legal Services in Eviction Proceedings

19:3-1a. Definitions.

For the purposes of this Chapter, the following terms have the following meanings:

“Municipal Council” -The Governing Body of the City of Newark, New Jersey that comprises the legislative branch of the City of Newark, New Jersey’s government.

“Covered Individual” - A single tenant or household of a rental dwelling unit located in the City of Newark whose income falls below the identified poverty level within this ordinance, and who is a respondent in a Covered Proceeding.

“Covered Proceeding” - Any summary proceeding in The Superior Court of New Jersey - Essex County seeking to evict a Covered Individual, including a summary proceeding to seek possession for the non-payment of rent, an alleged holdover.

“Designated Organization” - A not-for-profit organization, or a for profit legal services provider/association that provides Pro Bono legal representation, who has the capacity to provide legal services to low income individuals facing eviction in the Superior Court of New Jersey - Essex County.

“Legal Representation” - Ongoing legal representation provided by a designated organization to an income-eligible individual and all legal advice, advocacy, and assistance associated with such representation.

“Partner Attorney” - An attorney employed by or affiliated with a Designated Organization that agrees to provide legal representation to residents pursuant to this ordinance.

“Landlord-Tenant Court” - The Superior Court of New Jersey - Essex County.

“Income-eligible individual” - A covered individual whose annual gross household income is not in excess of 200 percent of the official federal poverty guidelines defined by the United States Office of Management and Budget pursuant to Subsection (2) of 42 U.S.C.A. § 9902.

“Legal services” - Legal representation to a Covered Individual.

“Mayor” - The Mayor of the City of Newark, New Jersey.

“Retainer agreement”- A contract between the Covered Individual and the Partner Attorney from the Designated Organization for the provision of legal assistance or services with regard to a Covered Proceeding.

19:3-2. Provision of Legal Services.

19:3-2a. There is established in the Department of Economic and Housing Development, the Office of Tenant Legal Services to establish a pilot program to provide access to legal services for Newark residents in eviction proceedings in the Superior Court of New Jersey - Essex County. Subject to appropriations, the City of Newark shall provide funding to be used exclusively to provide access to legal services and shall ensure that:

1. The Office of Tenant Legal Services be coordinated by a Director who shall, no later than April 1, 2019, establish a program to provide access to legal services for Newark residents in the Superior Court of New Jersey - Essex County; and
2. The Director shall establish a program that utilizes the Request for Proposal process to select non-profit organization to serve as designated organizations that have the capacity to provide legal services to Newark residents in eviction proceedings in the Superior Court of New Jersey - Essex County; and
3. All Income-eligible individuals shall receive access to full legal representation no later than their first scheduled appearance in a Covered Proceeding in the Superior Court of New Jersey - Essex County, or as soon thereafter as is practicable.
4. The Director shall conduct annual reviews to establish key performance indicators.
5. Any legal services performed by a Designated Organization pursuant to this chapter shall not replace, or satisfy any obligations or responsibilities of such designated organization pursuant to any other program, agreement, or contract.
6. The Director shall submit a proposed annual budget to the Mayor to be considered at a budget hearing to be conducted by the Mayor and/or Business Administrator. Subject to appropriation, the Mayor and/or the Business Administrator shall determine the level of funding for the Office of Tenant Legal Services.
7. If authorized by State and Federal law, the creation of a Landlord Tenant Fund, to receive funds to be used exclusively to provide legal services to Newark residents in landlord-tenant proceedings in the Superior Court of New Jersey - Essex County.

19:3-2b. Nothing in this chapter or the administration or application thereof shall be construed to create a private right of action on the part of any person or entity against the City or any agency, official, or employee thereof.

19:3-3. Reporting.

19:3-3a. No later than sixty (60) days after the end of each RFP period, the Director of the Office of Tenant Legal Services shall submit to the Mayor and the Municipal Council, and post online, a review of the legal services program and information regarding its implementation, to the extent such information is available, including, but not limited to:

1. The estimated number of covered individuals;
2. The number of individuals currently receiving legal services and the actual number of individuals who received legal services for that year, disaggregated by the following characteristics of such individuals:
 - i. Ward and postal code of residence;
 - ii. Age of head of household;
 - iii. Household size;
 - iv. Estimated length of tenancy;
 - v. Approximate household income;
 - vi. Receipt of ongoing public assistance at the time such legal services were initiated;
 - vii. Tenancy in rent-regulated housing; and
 - viii. Tenancy in housing operated by the Newark Housing Authority;
3. Outcomes immediately following the provision of full legal representation, as applicable and available, including, but not limited to, the number of:

- i. Case dispositions allowing individuals to remain in their residence;
- ii. Case dispositions requiring individuals to be displaced from their residence; and
- iii. Instances where the attorney was discharged or withdrew.

4. Non-payment and holdover petitions filed in landlord-tenant court, and warrants of removal served by landlords.

19:3-4. Public Hearing.

19:3-4a. The Director of the Office of Tenant Legal Services shall conduct a public hearing each year, sixty (60) days before the end of an RFP period to receive recommendations and feedback about the program.

b. The Director shall provide notice of the public hearing within thirty (30) days of the hearing which shall be open to the public and shall be:

1. Posted in public area of the Essex County Landlord Tenant Court;

2. Posted in all City of Newark social service offices, the Newark Rent Control Office, at organizations providing legal services through the existing RFP and sent to community organizations.

c. Written and oral testimony may be submitted at the hearing.

d. The Director shall cause a transcript of the hearing to be produced and shall make the transcript available to the public in the Office of Landlord Tenant Services or through other available means available to the Director.

Section 2: If any provision of this ordinance or application thereof to any person(s) or circumstances is judged invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the ordinance that can be given effect without the invalidated provision or application and to this end the provisions of this ordinance are declared severable.

Section 3: This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

This Ordinance amends and supplements Title XIX, of the Revised General Ordinances of the City of Newark, New Jersey 2000, amended and supplemented, by creating a new chapter which establishes access to free legal representation to the City of Newark's low-income residents facing eviction in Landlord Tenant Court by creating the Office of Tenant Services.