



## Rent Leveling Ordinance

### Frequently Asked Questions

#### Applicability

*Q: I have a property that has two family units in the front house and two units over the garage? Am I still subject to the Rent Leveling Ordinance since there are two buildings with two units each? That would be less than the minimum of three (3) units cited by Ordinance 2021-40.*

A: If the two different buildings resided on separate block and lot parcels under different owners, they would be exempt from the Ordinance 2021-40. In this case, all residential units are on the same block and lot parcel under a single owner. This would be considered a Four (4) residential unit rental facility. If you as the owner live in one of the units, special conditions superseded by New Jersey State law do apply you do not have to count your own residence as one of the rental units for the purposes of landlord and tenant registration, but you are obligated to provide an Owner Occupant Affidavit as part of the Landlord Registration and Tenant Lease Information Registration forms.

*Q: Do these rules apply to 2 family homes?*

A: Ordinance 2021-40 - Rent Leveling only applies to property owners that have three (3) or more residential apartment units available for lease. A two-family property would not be subject to the ordinance.

#### Fees

*Q: What fees are involved under Ordinance 2021-40?*

A: The fee schedule can be found in the ordinance under section 15-7 Fees. In summary, most fees can be found on the registration forms and can be generalized as:

- a. An annual registration of \$10 per unit when submitting the Landlord Registration and Tenant Lease Information Registration forms due by February 1<sup>st</sup> of each year.
- b. A fee of \$10 per unit where the property owner is adjusting the rent (Rent Filing Adjustment) or \$10 for when there is a turnover in tenancy (Vacancy Decontrol). This must be submitted within 25 days of any new or renewal of lease agreement that changes the amount of rent. In addition, a \$25 fee

is due at this time for Substantial Compliance Determination. If submitting for multiple units at the same time, you need only to submit one fee of \$25 for Substantial Compliance Determination.

*Q: I am preparing my Landlord and Tenant property information for the Rent Leveling Ordinance. I cannot find specifically how to calculate the fees. Is it \$10 for the Landlord and \$10 for each tenant? Thus \$40 for a 3 family property or is it maxed out at \$25 which I also saw that number mentioned. Thank you so much for your assistance so I can get this information submitted with my payment.*

A: Here is the breakdown:

*Landlord Registration* - There is no fee for Landlord Registration.

*Tenant Lease Information Registration Form* - There is a \$10 fee due annually at registration for each residential apartment unit as property owner you lease. If you live in one of the units on your property, no fee is required for that unit but;

*Owner Occupant Affidavit* - If you live in one of the units of a 3-4 residential apartment unit property, you will need to provide a notarized Owner Occupant Affidavit to the Rent Leveling Office proving residency. This also exempts you from certain aspects of the Rent Leveling Ordinance regarding rent adjustments and vacancy decontrol.

A *Substantial Compliance fee of \$25* is due to the City of Asbury Park upon the submission of a *Rent Filing Adjustment/Vacancy Decontrol Form*. This must be submitted within five (5) days of adjusting the rent on a lease renewal for an existing tenant or there has been a turn over in tenancy. This is to ensure all tax payments are up to date and that there are no violations or open permits.

All payments are made out to the City of Asbury Park (Rent Leveling Reg. in memo).

## **Data Collection**

*Q: I have concerns regarding the collection of information with the Rent Leveling ordinance. Can you elaborate as to what is collected and how private it is?*

A: The obligation to provide the information is the responsibility of the landlord as part of their annual registration. Personal identifying information was already provided (such as your name) was already provided when you applied to be a tenant at your residence. The City of Asbury Park conducts an inspection of your residential unit to ensure that it is habitable and once passed, a Certificate of Occupancy (CO) is issued to the landlord. This CO includes your personal contact information and, as discussed, one of the key reasons is for the City to understand who lives in which unit in the event there is damage to the building and first responders and other administrative assistance can reach out to the resident directly.

In regards to the Rent Leveling ordinance, the reason your last name is collected along with other characteristics of your residence is to ensure two principal objectives of the Rent Leveling ordinance:

- a. To ensure that when a turnover of tenancy occurs, the residential apartment unit is no longer subject to the rent limiting restrictions of the ordinance. A change in the surname of a tenant is fairly reliable indicator that the landlord has met the conditions of Vacancy Decontrol as defined in the ordinance. The example we discussed was where a Mr. Smith may have rented a studio apartment for ten years at a monthly rent of \$1,000/month. If Mr. Smith renews his lease with the landlord, his rent can only be increased up to 3.5%. If Mr. Smith leaves voluntarily, the residential apartment unit now meets the conditions of Vacancy Decontrol. Furthering the example, the landlord can now rent the studio apartment to Ms. Johnson for \$1,500 (if that's what the market indicates would be a fair rate). Once leased to a new tenant, the residential apartment unit is subject to the 3.5% again until a new tenant turns over the apartment.
- b. The collection of monthly rent and any other additional amenity charges establishes a baseline when calculating an allowable rent increase in accordance with the Rent Leveling Ordinance.
- c. No private individual information on tenants or business-related data collected to support the administration of the Rent Leveling Ordinance can be shared with the general public as part of public report nor in response to a Open Public Records Access (OPRA) request. This determination came from the City of Asbury Parks OPRA attorney and has abided by this practice since the ordinance became effective on June 1, 2021.

## **Notice to Tenants**

*Q: As a property owner, am I required to send in my Landlord Registration/Tenant Lease Information Registration forms by United States Postal Service via Certified Mail Delivery?*

A: There is no requirement in the ordinance for property owners to use USPS Certified Mail Delivery in providing the Landlord Registration Form or the Tenant Lease Information Registration Form. As a matter of fact, through today, none that have registered with our office have used it.

Many landlords have delivered their registration forms directly to Rent Leveling Office via email with a promise to send the check via regular mail or drop box. Of the 22 registered so far, only two are awaiting payment and they will be given a notice of violation after March 1, 2022 if payment hasn't been received. We're keeping track!

There are only three (3) instances when property owners are asked to provide USPS Certified Mail Delivery:

1. In section 15-3 - *Notice To Tenants A*; it does specify that Notice to Quit (for vacancy or renewal) be delivered by USPS Certified Mail Delivery. We believe this is a sensible action to show that formal communication regarding rent adjustments is documented. This protects the rights of both landlord and tenant.
2. In section 15-3 - *Notice To Tenants B*, it does specify that if a Hardship Increase is being sought, a Notice to Tenants must be delivered by USPS Certified Mail Delivery. This notice also provides a Tenant Statement Form for them to respond to the Rent Leveling Board regarding the Hardship Increase application. Again, we believe documented delivery best preserves the interest of both landlord and tenant.
3. In section 15-4 - *Standard of Service*; it does specify that a notice of tenant's right be delivered via USPS Certified Mail Delivery be provide by the property owner for each new tenant taking possession and occupancy. At the discretion of the Rent Regulation Officer, this requirement has been suspended and a copy of the New Jersey DCA publication on tenant's rights is delivered by a Code Enforcement Inspector upon issuance of a passed Certificate of Occupancy. The ordinance distinctly allows the discretion of the Rent Regulation Officer on how best to deliver this information.

In no other circumstance is USPS Certified Mail Delivery required for communication; though it may be advisable at the discretion of any party.

### **Rent Increases on Single Unit Residential Apartments**

*Q: My landlord sent me a letter with a \$300 a month increase. I live at [redacted] in Asbury. What are my options please? I can't afford that and I don't want to move right now.*

A: The property is a single residential condominium unit and is not subject to the local Ordinance 2021-40 used in Asbury Park. Nonetheless, the State of New Jersey Department of Community Affairs does have standards regarding rental increases; especially those deemed "unconscionable". If you believe that a request for rental increase for your residential unit falls into that category, please contact the State of New Jersey Department of Community Affairs at 609-292-6420 or via email at <https://www.nj.gov/dca/contact/feedback.html>. Additional information can be found at [https://www.state.nj.us/dca/divisions/codes/publications/pdf\\_lti/rnt\\_incrse\\_bultin.pdf](https://www.state.nj.us/dca/divisions/codes/publications/pdf_lti/rnt_incrse_bultin.pdf)