

**ADOPTED ORDINANCE O-22-05  
TOWNSHIP OF MONTCLAIR**

**ORDINANCE TO REPEAL AND REPLACE ORDINANCE O-20-05 ESTABLISHING  
RENT CONTROL IN THE TOWNSHIP OF MONTCLAIR**

April 5, 2022 (date of introduction)  
April 19, 2022 (date of public hearing)

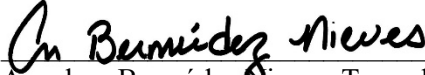
**WHEREAS**, the governing body of the Township of Montclair, County of Essex, State of New Jersey has determined, for the reasons stated in the findings below, that the regulation of residential rents is necessary in the public interest.

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Council of the Township of Montclair, that the following Chapter 257 – Rent Regulation is hereby enacted and incorporated in the Township Code and repeals, replaces, and supersedes any prior Rent Regulation Ordinance adopted by the Township Council specifically Ordinance O-20-05 and any Moratorium on rent increases adopted by the Township Council; and

**BE IT FURTHER ORDAINED**, that this ordinance shall take effect as provided by law, and all ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency, and any provision of this ordinance held to be invalid shall be severed and shall not affect the validity of the remaining provisions.

<b>ROLL CALL VOTE ON ADOPTION</b>						
COUNCIL MEMBER	MOVANT	SECOND	YES	NO	ABSTAIN	ABSENT
<b>Councilor Cummings</b>			✓			
<b>Deputy Mayor Hurlock</b>			✓			
<b>Councilor Price Abrams</b>		✓	✓			
<b>Councilor Russo</b>			✓			
<b>Councilor Schlager</b>			✓			
<b>Councilor Yacobellis</b>			✓			
<b>Mayor Spiller</b>	✓		✓			

**I HEREBY CERTIFY** the foregoing to be a true copy of Ordinance O-22-05 adopted by the Mayor and Council of the Township of Montclair, in the County of Essex, at its meeting held on April 19, 2022.

  
Angelese Bermúdez Nieves, Township Clerk

CHAPTER 257 RENT REGULATION

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§ 257-2 Applicability; exceptions.

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**§ 257-1 Findings.**

A. Approximately 40% of the residents of the Township of Montclair live in rental housing units ranging from single-family houses to multiple dwellings of more than 100 apartments; and

B. The rapid upsurge in the demand in the housing market for rental apartments has resulted in a substantial increase in rents, causing and threatening to cause the dislocation of tenants unable to adjust to the higher rents; and

C. The governing body finds that intervention in the market is necessary to allow for a more gradual and orderly transition to higher rent levels without disruption of existing tenants, to maintain a supply of relatively affordable housing, and to moderate rental increases after the effective date of this ordinance.

**§ 257-2 Applicability; exceptions.**

A. Applicability. The terms of this chapter apply to individual dwelling units within a building rather than to an individual tenant occupying a dwelling unit. An agreement for occupancy of the dwelling unit shall not circumvent the application of this chapter by titling the agreement as other than a lease, such as, but not limited to a “use and occupancy agreement.”

B. Exceptions. This chapter shall not apply to:

(1) Units in buildings in which the owner resides that contain 3 or fewer residential units.

(2) Units for which the amount of rent is determined as a function of household income by a government program.

(3) Motels, hotels, and similar type buildings intended for transient use, floor space used strictly for commercial purposes in any type building, including state-licensed rooming houses.

(4) Dwelling units rented for the first time after the adoption of this chapter are exempt, and the initial rent may be determined by the landlord, but all subsequent rents shall be subject to the provisions of this chapter.

(5) Dwelling units exempted by state or federal law.

(6) Housing provided for students by a school, college, or similar institution which owns and/or controls that housing.

(7) Single family homes, single condominiums units, and single co-operative units.

C. Establishment of Base rent. All rents established by landlords and tenants as of the effective date of this ordinance, and any subsequent permitted increase which by its terms becomes part of the base rent, shall represent the base rent from which permitted increases are calculated.

**§ 257-3 Definitions.**

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

**AVAILABLE FOR RENT TO TENANTS**

A dwelling unit is fit for habitation as defined by the statutes, codes and ordinances in full force and effect in the Township, and is occupied, or unoccupied and being offered for rent.

**BASE RENT**

The rent is as defined in the lease between the landlord and tenant that was charged as of the effective date of this Ordinance except as follows:

1. For any Dwelling Unit where the Landlord collected an increase in rent from an existing tenant on or after May 1, 2020, the Base Rent shall be the rent in effect as of May 1, 2020;
2. For any Dwelling Unit where the Landlord provided notice of a rent increase to an existing tenant but did not collect such increase on or after May 1, 2020, or did not otherwise seek or collect any increase from an existing tenant on or after May 1, 2020, the Base Rent shall be the rent in effect as of May 1, 2020; and
3. For any Dwelling Unit that became vacant since May 1, 2020, the Base Rent shall be the rent in effect as of the effective date of this Ordinance.

**BOARD**

The Rent Control Board.

**DWELLING**

Any building or structure rented or offered for rent to one or more tenants or family units. Furnished rooms are subject to the terms of this chapter notwithstanding the fact that furniture is provided by the landlord and/or rent is paid on a weekly or biweekly basis.

**DWELLING UNIT**

Any unit used for residential rental purposes.

**HOUSING SPACE**

- A. 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.
- B. Includes a garage, carport or parking space, which garage, carport, or parking space is included in the agreement for the rental of housing space.

**JUST CAUSE FOR EVICTION**

That the landlord recovered possession of a housing space or dwelling for one of the reasons and in accord with the procedures set forth in N.J.S.A. 2A:18-61.1, as amended.

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**LANDLORD**

As used in this chapter, the person who owns or represents the ownership of any building, structure or complex of buildings or structures in which there is rented or offered for rent housing space for living or dwelling purposes.

**LIVING AREA**

The amount of total rentable space applicable to any given housing space, measured either in terms of rooms or square footage.

**MAINTENANCE COSTS**

Maintenance costs include, but are not limited to, real estate taxes, utility expenses, insurance costs, management fees, expenses for repairs, upkeep and maintenance respecting a dwelling unit, but shall not include principal or interest payments on any blanket encumbrance or other mortgage or encumbrance.

**MAJOR CAPITAL IMPROVEMENT**

An addition to the dwelling or housing space units that inures to the benefit of the tenant, that was not previously provided or required to be provided by law or lease, that materially adds to the value of the dwelling or housing space and prolongs its life, and that must not be upkeep, maintenance, repairs, rehabilitation or replacement of items or services.

**MAJOR ADDITIONAL SERVICES**

An addition to the dwelling or housing space units that inures to the benefit of the tenant, that was not previously provided or required to be provided by law or lease, that materially adds to the value of the dwelling or housing space and prolongs its life, that includes a substantial increase in services, furniture, furnishings or equipment provided to tenants since the date of the most recent rent increase under any section of this ordinance, and that must not be upkeep, maintenance, repairs, rehabilitation or replacement of items or services.

**MONTHLY MAINTENANCE CHARGE**

The annual maintenance costs divided by 12.

**PERIODIC TENANT**

All tenants, including monthly tenants, who do not have a written lease.

**RENT**

The consideration demanded or received in connection with the use or occupancy of housing space including, but not limited to, parking, pets, facilities, privilege services, equipment, furnishings, or any charge, no matter how set forth, paid by the tenant in connection with the housing space.

**RENT INCREASE, DECREASE OR ADJUSTMENT**

The notice forwarded by the landlord to the tenant, or by the tenant to the landlord, by letter or in any other form, setting forth the proposed amount of rent increase, rent decrease or other rent adjustment. Each such notice shall state in detail the reasons justifying or requiring the rent increase, rent decrease or other rent adjustment.

**RENTAL STATEMENT**

The statement which the landlord shall be required to sign and deliver to the tenant, when requested by the tenant, and vice versa, describing the housing space rented, the related services and equipment involved, whether such include the use of the basement, garage, clotheslines, washing utilities, heat, hot water, garbage removal, repairs, maintenance and the like, and the base rent and charge.

**RESALE**

Resale of a dwelling unit means any sale subsequent to the original sale thereof.

**OFFICER**

The Rent Control Board Officer.

**SERVICES**

The provision of light, heat, hot water, maintenance, painting, elevator service, air conditioning, storm windows, screens, superintendent service and any other benefit, privilege or facility connected with the use or occupancy of any dwelling or housing space.

**SUBSTANTIAL CODE COMPLIANCE**

Substantial compliance means that the housing space and dwelling units are free from all heat, hot-water, elevator and all health, safety, and fire hazards as well as 90% qualitatively free of all other violations of the Montclair Property Maintenance Code and the Regulations for Construction and Maintenance of Hotels and Multiple Dwellings promulgated by the State Department of Community Affairs, N.J.S.A. 5:10-1.1 et seq., and other applicable ordinances of the Township of Montclair.

**UNINHABITABLE BUILDING**

A structure which is completely vacant and unfit for human habitation as defined by the statutes, codes and ordinances in full force and effect in the State of New Jersey, County of Essex, and Township of Montclair.

**§ 257-4 Rent Control Board**

A. Established. A Rent Control Board (the “Board”) is established in the Township of Montclair.

B. Composition; terms.

(1) The Board shall consist of seven members who shall be appointed by the governing body by resolution. The members shall be comprised of three tenants and one homeowner who is neither a landlord or tenant, and three landlords who shall reside or own property covered by this Ordinance. For reasons of continuity and in the best interests of the public, the terms of the first members appointed pursuant to this subsection shall be staggered terms of one-, two-, three-, and four-year term appointments, with three members receiving four-year terms. Thereafter the term of office of the members of the Board shall be for four years each.

(2) In addition to the seven regular members, the governing body shall appoint two alternate members to the Board. The alternate members shall be one landlord who resides in or owns

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property covered by this Ordinance and one tenant, who resides in Montclair and does not own property covered by this Ordinance. The term of an alternate member shall be two (2) years. An alternate member shall be entitled to sit with, and participate as a member, in any meeting of or hearing before the Board. An alternate member who has attended the full hearing or hearings on a specific matter may vote upon any determination made during the absence or disqualification of any regular member.

(3) Members of the Board shall serve without compensation.

C. Disqualification of member. No member or alternate member of the Board shall be permitted to act on any matter in which that individual has, either directly or indirectly, any personal or financial interest.

D. Powers of Board. The 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:

(1) To issue and promulgate such rules and regulations as it deems necessary to implement the purpose 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, providing that such rules are filed with the Township Clerk.

(2) To supply information and assistance to landlords and tenants to help them comply with the provisions of this chapter.

(3) To hold hearings and adjudicate applications from landlords for major capital improvement or major additional service surcharges and for hardship rent increases, as herein provided.

(4) To hold hearings and adjudicate applications from tenants for rent reductions based on a decline in services, as herein provided.

(5) To hear and adjudicate appeals from determinations of the Rent Control Officer.

(6) To approve and accept a settlement or other agreement on the subject matter of a dispute between a landlord and tenant.

(7) To require a landlord to produce for examination his/her books, records, tax returns, balance sheets, profit and loss statements and such other records, as appropriate, as the Board may require in connection with any application and related hearing, proceeding or purpose, as set forth herein.

(8) Upon an application by a landlord or tenant or upon its own motion, to set a date for a hearing, consider proofs and grant, deny, modify, or otherwise adjust all rentals, by increasing or decreasing same, and the 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.

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E. Meetings of Rent Control Board

(1) The Rent Control Board shall have 3 regularly scheduled meetings per year. The first scheduled meeting shall be the organizational meeting. The first organizational meeting of the Rent Control Board shall be held on a Wednesday evening at 7 PM and shall be no more than 45 days or less than 30 days after the enactment of the Ordinance.

(2) At its organizational meeting, the Board shall elect a Chairman and a Vice Chairman. The Chairman shall preside over all meetings of the Board and exercise all of the powers of the Chairman; provided, however, that in the absence, disqualification or abstention by the Chairman, the Vice Chairman shall have all of the powers of the Chairman.

(3) The remaining 2 regularly scheduled annual meetings shall be held on the second Wednesday at 7 PM in May, and the 2nd Wednesday at 7 PM in September. If the first organizational meeting is held in the month of May or September in the initial year of the enactment of the Ordinance, the Board, at its discretion, shall only be required to have 2 regular meetings. At these meetings, the Board shall:

(a) Issue and promulgate such rules and regulations, as it deems necessary, to implement the purposes of this chapter which rules and regulations shall be promptly filed with the Township Clerk.

(b) Review, at least once annually, any additions, amendments, or recommendations regarding the Ordinance to the Township Council, as it deems necessary and appropriate.

(c) Consider such matters that the Board deems necessary and appropriate to carry out its responsibilities.

(4) All other meetings of the Board shall be in order to hold hearings on any appeals from the Rent Control Officer, and to conduct hearings for Major Capital Improvement and Major Additional Service surcharge applications, Hardship Rent Increase applications, and Decline in Service application. Such meetings, if any, shall be held on the second Wednesday of each month at 7 PM, or on such date and times as mutually agreed by all parties, in accord with the notice provisions established under this ordinance.

(5) The Board may schedule any other meetings on the 2<sup>nd</sup> Wednesday of the month, at 7 PM, upon proper notification as required by law, as it deems necessary to carry out its responsibilities.

F. Quorums. A quorum for hearing shall consist of four (4) members or alternate members, and a majority of those present shall be authorized to issue orders pursuant to and consistent with the powers and functions of the Board.

**§ 257-5 Board staff.**

A. Rent Control Officer; Qualifications and Duties.

(1) Position created. There is hereby created the position of Rent Control Officer in the Department of Revenue and Finance, to be appointed by the Manager and compensated as provided in the then-current salary ordinance.



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(2) Qualifications. The Rent Control Officer shall be appointed by the Manager.

(3) Duties. The duties of the Rent Control Officer shall be as follows:

(a) To obtain, keep and maintain all relevant records and other data and information, all of which shall be available for inspection and copying upon request.

(b) To supply information and assistance to landlords and tenants and to bring together tenants and landlords in formal conferences and suggest resolutions of conflicts between them in order to assist them in complying with the provisions of this chapter.

(c) To ensure compliance by the landlord and tenants with the provisions of this chapter.

(d) To remedy violations of this chapter and bring appropriate legal charges as provided by this chapter, when appropriate.

(e) To accept, process, investigate and determine complaints from tenants and landlords regarding calculations of annual rentals and increases and /or vacancy decontrol allowances.

(f) To collect and maintain accurate Rent Registration Statements in accord with this chapter.

(g) To prepare forms as appropriate for the filing of complaints to be heard before the Rent Control Officer.

(h) To attend all meetings of the Rent Control Board.

(i) To perform such other duties as the Rent Control Board may specifically direct and as allowed by this chapter.

**§ 257-6 Determinations of Rent Control Officer/Appeals to the Rent Control Board.**

A. Upon receipt of a complaint, upon such forms as provided, if any, and filed with the Rent Control Officer regarding its responsibility under Sections 257-5 to hear and render determinations thereunder, the Rent Control Officer shall conduct meetings with landlords and tenants, upon 20 days' notice to the affected parties, and request any additional documents, as it deems necessary, to render a determination.

B. The determination of the Rent Control Officer shall be in writing no later than 20 days from receipt of any and all documents requested by the Rent Control Officer. The determination shall be provided to all parties by the Rent Control Officer by regular and certified mail, return receipt requested.

C. Appeal from Determination of Rent Control Officer to the Rent Control Board

(1) Either the landlord or tenant may appeal the decision of the Rent Control Officer to the Rent Control Board. The appeal shall be filed with the Rent Control Officer no later than 20 days from the date of mailing of the determination by the Rent Control Officer. The appeal shall set forth in detail the grounds for the appeal, upon forms provided by the Rent Control Officer and/or Board, if any, and the required fee, if any.

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(2) Simultaneously with filing the appeal, the appealing party shall serve notice on the non-appealing party, by regular and certified mail, informing the non-appealing party that the appeal and all supporting documents are available for inspection at the Rent Control Office, and shall provide proof of service with the Rent Control Officer.

(3) Upon receipt of the completed appeal, the Rent Control Officer shall promptly transmit the notice of appeal and all documentation to the Rent Control Board and secure a date for the appeal before the Rent Control Board. Such date shall be transmitted to the affected landlord and tenants by the Rent Control Officer by regular and certified mail.

(4) The appeal shall be placed upon the Rent Control Board agenda at the earliest convenient date for determination in accord with the Rent Control Board Meeting Schedule.

(5) During the pendency of the appeal, the rent for the subject unit shall be the rent as established by the Rent Control Officer.

**§ 257-7 Professional services regarding applications before the Rent Control Board.**

A. Retention of professional services. In the event the Rent Control Board determines that a landlord or tenant's application for relief contains calculations, or any other issues deemed by the Board to be of a complex nature, then the Board, in the interest of fairness and efficiency, may determine that the services of professional experts are required to assist the Board in evaluating and processing the application.

B. Estimate of fee. Should the Board determine that professional assistance is required, then the Board shall forthwith send a copy of the application and supporting documents to any professional expert retained to assist the Board in evaluating and processing the application. Within five days of receipt thereof, the professional expert shall submit to the Board and to the applicant an estimate of funds necessary to undertake the professional services to be rendered.

C. Escrow funds. The applicant shall forthwith deposit such funds in an escrow account maintained by the Township. The professional expert shall submit vouchers for all reasonable and necessary fees for the professional services rendered, which fees shall be paid from the escrow account in the manner prescribed by N.J.S.A. 40A:5-16 through 40A:5-18 and the ordinances of the Township. The professional expert, at the time of submission of any such voucher, shall forward a copy of same to the applicant.

D. Appeal of fee. In the event that the applicant questions the reasonableness of any such voucher, the applicant may make written protest of such voucher to the Board. In no event shall the Board authorize the payment of any voucher submitted pursuant to this section sooner than 10 days after its submission. Any of the aforesaid moneys which are left in the escrow account upon completion of the application shall be returned to the applicant after the Board reaches its decision. Should additional funds be required after the original funds are exhausted, such funds as shall be necessary in the judgment of the Board shall be paid by the applicant to the Township and placed in the escrow account.

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E. Action upon application. The Board shall take no formal action on any application unless and until all escrow funds have been deposited with the Township, and any time limitations set forth in this chapter shall be extended until all such escrow funds are deposited with the Township.

**§ 257-8 Hearings/Determinations by the Rent Control Board/Appeals to Superior Court.**

A. Opportunity to be heard. Upon receipt of a complaint, upon such forms as provided, if any, and fee, if any, to hear and render determinations under Hardship under Section 257-9, Capital Improvement under Section 257-10, Decline in Services thereunder, and under Section 257-6, appeals from determinations of the Rent Control Officer, all interested persons shall be given the opportunity to be heard, with or without counsel, except that the Board, in its discretion, may limit repetitious testimony or ask that a spokesperson for the tenants be appointed. A tenant and/ or tenant association may elect to name a spokesperson to act in its behalf. The Board shall base its decision upon the record of information provided to and considered by the Rent Control Officer in determining whether the decision of the Rent Control Officer was inconsistent with this Ordinance. The Board shall have the discretion to request the submission of additional information from either the Landlord or the Tenant if that information is required to resolve the appeal.

B. Decisions by the Board/Service. The Board shall be required to render its determinations, in writing, within 30 days of the final hearing date, which written decision shall be provided to the landlord immediately by regular and certified mail. Upon receipt, the landlord shall post a notice in a conspicuous place in the building stating that the Board has rendered a written decision, which decision is available at the Rent Control Office. The landlord shall further transmit the decision to all affected tenants by regular and certified mail within 5 days of receipt of the decision. Simultaneously therewith, the landlord shall provide the Board with proof of service upon the tenants by regular and certified mail.

C. Additional hearings. If any additional hearing, after the initial hearing, is necessary, the Board shall so notify the landlord within 20 days of the initial hearing. A copy of the notice of hearing shall be posted conspicuously in the lobby of the building. The landlord shall serve notice of the hearing date to the tenant, by regular and certified mail, return receipt requested, at least 20 days in advance of the hearing.

D. Appeals. Either the landlord or a tenant may appeal the decision of the Rent Control Board. All decisions of the Board are final. Any landlord or tenant wishing to appeal the decisions of the Board may do so in the Superior Court of New Jersey pursuant to its rules and procedures. An appeal to the Superior Court of New Jersey from a determination of the Rent Control Board are required to be filed with the Court within 45 days of the final determination of the Board.

E. During the pendency of an appeal, any increase granted by the Board to be paid to the landlord by the tenant shall be effective as of the statutory 30- day notice as required by law. In the event that the Board decision is reversed, all such increases paid by the tenant shall be promptly refunded or credited to the tenants' monthly rent obligation.

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**§ 257-9 Permitted increases.**

A. Rent control established. All dwelling units, unless otherwise specifically exempt, shall be subject to the provisions of this Rent Control Ordinance. From and after the effective date of this Ordinance, no landlord shall charge any rent in excess of the Base Rent, as defined herein, except for such increases to said based rent as are authorized under this Rent Control Ordinance. Any excess base rent and any rent increase not in accord with the provisions of this Ordinance are void, of no force and effect, and shall be refunded or credited to the tenant.

B. Annual increases in Base Rent for covered units.

(1) In the event that a landlord of a dwelling unit covered by this Ordinance did not collect an increase on an existing tenants' annual rent since May 1, 2020, that landlord may increase the Base Rental amount, on a one-time basis, up to a maximum permissible 6% in lieu of the 4% in subsection (2) below, subject to the requirement to notify the tenant consistent with state law. This provision shall not apply to tenants covered by subsection (3) below.

(2) With the exception of the one-time annual increase to Base Rent increase set forth in subsection (1) above, the maximum permissible annual rent increase on a Dwelling Unit is 4.00% of the Base Rent, which increase may be charged no more than once in any 12-month period, subject to the requirement to notify the tenant consistent with state law. This provision shall not apply to tenants covered by subsection (3) below.

(3) In any Dwelling Unit in which at least one tenant is sixty-five (65) years of age or older, the maximum annual permissible Base Rent increase is 2.5% of the Base Rent, subject to the requirement to notify the tenant consistent with state law.

(4) The landlord shall serve a notice of said annual increase upon the tenant which shall include:

- (a) The monthly Base Rent prior to the increase.
- (b) The amount of any previously granted and then effective surcharge and the specific total time period covered by the surcharge.
- (c) The monthly Base Rent after the increase.
- (d) The effective date of the increase.

(5) The notice shall contain a certification from the landlord that the affected dwelling and units therein are in substantial compliance, as defined herein, with the health, safety and housing laws, codes and regulations of the Township and applicable laws.

(6) The annual increase in Base Rent hereunder shall become effective upon service by the landlord of the statutory 30- day notice as required by law. Any prior notice for an increase beyond that permitted in the Base Rent section shall be inoperative.

(7) A tenant may file a complaint objecting to the annual increase in Base Rent within 90 days of receiving notice of the proposed annual increase asserting that the increase is in excess of the allowable increase permitted under the Ordinance. In such instance, the Rent Control Officer shall review the proposed increase and determine withing 10 days whether the rent increase exceeds the

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amount of permitted annual increase. If it is determined that the increase amount was in excess of the amount permitted by this Ordinance, then the Base Rent and rent being charged shall be modified accordingly and any overpayment or underpayment shall be corrected by crediting, refunding, or payment as elected by the Tenant.

(8) A tenant may file a complaint objecting to the accuracy of the certification of substantial compliance submitted with the annual increase. In such instance, the Rent Control Officer shall conduct a hearing in accord with the provisions of § 257-6. In the event the tenant is successful, the annual rent increase shall be deemed null and void, the annual increase in rent paid shall be credited to the tenant's rent, and no increase shall be permitted thereafter until the landlord is in substantial compliance.

C. Hardship increase.

(1) This subsection applies where the annual operating expenses for any one building exceed at least 65% 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, 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 improvements. In reviewing operating expenses, the Board shall consider normal and recurring expenses and may make adjustments 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) In considering a hardship application, the Board shall give due consideration to any and all relevant factors, including, but not limited to the following:

(a) The level and quality of service rendered by the landlord in maintaining and operating the building.

(b) The presence or absence of reasonable, efficient, and economic management. Total management fees may not exceed 6%.

(3) An applicant for hardship relief shall submit to the Board 10 copies of the following:

(a) A statement for three prior twelve-month periods of gross rentals and actual expenses incurred for that time in connection with the operation of the building to be adjusted to reflect the actual period of time the applicant has owned the building if owned for less than three years.

(b) A list of all present owners of the property.

(4) A landlord shall not be entitled to apply for a hardship increase until (s)he has owned the property for at least 18 months.

(5) The Board's decision shall become effective after service of the 30- day statutory notice to tenants.

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(6) The Board shall promulgate rules, regulations, and necessary forms to be utilized, notice to tenants of hardship applications and notice to tenants and landlords regarding hearings and general procedure. Those rules and regulations shall have the force of the law and shall be filed with the Township Clerk.

(7) With the filing of a hardship increase application, the landlord shall simultaneously deliver notice thereof to each affected tenant. At a minimum, the notice by the landlord, which shall be transmitted by regular and certified mail, return receipt requested, must provide tenants with a summary of the application and state the increase sought. The notice shall also inform the tenant that all documents submitted in support of the application are available for inspection and copying during regular business hours at the office of the Rent Control Officer. Any tenant who receives such notice shall have 30 days to file any written comments with the Board regarding the application.

(8) To be deemed a complete application, the landlord shall submit a letter from the appropriate Township department stating whether the subject building satisfies the substantial code compliance provision, as defined in this chapter. A letter that the property does not satisfy the substantial code compliance provision herein shall detail the conditions upon which the letter is based. Either landlord or tenant may seek the intervention of the Rent Control Officer in the event assistance is needed to secure a timely letter from the appropriate Township Department.

(9) Notice of Hearing. Within 30 days of receipt of a complete application, the Rent Control Officer shall notify the landlord, in writing, of the time and place for the hearing. The hearing shall be held not more than 60 days nor less than 30 days, from the date of receipt of a complete application. The landlord shall immediately, upon receipt of such notification of hearing, post the date of the hearing in a conspicuous place in the dwelling and shall further serve such notice upon each affected tenant. by regular and certified mail, return receipt requested, at least 20 days in advance of the hearing. Prior to any hearing on such application, the landlord shall present the Board with proof of posting and service of notice to each affected tenant.

(10) No hardship application shall be considered or granted by the Board for a period of time more than one year after the expiration of applicant's last tax reporting year.

(11) Decision/Service. The Board shall render a decision on a hardship application within 45 days of the conclusion of the hearing before the Board and shall immediately provide a copy of same to the landlord by regular and certified mail. Failure of the Board to render its decision within the time period, absent consent of the landlord, shall result in the application being deemed granted.

(12) Service of Decision. Upon receipt of the decision, the landlord shall post and serve Notice of the Decision in accord with § 257-8B.

(13) Any hardship increase granted by the Board shall become effective upon service by the landlord of the statutory 30- day notice as required by law.

(14) The hardship increase shall become part of the base rent.

D. Major Capital Improvement or Major Additional Services Surcharge.

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- (1) This subsection applies where the landlord has made a major capital improvement or major additional service in accord with the definitions set forth in this chapter.
- (2) In considering a major capital improvement or major additional service application, the Board shall give due consideration to:
  - (a) the benefit to the affected tenants
  - (b) the actual life expectancy of the improvement
- (3) An applicant for relief shall submit to the Board 10 copies of the following:
  - (a) a detailed contract or proposal and proof of payment as to each improvement/service.
  - (b) a proposed actual life recommendation and calculation for amortization, which final determination shall be made by the Rent Control Board.
- (4) With the filing of a major capital improvement application or major additional services application, the landlord shall simultaneously deliver notice thereof to each affected tenant. At a minimum, the notice by the landlord seeking a major capital improvement or major additional service surcharge, which shall be transmitted by regular and certified mail, must provide the tenants with a summary of the application and state the increase sought. The notice shall also inform the tenant that all documents submitted in support of the application are available for inspection and copying during regular business hours at the office of the Rent Control Officer. Any tenant who receives such notice shall have 30 days to file any written comments with the Board regarding the application.
- (5) To be deemed a complete application, the landlord shall submit a letter from the appropriate Township department stating whether the subject building satisfies the substantial code compliance provision, as defined in this chapter. A letter that the property does not satisfy the substantial code compliance provision herein shall detail the conditions upon which the letter is based. Either landlord or tenant may seek the intervention of the Rent Control Officer in the event assistance is needed to secure a timely letter from the appropriate Township Department.
- (6) Notice of Hearing. Within 30 days of receipt of a complete application, the Rent Control Officer shall notify the landlord, in writing, of the time and place for the hearing. The hearing shall be held not more than 60 days nor less than 30 days, from the date of receipt of a complete application. The landlord shall immediately, upon receipt of such notification of hearing, post the date of the hearing in a conspicuous place in the dwelling and shall further serve such notice upon each affected tenant by regular and certified mail, return receipt requested, at least 20 days in advance of the hearing. Prior to any hearing on such application, the landlord shall present the Board with proof of the posting and service of notice to each affected tenant.
- (7) The Board shall promulgate rules, regulations, and necessary forms to be utilized, notice to tenants of major capital improvement and/or major additional services applications and notice to tenants and landlords regarding hearings and general procedure. Those rules and regulations shall have the force of the law and shall be filed with the Township Clerk.

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(8) No major capital improvement or major additional services application shall be considered or granted by the Board for work completed more than one year before the date of filing of a request for a letter of substantial code compliance from the appropriate Township department.

(9) Finding of improvement/additional service; apportionment of surcharge. Upon determination that the proposed improvement is a major capital improvement or that that the proposed service is a major additional service as defined in this chapter, the Board may grant a surcharge based upon the cost of the major capital improvement or major additional service. These costs shall include reasonable interest thereon, if any. Any surcharge granted by the Board shall be fairly apportioned among the affected units based on the size of the dwelling units and the benefit of the improvement to each dwelling unit.

(10) Permits, as required by law, are to be secured from all agencies having control and jurisdiction for alterations, repairs, replacements, extensions, and new buildings. All work done shall adhere to appropriate code standards and shall be inspected by any agency having control and jurisdiction, and their approval obtained. Copies of such permits shall accompany any major capital improvement and major additional service application

(11) Decision. The Board shall render a decision on the major capital improvement/major additional service surcharge application within 45 days of the conclusion of the hearing before the Board. Failure of the Board to render its decision within the time period, absent consent of the landlord, shall result in the application being deemed granted.

(12) Service of Decision. Notice of the Decision shall be posted and served by the landlord in accord with § 257-8B.

(13) The surcharge hereunder, if granted by the Board, shall become effective upon service by the landlord of the statutory 30- day notice as required by law.

(14) Any surcharge hereunder shall not become part of base rent, shall not be included in calculating the annual rent increases allowable under § 257-9, and shall expire at such time as the cost of the improvement plus reasonable interest have been covered by the surcharge, which shall be determined by the Board as part of its decision.

(15) Protected tenancy status.

(a) No major capital improvement or major additional service surcharge shall be imposed upon any tenant who has been granted protected tenant status pursuant to N.J.S.A. 2A:18-61.22 or 2A:18-61.40.

(b) Any major capital improvement or major additional service surcharge awarded within two years prior to the date of notice to the municipal administrative officer required by N.J.S.A. 2A:18-61.27 or 2A:18-40 shall immediately become null and void upon the grant of protected tenancy status. The protected tenant's rent shall be recalculated and reduced accordingly; however, no rebate of previously paid surcharge shall be granted.



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E. Maximum annual increase.

(1) The maximum annual increase from all sources listed under this § 257-9, Permitted increases, shall not exceed 15%.

F. Substantial Compliance with Housing and Building codes. No hardship increase and/or Major capital improvement/major additional services surcharge shall be permitted if the building or grounds is not in substantial compliance with the applicable building codes as set forth in this chapter.

G. Legal rent calculation. A tenant may request a legal rent calculation. In calculating the maximum legal Base Rent, the Rent Control Officer and the Board shall allow all annual rent increases to the Base Rent that may have been applied to an apartment, whether actually charged or not. The landlord shall not, however, be permitted to increase the rent for a tenant on account of any voluntary rent reduction or the forbearance of any otherwise permissible rent increase for said tenant.

**§ 257-10 Maintenance of services.**

A. Continuation of services. During the term of the lease, the landlord shall maintain the same standards of service, maintenance, furniture, furnishings, and equipment in the housing space and dwelling as previously provided or required under the lease or otherwise mandated by law.

B. Decline in services. When services, care, or maintenance, or when the standards of service, maintenance, furniture, furnishings and equipment in the housing space or dwelling are not substantially maintained as previously provided or required under the lease or otherwise mandated by law as specified above, any tenant or tenant group may apply to the Rent Control Board for a decrease in rent. The Rent Control Officer shall determine the value of the decline in service and adjust the tenant(s)' rent accordingly for the time period of the decline.

C. Applicability to parking spaces. The provisions of this section shall also apply to any on-site parking or garage space occupied by the tenant in conjunction with rental and occupancy of housing space. If it is determined, after a hearing of the Board, as described herein, that the parking was a previously provided service, then the rent shall be decreased by the cost of the parking. The tenant shall provide proof of the cost of the parking that the tenant has incurred. This proof shall be included with the request for a reduction in rent.

D. Notice of Hearing. Within 30 days of receipt of a complete application, the Rent Control Officer shall serve notice on the landlord and the complaining tenant/tenant group in writing of the time and place for the hearing scheduled before the Board. The notice shall inform the parties that all documents submitted in support of the application are available for inspection and copying during regular business hours at the office of the Rent Control Officer. The landlord shall have 30 days to file any written comments with the Board regarding the application. The hearing shall be held not more than 60 days nor less than 30 days, from the date of receipt of a complete application. If the complaint is on behalf of a tenant group for all units in the dwelling, the complainant shall post the date of the hearing in a conspicuous place in the dwelling.

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E. Hearing. At the hearing, the Board may consider the extent to which the conditions complained of impact the health, safety and welfare of the tenants, the duration of the conditions complained of, whether the conditions violate any provision or standards of the Township's property maintenance, building, health or other applicable codes, the corrective action, if any, taken by the landlord, and any other factors the Board deems relevant.

F. Utilities. During a tenant's occupancy of a unit in which the landlord provides utilities to the units of the building, the landlord will be prohibited from constructing a separate apartment unit meter and billing for any utility service previously provided by the landlord as part of the services to the building, including but not limited to heat, hot water, water, and sewerage.

G. Decision. The Board shall render a decision for a rent reduction, if any, within 30 days of the conclusion of the hearing before the Board, which decision shall be in writing. In rendering its decision, the Board shall set the amount of the deduction and the effective date of the deduction.

H. Period of time of Deduction. The deduction, if any, shall remain in effect until the landlord proves to the Rent Board that the standards have been restored, or until such time as the Rent Board deems appropriate, but no earlier than the date upon which the landlord has filed written notification with the Rent Control Officer that the standards have been restored.

I. Service of Notice of Decision. If the decision affects a single dwelling unit, then the Rent Control Officer shall serve a copy of the Decision on the affected tenant and the landlord by regular and certified mail within 5 days of the decision. If the decision affects more than a single dwelling unit, the decision shall be provided to the landlord immediately by regular and certified mail. Upon receipt, the landlord shall post a notice in a conspicuous place in the building stating that the Board has rendered a written decision, which decision is available at the Rent Control Office. The landlord shall further transmit the decision to all affected tenants by regular and certified mail within 5 days of receipt of the decision. Simultaneously therewith, the landlord shall provide the Board with proof of service upon the tenants by regular and certified mail.

**§ 257-11 Parking**

(1) Any parking provided to a tenant by a third party unrelated to the landlord and negotiated between the tenant and said third party separately from the apartment rental and outside the apartment rental location, is not covered by this Ordinance.

(2) Any parking provided by the landlord or anyone related to the landlord, rented in conjunction with the apartment rental to the tenant, whether or not billed separately, is covered by this Ordinance and increases thereon may not exceed the amount permitted under the Ordinance.

(3) Notwithstanding anything in this Ordinance or the language in any lease, no charge for parking may be treated as "additional rent" in any action brought under N.J.S.A. 2A:18-61.1 involving non-payment of rent.

**§ 257-12 Vacancy Allowance**

(1) Notwithstanding any limitations on permissible rent increases under any other provisions of this chapter, upon the voluntary uncoerced vacation of any apartment, rent increases for which are

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controlled in this chapter, the landlord shall have the right to fix the rent for such vacated apartment at such amount deemed appropriate by the landlord.

(2) The landlord shall have the right to fix the rent for such vacated unit as set forth above no more than once in every five-year period. The five-year period shall be effective from and after the effective date of the Ordinance.

(3) When utilizing the Vacancy Allowance, the landlord shall provide the Rent Control Officer with a certification that the landlord is in compliance with this ordinance's rent registration requirement under 257-13; that the landlord is in substantial code compliance with applicable law, as defined in this ordinance; that the landlord has not harassed or pressured the tenant into vacating the housing unit as set forth under 257-12; that the vacating of such unit was a voluntary act on the part of the tenant or was by virtue of a Court Order; and that a vacancy allowance pursuant to this section has not been charged for the unit during the previous five (5) year period after this Ordinance was adopted. The certification shall also include:

(a) Documentation to show that the vacancy allowance has not been sought during the five-year period since the Ordinance was adopted including a listing of all occupying tenants, their beginning and end lease period, and the rents paid.

(4) The rent established hereunder shall be deemed the new base rental for the unit within 10 days of submission of the documentation conditioned upon a revision to the rental Registration Statement which shall be required.

(5) Notwithstanding (4), If the Rent Control Officer determines that the Certification is materially false, the Rent Control Officer shall notify the Landlord that s/he has 20 days to submit further clarifying evidence. If clarifying evidence is timely provided the Rent Control Officer shall conduct a hearing within 10 days of receipt of the clarifying evidence. If the Rent Control Officer sustains the determination that the Certification is materially false, as to a unit that is vacant at the time of the determination, the landlord shall forfeit its right to the vacancy decontrol allowance for the unit for a period of five (5) years from the sustaining determination.

If the Rent Control Officer sustains the determination that the Certification is materially false as to a unit that is already occupied by a tenant with a vacancy decontrol allowance at the time of the determination, the rent for said tenant shall be rolled back to the rent in effect prior to the vacancy decontrolled rent, any rent overage shall be refunded or credited to the tenant, and the landlord shall forfeit its right to the vacancy decontrol allowance for the unit for a period of five (5) years from the date of the sustaining determination. If such a determination is made, the Landlord will be entitled to the annual increase permitted under this Ordinance subject to serving notice as required under state law.

(6) If a vacancy allowance is permitted hereunder, the 5-year period runs from the effective date of the vacancy allowance.

**§ 257-13 Anti-Harassment Provisions**

A. Harassment; reduction of services prohibited. Any tenants desiring to remain in their units may do so without provocation or retaliation from landlords. For the purposes of this section,

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harassment of tenants shall mean conduct, whether direct or indirect, committed intentionally or negligently by a landlord, or anyone acting on his/her behalf. These actions include, but are not limited to:

- (1) A reduction in the quality of basic services necessary to the health safety and welfare of the tenants.
- (2) Heat, hot water.
- (3) Adequate security.
- (4) Intermittent failures.
- (5) Bothersome telephone calls or letters.
- (6) Frivolous eviction threats or legal proceedings.
- (7) Actions which would cause a reasonable person of like age and physical condition of a tenant to fear for his/her life, limb, property, or home.

B. Investigation/prosecution of harassment complaints. The Township shall investigate and, if appropriate, prosecute complaints involving harassment filed by either tenants or landlords.

**§ 257-14 Registration requirement**

A. Registration: Filing and Fee

(1) Within 60 days of final adoption, every landlord of a dwelling unit subject to this Ordinance shall file an initial registration statement with the Rent Control Officer showing the amount of Base Rent for each such dwelling unit as of April 1, 2022, except as herein provided by the definition of Base Rent. The Landlord shall re-file annual statements thereafter on April 1<sup>st</sup> of each succeeding year. The filing shall be on the approved form provided by the Rent Control Officer, complete with all information as set forth below, along with a filing fee of \$10 for each dwelling unit. The form may also be available on-line.

(2) In the event a landlord fails to file the initial registration statement for a subject dwelling unit within 60 days of the adoption of the Ordinance and/or within 15 days of each subsequent annual April 1 date, the Rent Control Officer shall send notice to the landlord by certified mail, return receipt requested, and by regular mail, notifying the landlord of its failure to so file and further notifying the landlord to file the registration statement along with a late filing fee of \$20 per dwelling unit.

(3) In the event the landlord fails to file the completed registration statement within 45 days of the date of the Rent Control Officer's mailing notice, the landlord shall be prohibited from increasing the rental amount for such dwelling unit until such time as a completed registration statement is filed and all applicable fees are paid.

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(4) In the event the landlord files false information regarding the amount of rental for a dwelling unit, the landlord shall be prohibited from increasing the rental amount for such dwelling unit.

(5) The registration statement shall be considered a public document which shall be made available for inspection upon reasonable notice and times as set by the Rent Control Officer.

(6) The registration requirements in this Ordinance are in addition to any applicable registration requirements under state law, at N.J.S.A. 46:8-27, et. seq., and regulations thereunder, if applicable, which state registration statement is filed with the Township Clerk. At the time of filing the state registration statement with the Town Clerk, the landlord shall also provide a copy of same to the Rent Control Officer.

**B. Registration Statement – Contents.**

A registration statement shall include at least the following:

- (a) The apartment number.
- (b) The number of rooms for each apartment and the number of bedrooms.
- (c) The current rent for each apartment.
- (d) The amount of the last increase for each apartment.
- (e) The date of the last increase for each apartment.
- (f) The date each lease began and the date the lease ended for each apartment unit.
- (g) The services provided:

Gas-Heat	Yes	No
Oil-Heat	Yes	No
Electricity-Heat	Yes	No
Water-Bill	Yes	No
Sewerage-Bill	Yes	No
Parking-Included	Yes (Amount)	No
Washer/Dryer	Yes	No

- (h) If applicable, the services provided to the building and the telephone number.
- (i) If applicable, the superintendent's name, address, and telephone number.

**§ 257-15 Compliance with housing and building codes.**

**A. Compliance required prior to granting increase.**

(1) Any landlord who seeks a hardship or major capital improvement increase under § 257-9 shall file with an application a certification from the office of the appropriate Township department to the effect that the building and grounds are in substantial compliance with Township building and housing codes, which certification shall be based on an application made by the landlord to the appropriate Township department not more than one month before the filing of his/her application

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with the Board. No such increase may be granted until such certification had been filed and, if a tenant contests the accuracy of such certification, until the Board has determined that there is substantial compliance.

(2) The Board shall deny the application until there has been such compliance.

**§ 257-16 Statement of Rights**

(1) At the inception of tenancy between a landlord and a tenant, the landlord shall provide the tenant with a STATEMENT OF RIGHTS, in bold type, and attached separately to the Lease. Such STATEMENT OF RIGHTS shall be separately attached to every notice of rent increase.

(2) The STATEMENT OF RIGHTS shall read:

-The Township of Montclair has enacted a Rent Control Ordinance.

-The Ordinance does not cover the rental of single-family homes or single condominium or cooperative units but covers the rental of units in buildings containing 2 or 3 units in which the owner does not reside and all units in buildings containing 4 units or more.

-The Ordinance permits rent increases on covered units once every twelve months in an amount not to exceed 4% or 2.5% for senior 65+ provided the unit is in substantial compliance with the applicable building laws and is properly registered with the Office of Rent Control.

-The Ordinance permits a landlord to fix the initial rents in any amount on a vacant unit, with subsequent increases at 4% or 2.5% ONLY once every 5 years.

-The Ordinance permits tenants to challenge rents and to challenge annual rent increases within 90 days of receipt of the notice of rent increase that are in violation with the Ordinance.

-The Ordinance includes many other provisions that may impact tenants and landlords. Tenants and Landlords are encouraged to review the Rent Control Ordinance.

-The Rent Control Ordinance is available for inspection and is enforced by the Rent Control Officer and the Rent Control Board. The Office of Rent Control is located in the Township Municipal Building at 205 Claremont Avenue, Montclair, NJ.

**§ 257-17 Fees.**

There is hereby established a schedule of fees for applications to the Rent Control Board.

Annual registration statement filing	\$ 10 per apartment
Late filing fee	\$ 20 per apartment
Legal rent determination	\$ 25 per apartment
Appeal of Rent Control Officer decision	\$ 100 per appeal
Capital Improvement or Service Increase Application	\$ 250
Hardship Application	\$ 300
Vacancy Allowance application	\$ 250

**§ 257-18 Alternate service of notice.**

Personal service or service by certified mail that is either refused or uncalled for may be re-mailed by ordinary mail and shall be effective as though personal service or notice by certified mail had been accepted.

**§ 257-19 Violations and Penalties**

Any person found guilty of violating any provision of this Ordinance or of willfully filing a material misstatement of fact with the Rent Control Officer or Board shall be punishable by a fine not exceeding \$2,000 or by imprisonment not exceeding 90 days or both, as determined by the Township Municipal Court. A violation affecting more than one leasehold shall be considered a separate violation as to each leasehold. This section shall be in addition to any remedies for noncompliance or violation of this Ordinance set forth elsewhere herein.

**§ 257-20 Construction**

This Ordinance being necessary for the Township of Montclair and its tenants subject thereto shall be liberally construed to effectuate those purposes.

**§ 257-21 Severability**

If any provision of this Ordinance is declared invalid, such invalidity shall not affect any other provisions of this Ordinance which can be given effect, and to this end, any provisions deemed invalid shall be severable and the remaining provisions shall be given the full force of law.