

AN ORDINANCE AMENDING CHAPTER 15, SECTION 15-7 TO UPDATE THE TOWNSHIP'S RENT CONTROL ORDINANCE

I. PURPOSE

WHEREAS, the Township of West Orange has a rent control ordinance which has been amended from time to time due to an ongoing and emergent need for regulation with respect to the leasing of premises and charging of rents to tenants; and

WHEREAS, from time to time the Township must consider whether the need for rent control in the Township persists; and

WHEREAS, a housing shortage has existed in the Township since 1972 and has not abated;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE, in the County of Essex and State of New Jersey, that Chapter 15 of the Township Code shall be and hereby is re-affirmed and re-adopted, and is hereby amended as follows:

II. AMENDMENTS

15-7 EFFECTIVE DATE; TERMINATION; RENEWAL.

15-7.1 Effective Date.

This chapter is to take effect immediately on October 17, 1972 and shall remain in full force and effect for a period not to exceed two (2) years from the effective date and shall automatically terminate, cease and be of no force and effect unless specifically extended by the Township Council by ordinance extending the term for no more than two (2) years at a time.

Any extension action shall be taken by the Township Council prior to the second anniversary date of this chapter and any subsequent extensions shall be taken prior to the respective second anniversary dates of this chapter thereafter, or any Ordinance re-adopting this chapter. (1972 Code § 17-6.1; Ord. No. 364-75 § 1)

15-7.2 Renewal.

The Township Council has determined that the housing shortage which has existed in the Township since 1972 has not abated. This chapter, therefore, is hereby extended for two (2) years from the date of re-adoption of this Ordinance.

15-7.3 Retroactive Application.

This chapter shall apply retroactively, in its entirety, for the time period from October 2010 through the date of adoption.

III. REPEAL OF CONFLICTING ORDINANCES

Any Ordinances of the Township in conflict with this Ordinance are hereby repealed to the extent of such conflict.

IV. SEVERABILITY

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereof shall not affect the remaining parts of this Ordinance.

V. EFFECTIVE DATE

This Ordinance shall take effect upon final passage and publication in accordance with the law.

Honorable Susan McCartney
Council President

Honorable Robert D. Parisi
Mayor

Karen J. Carnevale, R.M.C.
Municipal Clerk

First Reading: February 11, 2014

Adoption: February 25, 2014

LEGISLATIVE HISTORY

There is no specific state legislation permitting rent control, but rather rent control is a permissible local economic regulation which must be tailored to address vital, emergent needs in a local housing market. Rent control ordinances are valid under the “necessary and proper” authority given to local governing bodies, as set forth in N.J.S.A. 40:48-2. See also Ingram v. Borough of Fort Lee, 62 N.J. 521 (1973).

The Township adopted a rent control ordinance (the “Ordinance”) in 1972 in order to regulate rents with respect to landlord-tenant relationships throughout the Township. The purpose of this particular legislation is to renew and re-adopt all applicable Code provisions of the Ordinance, with certain amendments.

Because rent control legislation is intended to be emergent, such ordinances should be reviewed approximately every two (2) years to ensure their applicability and that they address any emerging issues. Accordingly, this legislation requires review of the Ordinance every two (2) years, rather than each and every year. Such action is valid under, among other things, N.J.S.A. 40:48-2.

Furthermore, due to an unknown administrative oversight, the Township last adopted the Ordinance in October 2009, which remained valid through October 2010. This legislation will make the Ordinance retroactive for the time period when it was not formally effective. This action is valid under the law as set forth in South Hamilton Associates v. Mayor and Council of the Town of Morristown, 99 N.J. 437 (1985) (“legislation that has as its rational public purpose the necessary protection of the health, safety, and welfare of the public, and is within the police power of the state or its subdivisions, may be applied retroactively”).