

FREQUENTLY ASKED QUESTIONS
ASBURY PARK RENT LEVELING ORDINANCE

When did Asbury Park adopt the rent leveling ordinance and when does it go into effect?

The City Council adopted the ordinance on March 10, 2021.

The Ordinance does not go into effect until June 1, 2021. Monthly rents are not subject to the rent leveling ordinance until that date.

What is rent leveling?

“Rent leveling” is a term that is typically used interchangeably with “rent control” and “rent stabilization”. Today, these three terms are used to describe municipal regulations that limit permitted rent increases of certain rental housing units to a specific percentage. The ordinance adopted by Asbury Park is a “Rent Leveling Ordinance”.

New Jersey permits municipalities to adopt rent stabilization regulations pursuant to a 1987 statute at *N.J.S.A. 2A:42-84.1-6*. It grants significant flexibility to municipalities who wish to adopt such a program and, for example, does not dictate how permitted increases shall be calculated or how the municipal program shall be overseen. There are nearly 100 New Jersey municipalities that have adopted rent stabilization regulations. These municipalities range from large cities such as Jersey City to small rural townships such as Lopatcong in Warren County.

Is my rental unit subject to the rent leveling ordinance?

The City has not yet identified units which are subject to the rent leveling ordinance. The determination of eligibility can only be made after the rental registration form is submitted by the landlord. This form is due 30 days after the effective date of the ordinance.

What rental units are subject to the rent leveling ordinance?

All rental units in a building containing 5 or more units are subject to rent control *unless* listed in the below exemptions:

Exemptions

- Rental units in a building containing 4 or fewer units
- Rental units that are newly constructed for a period of 30 years (as per State law). "Constructed" means constructed, erected or converted from a nonresidential use, but excludes rehabilitation of premises rented previously for residential purposes without a different intervening use for a period of at least two years prior to conversion. Mere vacancy shall not be considered an intervening use for the purposes of the rent leveling ordinance.
- Special housing types such as affordable housing units, college housing, group homes, boarding homes, and shelters

- Rental units with a short-term rental permit issued by the City
- Units which are owner occupied for not less than 6 months a year

Questions on this topic should be directed to the Rent Leveling Board once it is established.

Am I required to sign a new lease before the rent leveling ordinance goes into effect?

No. Landlords are not permitted to demand a new lease prior to the end date of the existing lease. Landlords are not permitted to change the lease terms prior to the end date of the existing lease.

As a tenant, how do I know my what my rights are?

The New Jersey Department of Community Affairs document, *Truth in Renting*, provides information about tenant rights. This document can be found [here](https://www.state.nj.us/dca/divisions/codes/publications/pdf_lti/t_i_r.pdf) (https://www.state.nj.us/dca/divisions/codes/publications/pdf_lti/t_i_r.pdf).

See also the New Jersey Department of Community Affairs *Landlord-Tenant Information* page [here](https://www.nj.gov/dca/divisions/codes/offices/landlord_tenant_information.html). (https://www.nj.gov/dca/divisions/codes/offices/landlord_tenant_information.html)

Additional information can also be found at the Federal HUD website [here](https://www.hud.gov/states/new_jersey/renting/tenantrights) (https://www.hud.gov/states/new_jersey/renting/tenantrights).

What do landlords with one or more rental units subject to the rent leveling ordinance need to do immediately?

First, landlords should familiarize themselves with the rules of the Rent Leveling Board, once issued.

Next, they should complete a rental registration form for each unit, which must be submitted to the City Clerk within 30 days of June 1, 2021. Rental registration forms must be filed annually thereafter with the City Clerk.

Each time a rent increase is proposed beginning on June 1, 2021, an application do so must be filed with the Rent Leveling Board.

What do households renting a unit subject to the rent leveling ordinance need to do immediately?

Nothing, the ordinance does not govern tenant behavior. However, tenants should familiarize themselves with the rent leveling ordinance and the rules of the Rent Leveling Board, once issued.

What is the maximum rent increase for units subject to the rent leveling ordinance?

1. Annual Increase. A landlord may increase the rent by 3.5% or CPI, whichever is greater. This increase may only occur at the expiration of the lease and when the same household remains in the unit.

For example, if the CPI-increase for the applicable period is five percent (5%), the rent increase may not exceed five percent (5%). If the CPI increase for the applicable period is two percent (2%), the rent increase may not exceed three and one-half percent (3.5%).

2. **Hardship Increase.** A landlord may apply to the Rent Leveling Board for hardship rent increase. This increase will be reviewed by the Board and may be permitted where the landlord demonstrates a financial hardship based on the current rent.
3. **Capital Improvement Surcharge.** A landlord may apply to the Rent Leveling Board for a capital improvements surcharge. This increase will be reviewed by the Board and may be permitted where the landlord proposes a physical or service improvement to the unit(s) that will improve the lifestyle, convenience and/or security. This surcharge is not a permanent rent increase but must be prorated by the useful life of the improvement. The rent increase from this surcharge may not exceed 15% of the tenants' rent.

The percent increase, for any of the above permitted increases, is based on the current rent. For example, where the rent was \$1,000 and the rent is permitted to increase 3.5%, the new rent would be \$1,035.

The maximum annual increase for all three of the above is 20%. The percent is based on the current rent. For example, where the rent was \$1,000 and the total rent is permitted to increase 12%, the new rent would be \$1,120.

What is CPI?

It stands for Consumer Price Index and is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services. Changes in the CPI are commonly used to evaluate price changes associated with the cost of living. The "consumer price index" utilized shall be the calculation applicable to the region in which Asbury Park is located (New York-Newark-Jersey City region, as published by the Bureau of Labor Statistics, United States Department of Labor).

In the last 10 years, the highest CPI has been 2.8%. In the last 30 years, the highest CPI has been 4.5%.

Does the rent leveling ordinance permit vacancy decontrol and what is that?

Yes, vacancy decontrol is permitted.

Rental units which are subject to vacancy decontrol have their base rent "reset" each time a *new tenant* occupies a unit. As such, the landlord may adjust the monthly rent to market price / the agreed upon rent with the new tenant; the permitted annual rent increase applies from then forward with that particular tenant.

Are landlords required to notice tenants about any proposed rent increase? Can Tenants participate in an application for rent increase?

Any landlord seeking an annual rent increase must provide notice to tenants at least 60 days prior to the effective date of increase renewal. Notice of an annual rent increase shall occur by certified mail / return receipt or personal service. Any landlord seeking a hardship increase or capital improvements surcharge must notice tenants at least 15 days prior to the appeal to the rent leveling board. Notice of a hardship increase or capital improvements surcharge must be posted in the lobby of the building, or other conspicuous place if not such lobby exists, at least 15 business days prior to the date of the appeal.

The Rent Control Board will give tenants a reasonable opportunity to be heard before making a decision about a proposed rent increase.

Are landlords required to maintain their rental units?

Yes. Rental units must be in “substantial compliance” in order for any rent increase to be approved. Substantial compliance means the Asbury Park Department of Code Enforcement has certified the dwelling unit is in compliance with the rent leveling ordinance, is free from all heat, hot water, elevator and all health, safety and fire violations, as well as ninety (90%) percent qualitatively free of all other violations of the Asbury Park Property Maintenance Ordinance, Uniform Construction Code, and the Hotel and Multiple Dwelling Law.

Landlords are required to maintain the same standards of service, maintenance, furnishings and equipment in the dwelling unit and dwelling as required to do by law or lease at the date the lease was entered into. In the event that the landlord fails to provide such service, tenants may petition the Rent Leveling Board for a reduction in rent, credit for reduced services and/or right of reimbursement in cases where the tenant cannot receive a benefit through credits.

What is the Rent Leveling Board and what does it do?

The rent leveling board is a group of 7 people appointed by the City Council who will hear all proposals to increase rent and otherwise implement the rent leveling ordinance. The Board members shall consist of not less than 2 tenants and not less than 2 landlords. All members shall be either a resident of the City of Asbury Park and/or an owner of property in the City of Asbury Park.

Once members are appointed, the Board will issue rules and regulations, supply information to landlords and tenants to assist with compliance and tenant protection, hear applications from tenants who seek to appeal a Board decision to grant a rent increase, and address complaints from landlords and tenants (provided the topic is within the scope of the ordinance).

Who can answer additional questions about rent leveling ordinance?

The Rent Leveling Officer should be contacted for any questions regarding the ordinance. The City Manager should be contacted for any questions that must be answered prior to the Rent Leveling Officer being appointed to the position.

Does rent stabilization provide affordable housing?

No. There is no requirement in rent leveling regulations, in the City or elsewhere, that housing units be rented at a price that is affordable to households with low and moderate incomes. The amount which a unit can be rented is not based on the income of the household living in the unit. Notwithstanding, units subject to rent leveling may remain within financial means to its renter for a longer period of time compared to units not subject to rent stabilization.

Rent stabilized units are not available for affordable housing credit against a New Jersey municipality's affordable housing obligation.