



**Asbury Park, New Jersey  
ORDINANCE NO. 2021-5**

**AN ORDINANCE ESTABLISHING A RENT LEVELING BOARD AS WELL AS RULES THAT REGULATE THE PRICE OF RENT AND RATE OF RENT INCREASE FOR CERTAIN RENTAL HOUSING WITHIN THE CITY OF ASBURY PARK, AND AMENDING AND SUPPLEMENTING THE CODE OF THE CITY OF ASBURY PARK TO ESTABLISH A NEW CHAPTER 15 THEREOF, WHICH SHALL BE ENTITLED “RENT LEVELING REGULATIONS.”**

**WHEREAS**, the City Council of the City of Asbury Park is concerned that rising rents will exacerbate housing cost burdens faced by existing and future renters in the City and threaten their displacement in the future; and

**WHEREAS**, the average rent in the City of Asbury Park increased from \$905 in 2010 (source: American Community Survey, 2010 5-year Estimates Data Profile, Table DP-04) to \$1,229 in 2019 (source: American Community Survey, 2019 5-year Estimates Data Profile, Table DP-04); and

**WHEREAS**, significant increases in rents can cause housing instability which can lead to failure or difficulty in obtaining basic necessities (food, medical care, etc.), homelessness, and impacts on childhood learning from school moves, absenteeism, and other impacts; and

**WHEREAS**, expenditure of 30% or more of household income on rent constitutes being “cost burdened” and is an indicator of affordability, particularly for low and moderate income households; and

**WHEREAS**, approximately 56% of renter-occupied households in the City of Asbury Park expend 30% or more of household income on gross rent, including approximately 47% who spend 35% or more; and

**WHEREAS**, rent leveling can provide stability to housing costs of renter households and reduce annual significant increases in rents; and

**WHEREAS**, rent leveling has been adopted in several New Jersey jurisdictions, including but not limited to the nearby municipalities of Neptune Township and the Red Bank Borough, and has long been upheld as constitutional; and

**WHEREAS**, on November 13, 2020, an initiative petition and proposed Rent Stabilization Ordinance (the “Initiative Ordinance”) was received by the City Clerk’s office; and

**WHEREAS**, the Initiative Ordinance was forwarded by the City Clerk to the Mayor and Council at the Council meeting of December 9, 2020 and the required public hearing was subsequently scheduled for December 22, 2020; and

**WHEREAS**, the City Council conducted a public hearing on the Initiative Ordinance on

December 22, 2020; and

**WHEREAS**, the City Council did not adopt the Initiative Ordinance on December 22, 2020; and

**WHEREAS**, the City Council finds that the Initiative Ordinance provides inadequate flexibility to property owners and is unnecessarily cumbersome in its implementation; and

**WHEREAS**, the City Council believes that the following Rent Leveling Ordinance provides additional flexibility to property owners and less cumbersome implementation.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and City Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, that the following Rent Leveling Ordinance is hereby enacted, **to be effective as of June 1, 2021**, and shall be incorporated into the Code of the City of Asbury Park after that date as follows:

### **Chapter 15. Rent Leveling Regulations.**

#### § 15-1. Purpose.

The purpose and intent of this Chapter is to create reasonable rent leveling regulations in order to control increasing housing cost burdens affecting residential tenants in the City of Asbury Park, while also allowing landlords to achieve a reasonable rate of return. The City Council believes that the within regulations achieve that purpose, and are in the best interests of the health, safety and welfare of the citizens of Asbury Park.

#### § 15-2. Definitions.

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

Board shall mean the Rent Leveling Board.

"Capital improvement" shall mean a substantial change in the housing accommodations, such as would materially increase the rental value in a normal market. It shall not include ordinary repair, replacement and maintenance. A "capital improvement" is of such a nature, extent and expense that it benefits the building and the tenants' enjoyment thereof with a degree of permanency. A "capital improvement," to qualify under this Chapter as such, must have a useful life of at least five years.

"Consumer Price Index" or "CPI" shall mean a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services. The "consumer price index" (all items base year 1967-100) utilized by this Chapter shall be calculated using the New York-Newark-Jersey City region, as published by the Bureau of Labor Statistics, United States Department of Labor.

"Construction" or "Constructed" shall mean constructed, erected or converted but excludes rehabilitation of premises rented previously for residential purposes without an intervening use for other purposes for a period of at least two (2) years prior to conversion. Mere vacancy shall not be considered an intervening use for the purpose of this section.

"Dwelling" or "dwelling unit" shall mean one (1) or more rooms, designed, occupied, or intended for occupancy as separate living quarters with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a

household.

"Landlord" shall mean an owner, lessor, sub-lessor or any other person entitled to receive rent for the use and occupancy of any dwelling unit, or an agent or successor of any of the foregoing.

"Lease Agreement" means a written agreement between landlord and tenant setting forth the duration of the agreement, the rent to be charged, and such other provisions mutually agreeable to the parties and must include notification to the tenant that the property is subject to rent control. Lease Agreements shall be maintained by the landlord for a period of six (6) years from the effective date of the lease.

"Living areas" means the amount of total rentable space applicable to any given dwelling unit, measured either in terms of rooms or square footage.

"Not vacant through unlawful means" shall mean the tenant has not vacated or has been forced to vacate the dwelling involuntarily; that is, due to harassment, duress, wrongful acts or unreasonable pressure from the landlord or his agents. A legal eviction is not an involuntary vacation under this definition. A bona fide written release of the landlord by the tenant with respect to this issue shall be evidence of a voluntary vacancy which may be considered in determinations under this Chapter.

"Officer" shall mean the Rent Regulation Officer.

"Registration form" shall mean the form filed by the landlord pursuant to this Chapter.

"Rent" shall mean any price for the use of a dwelling unit. All charges that are mandatory for the dwelling unit, including but not limited to refurbishment fees, administrative fees, mandatory parking fees, sewer or water fees, etc., shall be included. Optional charges, which are chosen by tenants such as pet fees, pool fees, recreation fees, optional parking fees, and the like, shall not be included and shall not be subject to the terms of the ordinance. Enforcement fees or security fees such as late fees, bounced check fees, legal fees and costs of court for enforcement of a breach of lease agreement and increases in security deposit are also not considered "rent" for purposes of this Chapter. Security deposits and charges for accessories, such as boats, mobile homes and automobiles not used in connection with the dwelling unit, shall not be construed as "rent."

"Rent increase, rent decrease, and rent adjustment" shall mean the intent and policy of the governing body to interfere in landlord-tenant relations and legitimate operation ownerships, occupancy and development of real estate, only when necessary to protect the public interest. "Rent increase," "Rent decrease" and "rent adjustments" shall consist in the first instances of the notice sent by the landlord to the tenant, or by the tenant to the landlord, in letter or other form, setting forth the proposed notice of "rent increase," "rent decrease" or other "rent adjustment."

"Rent Leveling Board" shall mean the body created to administer this ordinance.

"Rent Regulation Officer" shall mean the person responsible to oversee day to day operations of the policies enacted by this ordinance, as well as any other duties as directed by the Rent Leveling Board.

"Service" shall mean 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 unit.

"Substantial compliance" shall mean that the Asbury Park Department of Code Enforcement has certified the dwelling unit is in compliance with this Chapter, 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.

"Tenant/subtenant" means the regulations that apply to the landlord and tenant under this Chapter shall also apply, wherever appropriate, to the "tenant/subtenant" relationship and any other rental tenancy unless otherwise expressly excluded.

**§ 15-3. Applicability.**

- A. This Chapter shall apply to all rental dwelling units in buildings containing five (5) or more units, except for the following exemptions:
1. Motels and hotels.
  2. Multiple dwelling units as defined in N.J.S.A. 2A:42-84.1 in a building constructed on or after June 25, 1987 which was not constructed for occupation by senior citizens, for a period of time not to exceed the period of amortization of any initial mortgage loan obtained for the multiple dwelling, or for thirty (30) years following completion of construction, whichever is less. This exemption applies only where an owner has complied with all requirements contained in N.J.S.A. 2A:42-84.1 et seq., including the filing with the municipal construction official required by N.J.S.A. 2A:42-84.4 and the service of a written statement upon the tenant required by N.J.S.A. 2A:42-84.3. This exemption shall not apply to rehabilitated buildings that during their rehabilitation maintained at least two (2) rigid walls and a secured roof.
  3. Housing restricted to students by a school, college or similar accredited institution which owns or controls that housing.
  4. Dwellings in any building containing four (4) or fewer dwelling units.
  5. Dwellings which are owner-occupied for not less than six (6) months per year.
  6. Dwelling units licensed as a rooming or boarding home by the New Jersey Department of Community Affairs.
  7. Dwelling units licensed as a group home by the New Jersey Department of Community Affairs.
  8. Dwelling units licensed as an emergency shelter for the homeless by the New Jersey Department of Community Affairs.
  9. Dwellings in a building that is completely vacant on or before and since June 1, 2021, provided that said building did not become vacant through unlawful means which can be attributed to the applicant for this exemption. In order to qualify for this exemption, the building vacant since June 1, 2021, must be registered by an applicant with the Rent Regulation Officer, on forms provided by said Officer, before the renting of dwelling units within the vacant building. After the first rental, such dwelling units shall be exempt from initial rent or lease agreement, but all subsequent rents shall be subject to the provisions of this Chapter.

10. Dwellings which are restricted to low-, moderate- or middle-income households via affordability controls, such as but not limited to a deed restriction or funding restriction.
  11. Dwellings in any hospital, convent, monastery, extended medical care facility, asylum, non-profit home for the aged.
  12. Any dwelling for which a landlord has successfully obtained a short-term rental permit pursuant to the City of Asbury Park's Short-Term Rental (STR) Ordinance (City Code § 13-1300).
- B. A dwelling being rented for the first time shall not be restricted in the initial rent charged. Any subsequent rental increases, however, shall be subject to the provisions of this Chapter.

**§ 15-4. Rental Registration.**

- A. All dwellings which are subject to the provisions of this Chapter shall file with the City Clerk, within thirty (30) days from the effective date of this Chapter and annually thereafter, a complete Landlord Registration Form (and any necessary supporting information). This form shall be available at the City Clerk's Office.

**§ 15-5. Transition from rent regulation by preempting governmental agency to regulation of this Chapter.**

- A. If a contract between a landlord and a governmental agency duly provides for that governmental agency to regulate the amount of rent received by that landlord, and if the authority of that governmental agency supersedes the authority of the City of Asbury Park to regulate such rents, then the application of this Chapter shall be preempted during the period of governmental agency regulation specified in the contract. Until such a contract begins, and immediately after the contract terminates, this Chapter shall continue to regulate such rents. Upon termination of such a contract, the "base rent" for dwelling units under this section shall be the last rent level received by the landlord prior to the termination of the preemptive governmental agency regulation.

**§ 15-6. Precedence of Ordinance.**

- A. Should a lease entered into subsequent to the effective date of this Chapter between a landlord and a tenant prove to be in conflict with the within Rent Leveling regulations, the within regulations shall take precedence where the within regulations are more restrictive.

**§ 15-7. Rent Increase.**

- A. Establishment of rents between landlord and tenant in a dwelling unit to which this Chapter is applicable shall hereafter be determined by the provisions of this Chapter.
- B. At the expiration of a lease or at the termination of the lease of a periodic tenant, no

landlord may request or receive an increase greater than the percentage increase in the Consumer Price Index (CPI) or three and one-half percent (3.5%), whichever is greater. The use of CPI shall be based upon the maximum increase during fifteen (15) months prior to the month of the proposed rent increase to three (3) months prior to the month of the proposed rent increase. 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%).

- C. The rent resulting from the imposition of any increase provided hereunder may be rounded to the nearest dollar with regard to the final step of calculation only. Calculation of percentages shall be calculated out two decimal points only and then dropped and not rounded.
- D. No landlord shall request or receive more than one annual rental increase during a twelve (12) month period per dwelling unit unless said dwelling becomes vacant through lawful means.
- E. The allowable annual increase will not be permitted if the dwelling is not in substantial compliance and/or if the landlord has not met the rental registration requirements as specified in this Chapter.
- F. Any rental increase at a time other than at the expiration of a lease or termination of the periodic lease shall be void. Any rental increase in excess of that authorized by the provisions of this Chapter shall be void. Determinations under this section shall be made by the Board.

**§ 15-8. Vacancy Decontrol.**

- A. Upon the voluntary, uncoerced or court authorized termination of a tenancy, during or at the end of any lease, the rent shall be decontrolled and the rent may be raised by the landlord without regard to the limitations imposed by this Chapter. The rent to be charged to a new tenant, as well as the rent previously charged for the same space, shall be reported to the Rent Leveling Board within fifteen (15) days of renting the space. Upon re-rented, the rental space shall be considered recontrolled to the same extent and under the same conditions as any space originally controlled.
- B. Failure to report the information required within the fifteen (15) days specified shall result in the rental space remaining controlled to the same extent and under the same conditions as if it had not been vacant and any rental charged the new tenant in excess of that controlled rate shall be void.

**§ 15-9. Tax Appeal; Reduction.**

- A. In the event a tax appeal is taken by the landlord and the landlord is successful in the appeal and the tax is reduced, the landlord shall remit, and the tenant shall receive 50% of the reduction as applied to its tax portion, after deducting all expenses incurred by the landlord in prosecuting the appeal.

- B. A tenant who has resided in a dwelling unit for less than the entire tax year to which a reduction pertains (hereinafter "tax year") shall be entitled to receive a percentage of the tax refund pertaining to his dwelling unit that is equivalent to the percentage of the tax year which the tenant resided in the dwelling unit.
- C. Within 45 days of receipt by the landlord of the monies or the crediting of such monies against the landlord's outstanding taxes, the landlord shall notify and provide each tenant of such tax reduction. The notification shall include the calculations involved in computing the tenant's credit, including the property tax for the dwelling unit before the appeal, the reduced property tax for the dwelling unit after the appeal, the number of square feet of the dwelling subject to the lease between the tenant and landlord, the tax decrease per square foot of dwelling unit, the number of square feet occupied by the tenant, the credit to which the tenant is entitled, and how it is being credited to the tenant.
- D. The landlord shall provide the Board a copy of the notification to the tenant, including but not limited to the calculation.

**§ 15-10. Appeal by Landlord.**

- A. In the event that a landlord cannot receive a fair return after having received the increase provided in this Chapter, they may appeal to the Rent Leveling Board for increased rental. The Board may grant a hardship rent increase to meet this requirement. The landlord must provide evidence according to the standards recognized at law for determining fair return. The Board will rely upon the recognized standard that a landlord should receive a net operating income of at least 40% of the gross annual income after deducting reasonable and necessary operating expenses, in the absence of an adequate showing that utilization of this standard will result in an unfair return to the landlord. Operating expenses shall not include mortgage principal or interest payments, depreciation or amortization. Any hardship increase granted by the Board will take the place of the annual permitted rent increase and shall be equally prorated to all units within the structure thirty (30) days after the decision of the Rent Leveling Board, provided that no increase shall take effect with regard to any tenant who has a written lease until the expiration of the lease unless the lease provides otherwise.
- B. Landlord may seek additional surcharges for major capital improvements or services. To qualify for a major improvement surcharge, claimant must show a benefit to the tenant, in the form of improved lifestyle, convenience, ease and/or security. The landlord must notify each tenant of the total cost of the completed capital improvement or service, the number of years of useful life of the improvement as claimed by the landlord for purposes of depreciation for income tax purposes, the cost of the improvement, the total number of square feet to the dwelling or garden apartment complex, the total square feet occupied by the tenant and the capital improvement surcharge he is seeking from each tenant. The landlord seeking a capital improvement or service surcharge shall appeal for the surcharge to the Rent Leveling Board, who shall determine if the improvement is a major improvement and if so, may permit such increase to take place and may direct that the increase shall be collected in equal monthly payments spread over the useful life of the capital improvement. If the increase is granted, it shall not be considered rent and calculated in cost of living increases. In any event, no increase authorized by this section shall exceed 15% of the tenant's rent.

C. As used in this section:

1. "Fair net operating income" shall mean the amount determined by subtracting reasonable and necessary operating expenses from gross annual income, which amount should not be less than 40% of the gross annual income.
2. "Gross annual income" shall mean all income resulting directly or indirectly from the operation of a property or building such as all rent received or collectable, including any rent from a less than arm's length transaction, the landlord's share of interest on security deposits, all earnings from commission, vending machines, late fees, pet fees, parking fees, pool fees, key charges, finder's fees, amount received from successful tax appeals, income from rebates, tax surcharges, capital improvement surcharges, computed in accordance with the provisions and limitations of this section.
3. "Reasonable and necessary operating expenses" includes all expenses incurred and paid by a landlord necessary to the operation and maintenance of the residential rental property during the period reflected in the income computed in this section, excluding mortgage, principal or interest payments, depreciation or amortization, computed with these limitations:
  - a) Taxes shall be limited to amounts actually paid, including those in escrow for appeal;
  - b) Repairs and maintenance shall be limited to arm's length transactions and shall be reasonable and necessary. Cost of service contracts shall be prorated over the period covered. Painting shall be prorated at a period of three years for the interior of dwelling units or five years for the exterior and common areas;
  - c) Purchase of new equipment shall be reflected and prorated over the useful life of the item;
  - d) Legal and auditing expenses shall be limited to reasonable and necessary costs of the operation of the property;
  - e) Management fees shall be limited to actual services performed, such as the resident manager's salary, telephone expenses, postage, office supplies, stationery, and the value of the apartment provided if included in income. In no event shall management fees exceed 5% of the first \$50,000 of gross maximized annual income, 4½ % of the next \$25,000, 4% of the next \$100,000, 3½ % of the next \$100,000, and 3% of any amount over \$250,000;
  - f) Salaries not included in management fees shall be limited to actual services performed and reasonable for similar position in the area, including rental value, if included in income and expenses and wages and benefits paid;
  - g) Advertising shall be actual costs that are reasonable to insure occupancy only;



- h) Utilities such as gas, electric, water and oil, shall derive from arm's length transactions, and the landlord shall demonstrate that all reasonable efforts to conserve energy and fuels have been used;
- i) Insurance costs shall derive from all arm's length transactions prorated over item of policies;
- j) The history of the income and expense shall be consistent with the application or fully documented as to any changes.
- k) No attorney's fees, expert fees, permit fees, parking fees, accountant's fees nor application fees incurred by a landlord in connection with any application to the Board shall be included in determining whether a landlord is entitled to any rent increases.

D. In any such application for a hardship increase, the landlord shall specifically submit adequate proof to demonstrate the following:

- 1. The landlord is an efficient operator of the residential rental property; and
- 2. The dwelling unit(s) is in a safe and sanitary condition and in substantial compliance with State Health Codes and the Property Maintenance Code; and
- 3. There are no outstanding property taxes and water and sewer charges or other outstanding municipal fees relating to the subject property.

The Board may temporarily withhold further consideration of the appeal until the landlord has corrected any deficiency relating to any of the items specified above.

E. If after a full hearing, the Rent Leveling Board shall determine that the landlord is in full compliance with the provisions of this article, it may permit a rental increase sufficient to reestablish the 60% relation of reasonable and necessary operating expenses to the 40% fair net operating income. Any increases shall be equally prorated to all of the affected units within the structure or on the property, upon 30 days notification after the Board has approved the hardship increase.

F. Reasonable rate of return.

- 1. In determining rent increases under this section, the Rent Leveling Board shall consider whether the rent increase permitted by this section provides the landlord with a just and reasonable rate of return. The Rent Leveling Board shall be guided in its determination by whether the rental increase will result in a rate of return which is sufficiently high so as to:
  - a) Encourage good management, including adequate maintenance of services;
  - b) Furnish reasonable reward for efficiency to the landlord; and
  - c) Enable landlords to maintain and support their credit.

G. If the Rent Leveling Board determines that the rental increase does not provide the landlord with a fair and reasonable rate of return, as defined herein, the Rent Leveling Board shall have the authority to appropriately adjust the rental increase to provide the

landlord with a fair and reasonable rate of return.

**§ 15-11. Limitation on Increases.**

- A. Since an immediate rent increase of more than twenty percent (20%) above the prior monthly rent paid by an existing tenant may be considered unconscionable and imposes a hardship on a tenant, the Rent Leveling Board shall not grant increases exceeding twenty percent (20%) in any one (1) year for any tenant.
- B. For the purpose of determining whether the rent increase exceeds twenty percent (20%) of the monthly rent, all increases in monthly payments by the tenant occurring within twelve (12) months prior to the effective date of the increase shall be added to determine if that amount exceeds twenty percent (20%) of the prior monthly rent.

**§ 15-12. Rent Rebate.**

- A. The landlord shall rebate to the tenant any amount of rent collected in excess of that permissible pursuant to the terms of this Chapter by crediting the tenant over a period not to exceed three (3) months with the amount of excess rent paid, or in the event the tenant is no longer in occupancy, by refunding within a one (1) month period. This provision is not intended to preclude a tenant from seeking judicial remedies under statutory or common law. If a landlord fails to return any excess collected rent to their tenant within the aforementioned relevant time periods, they will be liable to their tenant for double the unreturned balance plus attorney's fees and costs.

**§ 15-13. Notice to Tenants.**

- A. Any landlord seeking an annual rent increase, a lease renewal or an agreement to extend or renew leases shall provide notice of said action in writing to the tenant at least sixty (60) days prior to the effective date of increase renewal, extension or other action. The landlord shall also send a separate notice by certified mail/return receipt requested or personal service to each tenant at least sixty (60) days prior to the proposed date of any hardship increase or capital improvements increase, which notice shall include a copy of the application, including all exhibits supplied in connection with it. No tenant shall be required to sign any such rent increase notice, renewal or agreement to extend or renew lease until such tenant has had the opportunity to review the documents for a period of five (5) business days.
- B. Prior to any such appeal to the Board for a hardship increase or capital improvements increase, a landlord must post in the lobby of each building, or if no lobby is present, in a conspicuous place in and about the premises a notice of the appeal setting forth the basis for the appeal. The notice must be posted for at least 15 business days prior to the proposed date of appeal. The landlord shall also send a separate notice by certified mail/return receipt requested or personal service to each tenant at least 15 business days prior to the proposed date of the appeal, which notice shall include a copy of the complaint filed or application, including all exhibits supplied in connection with the appeal, and the date, time and place that the appeal will be heard.
- C. Notice shall minimally include the following: the calculations involved in computing the increase, the allowable and rental increase (if applicable), the previous year's rent, and evidence that the dwelling unit is in substantial compliance.

**§ 15-14. Standard of Service.**

- E. During the term of this tenancy, the landlord shall 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.

**§ 15-15. Rent Leveling Board.**

A. Rent Leveling Board Created.

1. There is hereby created a Rent Leveling Board to administer this Chapter under the direction and supervision of the Department of Finance or other Department as designated by the City Manager of the City of Asbury Park. The Board shall be subject to the Open Public Meetings Act.
2. The Board shall consist of seven (7) members appointed by the Municipal Council via resolution. The members of the Board shall consist of not less than two (2) tenants and not less than two (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.
3. Said members of said Rent Leveling Board shall serve three-year terms. The initial Board member terms shall be staggered with two (2) members serving three (3) year terms, two (2) members serving two (2) year terms, and three (3) members serving one (1) year terms. All terms beyond the initial shall be for three (3) years each.
4. A quorum for a hearing shall consist of not less than four (4) members.
5. One (1) member shall be elected chairperson for a one (1) year term at the first meeting of the calendar year by the Board members. One (1) member shall be elected vice-chairperson for a one (1) year term at the first meeting of the calendar year by the Board members.
6. Decisions of the Board may be rendered by a majority of members present, so long as the Board has a quorum.
7. No Board member shall be permitted to act on any matter in which he has either directly or indirectly any personal or financial interest.
8. Municipal Council may remove any member of the Board for cause upon written charges served upon the member after a hearing thereon at which the members shall be entitled to be heard and represented by counsel.
9. A vacancy during the term of any member shall be filled for the unexpired portion thereof only in the same manner as the initial appointment.

B. Attendance.

1. Whenever a member of the Rent Leveling Board has not been present at three (3) consecutive meetings of the Board, then the remaining members of the Board

shall determine by a majority vote whether the absence of the member shall be excused pursuant to N.J.S.A. 40A:9-12.1(g). If the failure to attend is due to a legitimate personal concern, such as illness, the member's absence shall be excused. However, if the Board determines that the personal concern is so serious that it may affect the member's continued ability to participate at meetings, then the Board shall request the Municipal Council to determine whether the member is physically or mentally incapable of service pursuant to N.J.S.A. 40A:9-12.1(d). The Municipal Council shall review the Board's request and may replace the Board member. Replacement of the Board member shall be at the sole discretion of the Municipal Council.

C. Meetings and Dockets.

1. The Rent Leveling Board shall determine the schedule of meetings and hearings as is necessary to carry out the provisions of this ordinance. At minimum, a meeting shall be held within every sixty (60) day period. Special meetings may be scheduled at the discretion of the Board.
2. The Rent Leveling Board shall maintain and keep in its office meeting and hearing dockets. The dockets shall list the time, date, place of hearing, the names of the parties involved, the addresses of the dwellings involved, the issues involved, and positions taken, and the final disposition of the petitions heard by the Board.

D. Language.

1. All rules, notices, orders, rulings and regulations of the Rent Leveling Board shall be printed in English and Spanish. Information disseminated to the public by the Board shall be disseminated in English and Spanish. At the request of a Board member or involved party, provision shall be made for concurrent oral translation into Spanish of any hearings or meetings of the Board.

E. Rights and authority of the Board.

1. The Rent Leveling Board shall have the right to exercise, in addition to other powers herein granted, all powers necessary and appropriate to carry out and execute the purpose of this entire Chapter, including the right to the exercise of equitable authority to depart from the strict interpretation of the provisions of this Chapter in instances where justice and fairness requires equitable intervention. Equitable authority should only be exercised in truly exceptional circumstances where justice and fairness so demand.
2. These powers of equity do not permit the Rent Leveling Board to act in contradiction to the purposes of this Chapter nor in an arbitrary, capricious or unreasonable manner. Notwithstanding this general power of equity, the Rent Leveling Board shall also have the following powers:
  - a) To issue and promulgate such rules and regulations as it deems necessary to implement the purposes of this Chapter, provided said rules and regulations are not in conflict with this Chapter or State statute, and which rules and regulations shall have the force of law until revised, repealed or

amended from time to time by the Board in the exercise of its discretion, provided that such rules are filed with the Municipal Clerk.

- b) To supply information and assistance to landlords and tenants, including but not limited to documents regarding tenant protection, to help them comply with the provision of this Chapter, municipal code, and State law and regulations.
  - c) To hold hearings and adjudicate applications and complaints from landlord/tenants pursuant to this Chapter. Said Board shall give both landlord and tenant reasonable opportunity to be heard before making any determination, with or without counsel. All determinations shall be in writing with copies to any parties of record.
  - d) To require the production of books, records, tax returns, balance sheets, profit and loss statements and such other records as the Board may require and deem necessary for its determination.
3. Any tenant filing a complaint with the Rent Leveling Board against the landlord shall be required to sign a complaint and appear before the Board to give testimony as requested by the Board. The landlord and/or his representative upon due notice shall be required to appear and give testimony. Any tenant appearing before the Board may select someone to represent them who need not be an attorney provided the person representing the tenant is authorized to do so in writing.

F. Appeals of Rent Leveling Board Decisions.

1. Any determination of the Rent Leveling Board shall be deemed a final determination by the City. Either the landlord or tenant may appeal the findings of the Rent Leveling Board to the Law Division of the Superior Court in accordance with New Jersey Court Rules.

**§ 15-16. Rent Regulation Officer.**

- A. The position of Rent Regulation Officer, in the Department of Finance or other Department as determined by the City Manager, is hereby created. The Rent Regulation Officer shall be hired or designated by the City Manager and compensated based on existing salary controls and provisions within that Department.
- B. The duties of the Rent Regulation Officer shall be as follows:
- C. To obtain, keep and maintain all relevant records and other data and information.
  1. 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.
  2. To ensure compliance by the landlord and tenants with the provisions of this Chapter.

3. To remedy violations of this Chapter as provided by this Chapter.
  4. To accept, process, investigate and determine complaints from tenants as provided for in this Chapter.
  5. To accept, process, review and investigate applications from landlords as provided for in this Chapter.
  6. To coordinate and supervise all staff associated with the operation of this ordinance.
  7. To attend all meetings of the Rent Leveling Board.
  8. To perform such other duties as the Rent Leveling Board may specifically direct and as allowed by this Chapter.
  9. Any determination of the Rent Regulation Officer under this section or such duties as may be delegated to him/her by the Rent Leveling Board or his/her designee, by regulation, will be rendered by the officer or designee, in writing.
- D. Any person aggrieved by a determination of the Rent Regulation Officer may appeal to the Rent Leveling Board, which may sustain, vacate, modify or reverse said determination. An appeal shall be filed no later than forty-five (45) calendar days after the date that the determination is issued. The appeal shall be in the form detailed herein, and shall be accompanied by the fee as set forth in this Chapter.
- E. Upon receipt of the appeal setting forth in detail the grounds for the appeal of a determination by the Rent Regulation Officer and the required fee, the matter shall be placed upon the Rent Leveling Board agenda within sixty (60) days of receipt. During the pendency of the appeal, the rent for the subject unit shall be the rent as established by the Rent Regulation Officer.

**§ 15-17. Fees for application and proceedings.**

- A. The following fees shall apply to all applications or other proceedings of the Rent Leveling Board and Rent Regulation Officer. Each of the following fees shall be per dwelling unit:
1. Substantial Compliance determination: \$25
  2. Building vacant since June 1, 2021: \$20
  3. Filing of Rent Registration Form: \$10
  4. Capital improvement increase application: \$50
  5. Hardship increase application: \$50
  6. Appeal from Rent Regulation Officer determination to Board: \$20
- B. A single application may be filed for several apartments in the same building for which similar or substantially identical facts are involved.

**§ 15-18. Violations and penalties.**

- A. A violation of any provisions of this Chapter, including but not limited to the making of any material misstatement of fact to the Rent Leveling Board or Rent Regulation Officer, or a determination by the Rent Leveling Board that a landlord caused a dwelling unit to be vacated by unlawful means or unconscionably raised a tenant's rent in violation of this Chapter, or that a landlord rented to a tenant without filing a Landlord Registration Form for the unit, shall result in the violator being subject to a fine assessed by the Rent Leveling Board in an amount not to exceed two thousand dollars (\$2,000) per dwelling unit.

**BE IT FURTHER ORDAINED**, all parts and provisions of any Ordinance which are inconsistent with the provisions of this Ordinance shall be repealed to the extent of such inconsistency.

**BE IT FURTHER ORDAINED**, that the provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

**BE IT FURTHER ORDAINED**, that this Ordinance shall take effect on **June 1, 2021**, after final passage and publication in accordance with the law.

I, MELODY HARTSGROVE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of ORDINANCE NO. 2021-5 which was finally adopted by the City Council at a meeting held on the 10th day of March, 2021

\_\_\_\_\_  
 MELODY HARTSGROVE  
 CITY CLERK

✓ Vote Record - Ordinance 2021-5					
<input checked="" type="checkbox"/> Adopted					
<input type="checkbox"/> Adopted as Amended					
<input type="checkbox"/> Defeated					
<input type="checkbox"/> Tabled					
<input type="checkbox"/> Withdrawn					
<input type="checkbox"/> Introduced					
		<b>Yes/Aye</b>	<b>No/Nay</b>	<b>Abstain</b>	<b>Absent</b>