

**ORDINANCE NO. 15-08**

**ORDINANCE OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN, STATE OF NEW JERSEY TO AMEND, REVISE AND SUPPLEMENT CHAPTER 173, "RENT CONTROL," TO PERMIT NEGOTIATED RENTAL AGREEMENTS FOR VACANT APARTMENTS (VACANCY DECONTROL)**

**WHEREAS**, the Township of Lopatcong has received a request from its landlords to amend the current rent control ordinance to permit vacancy decontrol; and

**WHEREAS**, under the proposed changes to the ordinance, when an apartment is voluntarily vacated the landlord may negotiate a new tenant's initial and thereafter to provide the tenant with the protection of the rent control ordinance; and

**WHEREAS**, modifying the existing rent control ordinance to permit vacancy decontrol will create incentives for the landlords to improve the living conditions of all tenants and raise the value of rent controlled properties for tax purposes; without any adverse impact on tenants currently residing in rent controlled apartments; and

**WHEREAS**, the landlords have expressed their desire to provide rental reductions, freezes or other incentives to some existing tenants in need of such assistance. However, under the existing rent control ordinance providing such reductions, freezes or incentives would negatively impact the landlords because it would be permanently reducing a unit's base rent with no opportunity to recover the reduction.

**WHEREAS**, a vacancy decontrol provision, supplementing the existing rent control ordinance, achieves a fair balance between the economic interests of property owners and tenants while strengthening the Township's tax base benefiting the general public interest; and

**WHEREAS**, the proposed amendment was considered and recommended by the Township's Rent Leveling Board.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the Township of Lopatcong, County of Warren, and State of New Jersey, as follows:

Section 1:

CHAPTER 173, Section 1, Definitions, of the Code of the Township of Lopatcong shall be amended and supplemented by the addition of the following:

**BASE RENT** -- The term "Base Rent" shall mean the present monthly rental, excluding tax surcharge, hardship surcharge, and improvement surcharge for the given unit. The prevailing base rent for each individual unit is that rent which is contained in the actual rent roll filed with the Rent Control Board, or as otherwise defined in this Chapter. Thereafter, "Base Rent" shall mean the base rent charged for the prior twelve-month period, excluding tax surcharge, hardship surcharge, and improvement surcharge for the given unit.

Section 2:

CHAPTER 173, Section 2, of the Code of the Township of Lopatcong shall be amended and supplemented by the addition of the following:

**173-2            Determination of rent; limitations on rent increases**

Establishment of rents between the landlord and tenants to whom this chapter is applicable shall be determined by the provisions of this chapter. Except as provided in Section 173-2.1 and Section 172-23, no landlord shall request or receive a percentage increase in rent which is greater than 3% per annum in the next ensuing year. Said limitation of 3% increase per annum shall apply to only occupied units. Vacant units are governed by Section 173-2.1. Those tenants who provide their own heat or the cost of the fuel shall not receive an increase in any one (1) year greater than 2.8% per annum.

Section 3:

CHAPTER 173, Section 2.1, of the Code of the Township of Lopatcong shall be created as follows:

**173-2.1        Vacancy Decontrol**

Notwithstanding the provisions of Section 173-2, a landlord shall be entitled to negotiate a mutually agreeable fair rental with a prospective tenant in accordance with the following:

- A.    Vacancy Decontrol. Upon the voluntary, uncoerced vacation or court ordered eviction of any tenant for which rent increases are controlled by the terms of the Township of Lopatcong's rent control ordinance, and upon compliance with this section, at the time of re-rental of a unit pursuant to this section, a landlord may negotiate a rental with the proposed new tenant at a level mutually agreeable between the landlord and the proposed tenant.
  
- B.    The landlord must file with the Rent Leveling Board, and provide a copy to the tenant in occupancy, if any, a "Vacancy Decontrol Certification" within fifteen (15) days after entering into a lease agreement and accepting a deposit from a new tenant, which shall include the following information:
  - 1.    Property address;
  - 2.    Apartment number;
  - 3.    Vacating tenant's monthly base rent;
  - 4.    New tenant's monthly rent;
  - 5.    Name of landlord;
  - 6.    Address of landlord;

7. Telephone number of landlord;
  8. A statement certifying that the vacancy was uncoerced or as a result of court ordered eviction which statement shall be provided to any tenant then occupying the subject apartment.
- C. Vacancy Decontrol Certifications and the statement provided to any tenant then in occupancy shall be approved by the Rent Leveling Board unless a written objection objecting to the certification is filed with the Rent Leveling Board within ten (10) days of filing a complete certification. In the event an objection is filed, the procedures in Section 173-8 shall apply.
- D. Once a unit has received vacancy decontrol pursuant to this section, it shall be subject to the remaining provisions of the Chapter 173 of the Township Code.
- E. Notwithstanding the provisions of Section 173-5 of this chapter, the filing of a Vacancy Decontrol Certification at the beginning of a lease term shall be deemed sufficient registration of the rental amounts for the given lease term.
- F. Anti-harassment Provision. It shall be impermissible for a Landlord, or his agents, to willfully do or commit or cause to be done or committed any of the following: harassment, intimidation or other similar action to a tenant with the intent to cause a tenant vacate the rental unit; any reduction by the landlord in services with the intent to cause the tenant to vacate the premises; and any vacation of the premises which is coerced by the landlord; provided, however, that this provision shall not limit a Landlord, or his agents, from any act specifically authorized under the laws of the State of New Jersey.
- G. Violation Anti-Harassment Provision. In addition to the penalties set forth in Section 173-17, a willful violation of this subsection shall subject the landlord to: (i) on the first offense, loss of privilege to apply for vacancy decontrol at the subject property for a period of not less than one (1) year; (ii) on the second offense, loss of privilege to apply for vacancy decontrol at the subject property for a period of not less than two (2) years; (iii) upon a finding of any further offenses, loss of privilege to apply for vacancy decontrol at the subject property for a period of five (5) years. The complaint for violation of this provision shall be brought in the Municipal Court for the Township of Lopatcong in accordance with Section 173.

### Section 3:

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

### Section 4:

Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are

hereby repealed as to their inconsistencies only.

Section 5:

Effective Date. This Ordinance shall take effect upon final passage and publication as provided by law.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Township of Lopatcong held on July 1, 2015, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Council to be held on August 5, 2015 at 7 p.m. or as soon thereafter as the Township Council may hear this Ordinance at the Municipal Building, 232 S. Third Street, Phillipsburg, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Margaret B. Dilts, RMC