

Article I Residential Units

14-1 PURPOSE.

The Town Council declares that residential rental housing units in the Town of Morristown do not exist in sufficient number to approximate the demand therefor and further declares that the foregoing recognized residential rental housing unit shortage has created a situation in which it is or has become in the best interest of the citizens of the Town of Morristown to prevent or regulate increases in rents which are exorbitant, speculative and unwarranted, such increases having caused and having the continued potential for causing severe hardships upon tenants of rental housing space in the Town. (1980 Code § 164-1)

14-2 DEFINITIONS.

As used in this chapter:

Allowable Percentage Increase (API) shall mean that increase in the base rent allowed not more frequently than once in any twelve (12) month period. The API shall be calculated as follows: The percentage difference between the Price Index published for the month of August of the year prior to the expiration date of the lease or termination of the tenancy and the Price Index for the prior August, using the RPI or the CPI, whichever is less (See definition of Price Index). The Allowable Price Index shall be applied to all rents from January after the API is established through the following December.

Example: All leases or tenancies expiring in 1991 will use as their API the percentage difference between the price index of August 1990 and August 1989. In determining the percentage difference, the landlord shall compare the percentage difference between the August 1989 and August 1990 CPI and the August 1989 and August 1990 RPI, and use the lesser percentage.

Base Off-Street Parking Charge shall mean the lesser of amount being charged for a garage or parking lot space in effect on February 1, 2005, or fifty (\$50.00) dollars per month for a parking lot space and ninety (\$90.00) dollars per month for a garage space, which is the highest amount charged by the Morristown Parking Authority for comparable parking. Effective one (1) year after the Base Off-Street Parking Charge goes into effect, no landlord may increase the Base Off-Street Parking Charge more than once every twelve (12) months, and the increase shall not exceed the Allowable Percentage Increase.

The Base Off-Street Parking Charge shall go into effect on the first day of the month after the effective date of this ordinance, or on the first day of the month after the expiration of any parking agreement between the landlord and the tenant in effect on the effective date of this ordinance, whichever is later.

Base Rent shall mean the rent lawfully being charged for a dwelling unit on January 1, 1994 if subject to lease or periodic tenancy on that date, or the rent first charged after that date - if not then so subject. Notwithstanding the foregoing, if a dwelling unit has been previously certified as having been totally rehabilitated pursuant to this chapter subsequent to January 1, 1994, the base rent shall include the increase permitted under the total rehabilitation sections of this chapter. Additionally, if a dwelling had been exempt because of owner-occupancy, and the owner occupant ceases to reside in the dwelling, the base rent shall be the rent charged on the first month that the owner-occupant no longer resides in the dwelling.

Capital Improvement shall mean a major improvement to the structure or amenities of the dwelling which provides a benefit or service to the tenant which was not previously provided. Except as mandated by New Jersey Statute, specifically excluded from this definition, are replacement of existing systems or structures, ordinary repairs, and maintenance items. Examples of a capital improvement are installation of an elevator or air conditioners where none previously existed.

Current Rent shall mean the rent presently charged, as calculated from the base rent plus all permissible rental increases charged since January 1, 1994.

Dwelling shall mean any building or structure rented or offered for rent to one (1) or more tenants or family units, including dwellings and/or units of dwelling space contained therein which have been previously certified as having been totally rehabilitated pursuant to the provisions of Ordinance 0-33-80 (and thus previously and now no longer exempt from rent control). Exempted from this chapter are: Federally assisted housing owned and managed by the Housing Authority of the Town of Morristown; housing projects specifically exempted from rent control by Federal law; dwelling space in any motel, hotel, licensed rooming house or licensed boarding house; and dwellings constructed on or after January 1, 1981. Further exempted from this section shall be any resident owner-occupied dwelling containing not more than four (4) units of residential dwelling space, provided that nothing contained in this section shall exempt said resident owner-occupant from the registration requirements contained in Section 14-15 on forms promulgated by the Division of Rent Leveling for that purpose.

Off-Street Parking Charges shall mean monthly charges for off-street parking, either in a garage or parking lot, made available to tenants by the landlord. No landlord may require a tenant to pay for off-street parking, where the tenant does not choose to avail himself of such service. No landlord may require a tenant to pay for parking where parking was available without charge as part of the Base Rent.

Owner Occupant shall mean title owner of the dwelling. In order to qualify for an owner-occupancy exemption, the owner must actually occupy the dwelling as his or her primary residence for at least twelve (12) full and consecutive calendar months, and must share on a pro rata basis, based on the percentage of ownership, in the profits and losses as to the dwelling. Exemption from the requirements of this section shall take effect immediately upon residency of the owner-occupant. The owner-occupant shall provide the Rent Leveling Manager with proof of ownership and residency by such documentary evidence as a driver's license, voter's registration, utility bills or phone bills, and any other documentation reasonably required by the Manager, and shall certify that he/she meets the requirements of this section. Additionally, at the end of the initial twelve (12) month period of owner occupancy, the owner-occupant shall file a certification with the Manager, a copy of which shall be served on each of the tenants in the building, certifying to his residency in the owner-occupied dwelling for a period of twelve (12) full and consecutive calendar months. If the owner-occupant does not occupy the dwelling for twelve full and consecutive calendar months, or if he or she fails or refuses to execute the required certification, the Manager shall roll back the rents to the base rent in effect just prior to the owner-occupancy, and the tenants shall be refunded the difference paid between the increased rent and the rolled back rent. No owner-occupant shall be entitled to an exemption under this section for more than one (1) dwelling within the Town of Morristown.

Price Index shall mean that portion of the consumer price index published periodically by the Bureau of Statistics, United States Department of Labor, which is commonly referred to as "Residential Rents of the Housing Component of the Consumer Price Index for All Urban Consumers of New York - Northeastern New Jersey," as published for August 1st of the previous year (RPI) or the "Consumer Price Index for all urban Consumers of New York - Northern New Jersey - Long Island - New York - New Jersey - Connecticut, all items," (CPI) as published for August 1st of the previous year.

Total Rehabilitation shall mean the rehabilitation of a dwelling or dwelling unit in which at least two (2) major systems, i.e. plumbing, electrical, HVAC (heating, ventilating and air conditioning) and related structural needs, are replaced.

(1980 Code § 164-2; Ord. No. O-28-02; Ord. No. O-11-05; Ord. No. O-19-05 § 1)

14-3 ESTABLISHMENT OF RENTS; ALLOWABLE PERCENTAGE INCREASE IN RENT; VOLUNTARY REDUCTION IN RENTS.

a. Establishment of rents between the landlord and the tenant as to a dwelling unit shall be determined by the provisions of this chapter. At the expiration of a lease or at the termination of a periodic tenancy of not less than one (1) year, no landlord may request or receive from the tenant a percentage increase greater than the Allowable Percentage Increase, as defined in Section 14-2.

b. When a landlord voluntarily chooses to reduce or not to increase rentals to accommodate tenants, he shall not lose the right to return to the current rent prior

to such reduction and to add on whatever annual increases he would have been entitled under this chapter for a period of five (5) years. Any landlord who reduces the rent, or chooses not to pass on any annual increase under this section must notify the tenant and the Manager of the Division of Rent Leveling of his action, in writing within sixty (60) days.
(1980 Code § 164-3)

14-3.1 Vacancy Decontrol.

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 Town of Morristown'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 Manager, 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 Manager unless a written objection objecting to the certification is filed with the Rent Leveling Manager within ten (10) days of filing a complete certification. In the event an objection is filed, the procedures in Section 14-19 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 and any future rental increases for the tenant in occupancy are limited to those increases permitted under this chapter.

e. Notwithstanding the provisions of Section 14-15 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 unlawful for a landlord, or his agents, to willfully do or commit or cause to be done or committed any of the following: any harassment, intimidation or other similar action to a tenant with the intent to have a tenant vacate the rental unit; any reduction by the landlord in services which causes the tenant to vacate the premises; and any vacation of the premises which is coerced; 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 14-14, 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 Town of Morristown in accordance with Section 14-16.

(Ord. No. O-32-05)

14-4 VOIDABLE RENTAL INCREASES; MAINTENANCE OF SERVICE STANDARDS REQUIRED.

a. Any rental or other increase in excess of that authorized by the provisions of this chapter shall be void.

b. During the term of this chapter, the landlord shall maintain the same standards of service, utilities, maintenance, furniture, furnishings or equipment in the housing space and dwelling as the landlord provided or was required to provide by law or lease at the date the tenancy commenced. An individual tenant or a class of tenants not receiving substantially the same standards of such service as at the commencement of the lease or tenancy, may request the Manager of the Division of Rent Leveling to determine the reasonable rental value of the dwelling unit in view of such deficiency. In the event that the Manager of the Division of Rent Leveling determines that a reduction in rent is appropriate because of reduction of service, maintenance, furniture, furnishings or equipment in the housing space and dwelling, the Manager shall determine the appropriate rent to be paid. At such time as the landlord can prove to the satisfaction of the Manager that the restoration of service, maintenance, furniture, furnishings or equipment has been effected in accordance with the standards for same in effect at the commencement of the lease or periodic tenancy, the Manager shall notify the landlord, who will then notify the tenants of the landlord's right to collect and the tenant's obligation to pay the rent originally charged with respect to the subject premises. (1980 Code § 164-4)

14-5 NOTIFICATION TO TENANT OF RENT OR OFF-STREET PARKING CHARGE INCREASE.

14-5.1 Notice to Tenants.

Any landlord seeking an increase in rent or off-street parking charges shall notify the tenant and the Division of Rent Leveling of same, on forms promulgated for that purpose by the Division of Rent Leveling. Landlords shall set forth all information as required on or by said forms. Service shall be made either by personal service or U.S. Mail. (1980 Code § 164-5; Ord. No. O-11-05)

14-5.2 Notice to New Tenants.

Landlords must supply new tenants with Annual Rent Increase form currently in effect. (New)

14-6 SEWER BILL SURCHARGE AUTHORIZED; CALCULATION.

a. A landlord may seek a sewer surcharge from a tenant based on fifty (50%) percent of the amount of the annual sewer bills incurred. In the case of a dwelling unit in a multiple dwelling containing only residential tenancies the individual dwelling unit allocation shall be determined by dividing the sum of the total number of square feet by dwelling unit space in the dwelling by the number of square feet occupied by the tenant. The total of the sewer surcharge shall be charged to each tenant based on his/her allocation.

b. In dwellings where a portion of the property is rented for nonresidential purposes, the allocation of the residential sewer charge shall be determined by dividing the total number of square feet used by both residential and nonresidential tenants by the number of square feet occupied by the individual residential tenant.

c. The landlord may seek a fifty (50%) percent surcharge based on two (2) quarters of billing, but in no event shall sewer surcharges be imposed based on more than four (4) quarters of sewer bills incurred in any twelve (12) month period.

d. No sewer surcharge may be charged without first notifying the Division of Rent Leveling. The landlord shall provide the Manager with copies of sewer bills, calculations, and certification of notice of the tenant.

(1980 Code § 164-6)

14-7 BOARD OF RENT LEVELING MEMBERSHIP; TERMS; POWERS.

a. The Governing Body shall appoint a Board of Rent Leveling which shall consist of five (5) members who shall not hold elective office in the municipality, each to be appointed for a term of four (4) years, except that those members of the Board presently serving as of the date of the adoption of this chapter may continue in office until the expiration of their terms. Members of the Board shall be appointed from the following classes:

1. Class A - two (2) members of the Board shall be tenants who are Morristown residents.

2. Class B - one (1) to two (2) members of the Board shall be landlords or managers of residential investment property who own or manage property within the Town of Morristown.

3. Class C - one (1) to two (2) members of the Board shall be Morristown homeowners who are not landlords, who reside within the Town of Morristown.

4. Alternates. The Governing Body shall also appoint two (2) alternate members to serve for terms of four (4) years from January 1 of the year of the appointment. No two (2) alternates may be appointed from the same Class. Alternate members shall be designated by the Council as "Alternate No. 1" and "Alternate No. 2" and shall deliberate and vote in rotation during the absence or disqualification of any regular member or members. Alternate members shall possess all the qualifications required for appointment as a regular member and should be present at regular meetings.

b. Any member or alternate member shall be removable for cause by the Governing Body upon written charges and after a public hearing. The Board of Rent Leveling shall have the following designated powers:

1. To hear and decide appeals taken by landlords and/or tenants as a result of the decisions or determinations of the Manager of the Division of Rent Leveling. Any such decisions of the Board of Rent Leveling shall, when filed with the Municipal Clerk, have the effect of law.

2. To issue and promulgate such rules and regulations as may be deemed necessary to implement this chapter, 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 adopted by the Governing Body and filed with the Municipal Clerk.

(1980 Code § 164-7)

14-8 CAPITAL IMPROVEMENT SURCHARGE; PROCEDURE; CALCULATION.

a. *Application and Procedure.* The landlord shall make preliminary application to the Division of Rent Leveling prior to performing any work for which a capital improvement surcharge is sought. This application shall include the following information:

1. The type of improvement sought to be constructed;

2. The anticipated cost of the improvement;

3. Statement of the new benefit to be provided to the tenant;

4. The useful life of the improvement, as certified by a licensed engineer or other appropriate licensed professional (e.g. plumber, electrician).

5. The dwelling units that the improvement will benefit, if fewer than all the units in the dwelling;

6. The anticipated cost to each dwelling unit. The cost allocation per dwelling unit shall mean the percentage equivalent of a fraction (i) having as its numerator the actual square feet per dwelling unit benefited by the improvement, and (ii) having as its denominator the total square feet of all dwelling units benefited and commercial space benefited (whether then rented or not). The monthly cost per unit shall be determined by dividing the allocated cost by the number of years (not exceeding 15) of the useful life of the improvement, and then dividing that number by 12.

7. Certified proof that all the affected tenants in the dwelling have been served with notice and copies of the application, together with notice of their right to an administrative hearing before the Manager of the Division of Rent Leveling. If the landlord intends to make application for capital improvements that will ultimately affect all of the tenants, then all tenants should be given notice of the application.

b. *Tenants Appeal of Capital Improvement Surcharge.* Any tenant who wishes to appeal the landlord's right to obtain a capital improvement as ineligible under this chapter shall notify the Division of Rent Leveling not more than fifteen (15) days after receipt of the application. The Division Manager shall then hold a hearing to determine whether the landlord would be entitled to the capital improvement surcharge once the work would be completed. The Manager's decision may be appealed to the Rent Leveling Board.

c. *Review by Board.* A landlord may, at his option, request the Rent Leveling Board to hear and review the Division's determination. In such event, the tenants shall be given notice and an opportunity to be heard, in the same manner as all other hearings before the Rent Leveling Board.

d. *Approval of Application; Determinations by Appeal.* Once the application has been approved, the landlord may proceed to complete the capital improvement. Any issue which is heard and determined on appeal by the Rent Leveling Manager or the Rent Leveling Board shall not be the subject of further appeals after all appeals have been exhausted, the work has been performed and the landlord files certifications for final approval. Nothing in this subsection, however, shall prevent a tenant from appealing the final approval on any issue that has not theretofore been decided.

e. *Final Approval.* After completion of the capital improvement, the landlord shall submit the following documentation to the Division of Rent Leveling.

1. A certification by the engineer or other appropriate professional (e.g. electrician, plumber) that the work was performed in accordance with the preliminary application.

2. The completed capital improvements must be in accord with the appropriate code regulations, including the obtaining of appropriate permits. An inspection shall be required to be made by the appropriate Town Department(s) in order to document the nature of the work performed and that the structure is in substantial compliance, as defined in subsection 14-12b. A Certificate of Occupancy or Certificate of Habitability must be secured if required by law.

3. Copies of all invoices and cancelled checks showing that the work was performed and paid for.

4. Calculation of cost to each affected dwelling unit.

f. *Allowable Percentage of Increase.* No individual capital improvement surcharge shall exceed ten (10%) percent of the base rent. The sum of all capital improvement surcharges approved for any dwelling unit shall not exceed fifteen (15%) percent of the base rent at the time the application is approved. (1980 Code § 164-8)

14-9 HARDSHIP RENTAL SURCHARGE.

14-9.1 When Permitted.

- a. Whenever a landlord shall determine that the net operating expenses exceed sixty (60%) percent of the gross total income (i.e. net operating income, or NOI) during the course of the previous twelve (12) month period, he may apply for a hardship surcharge.
- b. It shall be presumed that the rent(s) charged in the three (3) year base period yielded a fair net operating income. In order to satisfy that presumption, the operating expenses cannot have exceeded sixty (60%) percent of the gross income (including any surcharges) for any of the prior three (3) years.
- c. Upon the establishment by the landlord of the factors set forth in this section, the Rent Leveling Manager will grant a hardship surcharge equal to the lesser of:
 1. An increase necessary to provide a current net operating income equal to the average of the three (3) prior years net operating income if the operating expenses did not exceed sixty (60%) percent of gross income for each year, or
 2. An increase necessary to provide a current NOI, whereby net operating expenses are not more than sixty (60%) percent of the total gross income for the previous twelve (12) month period.
- d. In all such applications, the landlord shall specifically allege that:
 1. He is an efficient operator of the residential property involved.
 2. The residential property is in a safe and sanitary condition, free from any local health code and property maintenance code violations that would cause a unit or structure to become less livable.
 3. The owner is in full compliance with the State laws pertaining to tenants' rights.
- e. The landlord's total gross income that results directly or indirectly from the operation of the building, including but not limited to:
 1. All rent received or collectible, including any rent or income from a less than arm's length transaction.
 2. The landlord's share of interest on security deposits.
 3. Late fees.
 4. Parking fees.
 5. Pool fees.
 6. Insurance proceeds minus expenses applicable to the insurance claim.
 7. Amounts received from successful tax appeals in excess of reasonable expenses necessary to obtain the tax rebates.
- f. Permitted operating expenses are subject to the following limitations:
 1. No allowance shall be permitted for vacancies unless it can be shown that the vacant units have been advertised as such in a newspaper of general circulation the Town of Morristown and is otherwise in substantial compliance in accordance with the provisions of Section 14-12.
 2. Repairs and maintenance shall be limited to arm's length transactions and shall be reasonable and necessary so as not to cause over-maintenance of the premises. Cost of service contracts shall be prorated over the period covered. Painting costs shall be prorated over the number of years of actual painting cycle in the building, but in no event shall painting be prorated over a period of more than three (3) years for the exterior of common areas.
 3. Purchase of new equipment shall be reflected and prorated over the useful life of the item.
 4. Legal and accounting expenses shall be limited to reasonable and necessary costs of the operation of the property.
 5. Management fees shall be limited to actual services performed in connection with the operation of the property, including 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 five (5%) percent total residential rent rolls, inclusive of surcharges.
 6. Salaries not included in management fees shall be limited to actual services performed in connection with the operation of the property and to salaries for similar positions in the area, including rental value, if included in income and expenses and wages and benefits paid.
 7. Advertising shall be limited to actual costs that are reasonable to ensure occupancy only.
 8. Utilities, including but not limited to gas, electric, water and oil, shall derive from arm's length transactions, and the landlord shall demonstrate that all reasonable means to conserve energy and fuel have been used.
 9. Insurance shall derive from arm's length transactions prorated over a policy's term and shall not include landlord's life, medical or other personal policies.
 10. No penalties, fines or interest for any reason shall be allowed incurred by the landlord shall be included in the expenses.
 11. The data regarding the income derived from any expenses incurred in operating a property which are used in computing reasonable and necessary operating expenses shall be fully substantiated with documentation and shall justify the request for an increase based on hardship.
 12. Taxes shall be limited to amounts actually paid, including those in escrow for appeal.
 13. Income and expenses arising out of a nonresidential use, including that for professional space, shall result from arm's length transactions.
 14. No loss caused by a nonresidential use may be considered.
- g. Application for a hardship increase shall be on the form specified by the Board and shall be filed with the Rent Leveling Manager. The following information must be filed along with the application:
 1. A rent roll which lists the rent for each apartment in the building for each of the four (4) immediately preceding one (1) year periods.
 2. A detailed operating statement for each of the four (4) immediately preceding one (1) year periods, or if the applicant has owned the building for less than four (4) years, for each year the applicant has owned the building, certified by an accountant to be true and accurate.
 3. Cancelled checks or other proofs of payment for all expenses claimed in the hardship application.

4. All invoices, bills or other proofs of work performed, supplies purchased or equipment purchased as claimed in the hardship application.
5. A certification of substantial compliance pursuant to Section 14-12, certifying to compliance not more than sixty (60) days prior to the filing of the application.
6. If the application includes costs for an allowable major improvement, the landlord shall provide the following documentation.
 - (a) Certification by a licensed engineer or other appropriate licensed professional (e.g. plumber, electrician) stating that the improvement is necessary for one or more of the following reasons:
 - (1) The system or structure to be replaced or which was replaced is inadequate to meet the current needs of the dwelling units;
 - (2) The system or structure to be replaced or which was replaced is in violation of the BOCA and/or other applicable regulatory code and must be replaced in order to meet code requirements.
 - (3) The system or structure to be replaced or which was replaced is in such a state of disrepair that it cannot reasonably be repaired.
 - (b) The certification shall also include proof of inspection by the appropriate code enforcement official in the Town, and that it is in accord with the appropriate code requirements.
7. Any other documents sought by the Rent Leveling Manager and being relevant to the subject application and necessary to the Manager's decision making process, such as copies of mortgages and promissory notes.
- h. The hardship surcharge shall become a permanent part of the base rent.
(1980 Code § 164-9E; Ord. No. O-24-02)

14-9.2 Professional Assistance for Determination.

- a. Upon the filing of a completed application by the landlord for a hardship surcharge, the Rent Leveling Manager, or, in the event of an appeal, the Rent Leveling Board, may determine the need for obtaining the assistance or expertise of a qualified professional, including but not limited to an accountant or an appraiser, to assist the Manager or the Board in the processing of the application or the determination of any issues presented by it. In such a case, the Manager or the Board shall forward a copy of the application and any related documentation to the professional, along with a description of the services requested. Within ten (10) days of receipt, the professional shall submit to the Manager or the Board an estimate of the funds sufficient in amount for the professional to undertake the services requested.
- b. The Manager of the Division of Rent Leveling shall notify the applicant of the amount of funds estimated by the professional. The applicant shall pay to the Town of Morristown the amount of the estimate, to be held in escrow by the Administrative Officer of the Town.
- c. The professional shall submit vouchers to the Manager, with a copy to the applicant, for all services rendered and costs incurred in connection with the application. The Manager or the Board, and the Director of the Department of Code Enforcement must approve all such vouchers prior to payment, which shall be made from the Escrow Fund.
- d. No vouchers shall be approved any sooner than ten (10) days from the date submitted. In the event the applicant questions the reasonableness of the amount of any voucher, the applicant shall file with the Manager or the Board a written protest, within seven (7) days of the applicant's receipt of the voucher. The Manager or the Board shall decide the matter in dispute between the applicant and the professional, after notice to the professional and opportunity to respond, and shall communicate that decision in writing to the applicant and the professional as soon as practicable.
- e. Should the Manager or the Board deem it necessary at any time, they shall notify and require the applicant to deliver additional funds to the Town Administrative Officer to be added to the Escrow Fund.
- f. In the event any monies remain in the Escrow Fund after a determination on the application and any appeals therefrom the Manager or the Board shall direct the Town Administrative Officer to return said money to the applicant as soon as is practicable.

(1980 Code § 164-9F; Ord. No. O-35-2014)

14-9.3 Denial of Request.

The Rent Leveling Manager shall deny all or a part of the hardship relief requested where specific findings of fact support the conclusion that the landlord's purchase or operations are not reasonable, prudent and/or efficient. (1980 Code § 164-9 G)

14-9.4 Withdrawal of Investment.

If the Manager determines that the landlord has withdrawn a part or all of the investment through refinancing or through any other means, then said withdrawal shall be deducted from the landlord's equity and investment in the real property unless used for the subject property. (1980 Code § 164-9H)

14-9.5 Unreasonable Financing.

If the Manager determines that the Landlord has unreasonably or excessively financed the property, than the Manager may reasonably adjust the financing expense based on market rates. (1980 Code § 164-9I)

14-9.6 Reserved.

14-9.7 Allocation of Hardship Surcharge.

Calculation and apportionment of the hardship surcharge:

- a. *Dwellings Rented for Residential Purposes Only.* In the case of dwellings rented for residential purposes only, the individual dwelling unit allocation of the hardship surcharge shall be determined by dividing the sum of the total number of square feet of dwelling unit space in the dwelling, by the number of square feet occupied by the tenant. The total of the hardship surcharge shall be charged to each tenant based on his/her allocated share.
- b. *Dwellings Where a Portion of the Property is Rented For Nonresidential Use.* In the case of dwellings where a portion of the property is rented for nonresidential purposes, the allocation of the hardship surcharge shall be determined as follows:
 1. The residential units shall pay the same proportionate share of the hardship surcharge as the ratio of the net income derived from the residential units bears to the total net income derived from the property for the year in question. Example: If the net income derived from the residential units is only fifty (50%) percent of the total net income derived for the year in question, then the residential units shall pay only fifty (50%) percent of the hardship surcharge.
 2. Each residential tenant's portion shall be apportioned by dividing the sum of the total number of square feet of dwelling space occupied by all the residential tenants by the number of square feet occupied by the individual residential tenant.
(1980 Code § 164-9K)

14-10 TOTAL REHABILITATION EXEMPTION.

14-10.1 Preliminary Application and Approval.

- a. The landlord must provide a certification that each of the tenants has been advised of the proposed rehabilitations and that he/she has complied with the Relocation Assistance Act, N.J.S.A. 20:4-1 et seq.
- b. The landlord shall file certifications by the appropriate licensed professionals (e.g. licensed professional engineer, plumber and/or electrician) stating that at least two (2) of the systems are in a state of disrepair and that it would be more prudent and cost effective to totally replace them than to continue to repair them.
- c. The landlord must file a detailed report, which will be served upon all tenants in the dwelling, and the Rent Leveling Manager, demonstrating that at least two (2) of the major systems will be replaced, and setting forth a description of the work that will be done, the approximate cost, the projected range of rents and the length of time the total rehabilitation will take.
- d. Within two (2) weeks after approval of the preliminary application by the Rent Leveling Manager, the landlord shall serve a notice upon all of the tenants of the dwelling, that his application has been approved. The notice shall give the tenants the first right of refusal to rent the totally rehabilitated dwelling. Additionally, the tenant will be given three (3) months notice pursuant to terms agreed upon between landlord and tenant, before the work is commenced unless the tenant and landlord agree to an earlier acceptable date.
(1980 Code § 164-10A)

14-10.2 Final Approval.

After the Total Rehabilitation has been completed, the landlord shall file final forms with the Rent Leveling Manager which shall consist of the following:

- a. Final approvals from the Construction Official, as evidenced by a Certificate of Habitability, Certificate of Occupancy, or Certificate of Continuing Occupancy, as required.
- b. Certification that all returning tenants have been given adequate notice of completion of the Total Rehabilitation.
- c. The newly established rent for each dwelling.
(1980 Code § 164-10B)

14-10.3 Approval of Total Rehabilitation Exemption.

The Rent Leveling Manager shall approve the application for Total Rehabilitation Exemption which has satisfied the requirements of Subsections 14-10.1 and 14-10.2. Upon approval, the landlord may offer the totally rehabilitated dwelling units for rent in accordance with the current market. Within thirty (30) days of the rental of each unit, the landlord must file a registration form with the Rent Leveling Manager in accordance with the requirements of Section 14-15. All annual increases in rent after the initial rent is established for each dwelling unit shall be in accordance with the requirements of Section 14-3. (1980 Code § 164-10C)

14-11 FEES.

The following applications shall require fees to be submitted by the applicant in accordance with the fee schedule set forth below:

- a. Annual Registration, in accordance with the requirements of Section 14-15: This fee may be passed through to the tenant as a monthly charge provided that the landlord has filed a timely registration as required by this chapter. If the landlord fails to file and serve the registration on a timely basis, the fee that may be passed through shall be reduced on a pro rata basis, by the number of months in which such filing and serving of the registration was delayed.
- b. *Total Rehabilitation Exception Fee.*

1-4 Unit Dwelling	\$250.00
5 Units and Above	\$250.00 plus \$25.00 per unit
- c. *Hardship Surcharge Application Fee.*

1-4 Unit Dwelling	\$250.00
5 or More Unit Dwelling	\$500.00
- d. *Capital Improvement Surcharge Application Fee.*

1-4 Unit Dwelling	\$250.00
5 Units and Above	\$250.00 plus \$25.00 per unit
- e. *Appeal to Rent Leveling Board.*

Per Case	\$25.00
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- f. *Publication Charges.*

Rent Control Code	\$10.00
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(1980 Code § 164-11; Ord. No. O-7-91; Ord. No. O-15-03; Ord. No. O-19-05 § 2)

14-12 COMPLIANCE.

- a. Any landlord seeking an annual increase in rent pursuant to Section 14-3 shall file with the Division of Rent Leveling a certification that the dwelling unit and common areas, including hallways, are in substantial compliance with the codes and regulations of the Town of Morristown, as defined by paragraph b. below.
- b. For purposes of this section, "substantial compliance" shall mean that the dwelling units and common areas are free from major structural defects, have properly functioning heat, hot-water, air conditioning (where applicable), electrical and plumbing systems, functioning elevators and are free from major health and life safety violations of the Housing and Property Maintenance Code of the Town of Morristown or the New Jersey State Multiple Dwelling Act, whichever is applicable. The dwelling shall also be in compliance with the zoning regulations of the Town of Morristown.
- c. Any landlord seeking a capital improvement surcharge or a hardship surcharge shall obtain a certification from the director of the appropriate department in charge of code enforcement or his designee that the dwellings are in substantial compliance with the codes and regulations of the Town of Morristown, as defined by paragraph b. above. The certification must be obtained by the landlord no more than sixty (60) days prior to the filing of an application for such surcharge, and must be filed together with the application.
(1980 Code § 164-12)

14-13 GENERAL PROVISIONS.

14-13.1 Charging Rent in Excess of Base Rent Prohibited.

No landlord of housing space shall, after the effective date of this chapter, charge any rents or off-street parking charges in excess of the base rent or the base off-street parking charges, as defined herein, except for increases as authorized hereby. No tenant may recover an overage in rentals or off-street parking charges made contrary to the provisions of this chapter for a period of time greater than twenty-five (25) months prior to the date of the filing of a complaint against the landlord with the Manager of the Division of Rent Leveling or the date of any independent determination by the Manager. (1960 Code § 164-13A; Ord. No. O-11-05)

14-13.2 Time Limit to Give Notice for Increase or Surcharge.

In addition to or at the time of service of notice or notices required hereunder, any landlord seeking an increase, whether of rent or by way of surcharge, shall give written notice to both the tenant and the Division of Rent Leveling of his intention to charge such increases not less than sixty (60) days before the effective date thereof on forms obtained from the Division of Rent Leveling. (1980 Code § 164-13B)

14-13.3 Action Against Tenants.

No landlord of premises or units to which this chapter is applicable shall serve a notice to quit upon any tenant or institute any action against a tenant to recover possession of premises as a reprisal for the tenant's efforts to secure or enforce any rights under the provisions of this chapter or because of the landlord's failure to obtain any rental increase for which he has applied under the provisions of this chapter. The institution of any proceeding by a landlord against a tenant or the receipt by the tenant of a notice to quit or any substantial alteration of the terms of the tenancy without cause, after the tenant attempts to secure or enforce any rights or after the landlord has failed to obtain any rental increase for which he had applied under the provisions of this chapter, will establish a rebuttable presumption that the landlord's action is a reprisal against the tenant. A violation of this subsection shall be punishable as prescribed in Section 14-14. (1980 Code § 164-13C)

14-13.4 Rounding Off Increases and Surcharges.

In computing rental increases and surcharges as provided under this chapter, all amounts so computed may be rounded off to the nearest dollar in accordance with generally accepted accounting principles. Increases must begin on the first day of the month. (1980 Code § 164-13D)

14-14 VIOLATIONS AND PENALTIES.

Any person who violates any provision of this chapter shall, upon conviction, be liable to the penalty stated in Chapter I, Section 1-5. A violation affecting more than one (1) dwelling unit or leasehold shall be considered a separate violation as to each such dwelling unit or leasehold. (1980 Code § 164-14; New)

14-15 REGISTRATION; FEE.

a. Every nonexempt unit of dwelling space as defined in this chapter, shall be individually registered by the landlord with the Division of Rent Leveling on forms provided by the Division once in every twelve (12) month period. Dwelling units which are rented for the first time and are covered by this chapter must be registered within thirty (30) days of the renting of the unit. Any landlord who purchases a dwelling unit covered by this chapter shall advise the Division of Rent Leveling in writing of the changes in ownership within thirty (30) days of the date of purchase.

b. Every dwelling unit which is exempt by reason of owner occupancy as defined by Section 14-2 shall be registered by the owner.

c. The filing of registration forms shall be a prerequisite to any application for or granting of annual rent increases or surcharges permitted by this chapter.

d. Failure to register a dwelling unit within the time periods required by this section shall constitute a violation of this chapter.

e. The annual registration fee shall be thirty (\$30.00) dollars.

(1980 Code § 164-15; Ord. No. O-20-05)

14-16 COMPLAINTS OF VIOLATIONS.

Any tenant or landlord and the Manager of the Division of Rent Leveling or his/her designee, shall have the right to institute a complaint charging a violation of this chapter in the Municipal Court of the Town of Morristown. (1980 Code § 164-16)

14-17 FILING OF WILLFUL MISSTATEMENT OF FACTS.

Any person who shall file or cause to be filed with the Division of Rent Leveling or Board of Rent Leveling any willful and material misstatement of fact shall be guilty of a violation of this chapter and shall, upon conviction, be subject to the penalties provided by Section 14-14. (1980 Code § 164-17)

14-18 MANAGER OF DIVISION OF RENT LEVELING; POWERS AND DUTIES.

The Director of the Department of Code Enforcement shall appoint a Manager of the Division of Rent Leveling who shall have the following powers and duties:

a. To be responsible for all aspects of the administration of this chapter.

b. To hold hearings and adjudicate applications from landlords for additional rental or such other relief as may be provided for by this chapter.

c. To hold hearings and adjudicate applications from tenants for reduced rental or such other relief as may be provided for by this chapter.

d. To fix and determine coverage in rentals and charges made contrary to the provisions of this chapter and to order the landlord to make restitution to the tenant within thirty (30) days for such overage. Any rebate ordered by the Manager of the Division of Rent Leveling shall be paid by the landlord to the tenant within thirty (30) days of the service upon the landlord of the final determination of the Manager, or as otherwise prescribed by the Manager. Within the thirty (30) day period, the landlord shall also provide proof to the Manager that the rebate has been paid. Any failure by the landlord to pay the tenant any rebate so ordered within the aforesaid time limit shall constitute a violation of this chapter. In the case of any such violation, the penalty shall be determined as prescribed in Section 14-14 hereof.

e. To supply information and assistance to landlords and tenants in order to foster compliance with the provisions of this chapter.

f. In the absence of the Manager of the Division of Rent Leveling, the Director of Code Enforcement or his designee shall be Acting Manager of Rent Leveling.

(1980 Code § 164-18; Ord. No. O-28-12)

14-19 PROCEDURES BEFORE THE DIVISION OF RENT LEVELING.

a. *Initial Administrative Determination.*

1. The Division Manager shall make an initial determination of the completeness of a capital improvement or hardship surcharge application or application

for the rehabilitation exemption within sixty (60) days of its filing with the Division of Rent Leveling. Upon determining the completeness of an application, the Manager shall advise the applicant in writing whether the application is complete, or if not, what information or documentation must be supplied. In the event that the Manager rejects the application, he/she shall notify the landlord of the reasons for rejection of application, together with notice that if the landlord does not reply or otherwise cure the defect within five (5) business days, the tenants will be notified of the rejection. The Manager shall review all subsequent information submitted within a reasonable period of time, and advise the applicant of the results of that review in writing.

2. The Division Manager shall render a written decision including reasons for the decision, on all applications not later than sixty (60) days after they have been determined to be complete.

b. *Request for Administrative Hearing; Time Limits.*

1. Within fifteen (15) days after a tenant has been served with notice of an application for any increase or surcharge, a tenant or landlord may request a hearing before the Division Manager. Such written request must be filed with the Division Manager and must also be served by certified mail or personal service upon any affected landlord or tenant, and must contain a brief statement of the party's position.

2. The requested hearing shall be held by the Division Manager no later than thirty (30) days after such written request is filed with the Division of Rent Leveling, unless adjourned for good cause or with the mutual consent of the parties.
(1980 Code § 164-19)

14-20 PROCEDURES BEFORE THE RENT LEVELING BOARD.

a. *Right of Appeal; Filing Procedure.*

1. Whenever the Division Manager shall make any decision pursuant to or related to this chapter, any aggrieved party or his/her authorized agent may appeal to the Rent Leveling Board of the Town of Morristown.

2. The application for appeal must be made within twenty (20) days of receipt of written notice of denial or other decision of the Manager.

3. The application for appeal shall be filed with the Division Manager on forms promulgated by the Division for that purpose, and shall contain the following:

(a) The name and address of the appellant, and the address of the building or site in question.

(b) A brief statement setting forth the appellant's position, including the section of the chapter the appellant believes was incorrectly interpreted or applied and any other data or information that the appellant believes supports the appeal.

(c) Certification of service of the application on the landlord or tenants, as appropriate, by personal service or certified mail.

4. The Division Manager shall make the full record of the application available to the Board, including an explanation of the reasons for the decision forming the basis of appeal.

b. *Meeting Schedules and Procedures.*

1. The Rent Leveling Board shall hold an organization meeting during the first meeting of each year, at which time it shall elect a chairperson and vice-chairperson, and establish a regular meeting schedule for the year.

2. All meetings shall be recorded and copies of the recording made available upon request and at the expense of the requesting party.

3. All hearings shall be open to the public. Any party, his/her representative, or legal counsel and the Division Manager shall be granted an opportunity to address the Board, present testimony, and examine and cross-examine witnesses consistent with reasonable rules of procedure and due process.

4. All members and alternate members available to attend the meeting shall sit and hear an appeal. No meetings shall be conducted unless there are at least three (3) members of the Board present. Where the hearing takes more than one meeting, only those members or alternates who have heard the entire proceeding whether in person or by listening to a recording of proceedings, shall deliberate and vote. An alternate or alternates shall deliberate and vote when less than five (5) regular members are present.

5. When only three (3) members (including alternates) are present to consider a specific appeal, either party may request an adjournment of the hearing. If no such adjournment is requested, any decision made by the members present shall be binding and shall be considered as a decision of the full Board.

c. *Decisions of the Board.*

1. The Board shall hear the appeal, render a decision thereon, and file its decision with a statement of reasons therefor with the Division of Rent Leveling, the Municipal Clerk, and the parties as soon as practicable following the submission of the appeal to the Board.

2. The Board decision may affirm, reverse, or modify the decision of the Division Manager, or remand the matter to the Manager for further action. Whenever the Board shall reverse or modify the decision of the Division Manager, its statement of reasons therefor shall explain in specific detail the nature and extent of its disagreement with the Manager's determination.

3. Decisions of the Board shall be made by a concurring vote of the majority of those members voting. Failure to secure a majority vote shall be deemed an affirmance of the Division Manager's decision. Any dissenting member may attach a statement of reasons in opposition to the decision of the Board.

4. Every action of the Board shall be by resolution and copies shall be forwarded by certified mail or registered mail to the appellant or his representative.

5. The parties shall take immediate action in accordance with the decision of the Board, unless otherwise stayed by a court of competent jurisdiction.

6. Any party may appeal from the decision of the Board to a court of competent jurisdiction within forty-five (45) days of receipt of the formal resolution of the Board.

7. Where the Division Manager has failed to act on an application for rent increase, surcharge or tenant complaint, the Board may order the municipality to act or may act directly to grant or deny such application.
(1980 Code § 164-20)

14-21 RESERVED.*

***Editor's Note:** Former Section 14-21, Effective Date; Expiration, previously codified herein and containing portions of 1980 Code § 164-21 and Ordinance Nos. O-27-01, O-40-04 and O-37-08, was repealed in its entirety by Ordinance No. O-35-2010.

14-22-14-25 RESERVED.

14-26 CONDOMINIUM CONVERSIONS.

14-26.1 Administrative Agent.

The Manager of the Division of Rent Leveling of the Town of Morristown or such other agent designated by the Administration of Morristown shall be the Town's administrative agent for purposes of the Senior Citizens and Disabled Protected Tenancy Act, N.J.S.A. 2A:18-61.22 et seq. (the "Act"). (Ord. No. O-28-84 § 89-1)

14-26.2 Appellate Body.

The Board of Rent Leveling of the Town of Morristown shall hear and decide all appeals from decisions by the Division Manager on applications for protected tenancy status. (Ord. No. O-28-84 § 89-2)

14-26.3 Conversion Notice Fee.

a. The owner of any rental property who seeks to convert such property to a condominium or cooperative shall pay a fee to the Town of Morristown as set forth below:

1. Conversion Notice Fee, each unit:
 - (a) For first 200 units \$15.00
 - (b) For each unit in excess of 200 \$10.00

b. The conversion notice fee shall be paid by the property owner upon submission of conversion notices for processing by the Division Manager or such other agent designated by the Administration, as administrative agent in accordance with the Act. The Division Manager's, or such other agent designated by the Administration, obligation to process such conversion notices shall not arise until the conversion notice fee has been paid. (1980 Code § 98-89; Ord. No. O-21-87; Ord. No. O-28-84 § 89-3)

14-26.4 Administrative Hearing Fee.

a. Any person who seeks to appeal from a decision by the Division Manager, or such other agent designated by the Administration, regarding an application for protected tenancy status shall pay a fee to the Town of Morristown of one hundred (\$100.00) dollars.

b. The administrative hearing fee shall be paid by the appellant upon submission of an application for an appeal. The Board of Rent Leveling's obligation to hear the appeal shall not arise until the administrative hearing fee has been paid. (1980 Code § 98-89; Ord. No. O-21-87; Ord. No. O-28-84 § 89-4)