

**ORDINANCE AMENDING AND  
SUPPLEMENTING T.C.O.P. CHAPTER  
381 ENTITLED “RENT LEVELING”**

**WHEREAS**, the residents of the City of Paterson will benefit from the continuation of rent control that protects tenants from unreasonable annual rental increases; and

**WHEREAS**, it is important to provide incentive to property owners within the City of Paterson to maintain and improve their property so that stable property values may be fostered; and

**WHEREAS**, N.J.S.A. 2A:42-84.1 et seq. created a mandatory exemption for new construction of multiple dwellings for a period of amortization of any initial mortgage loan or thirty years, whichever is less; and

**WHEREAS**, the adoption of this amendment to the City of Paterson’s Rent Leveling Ordinance will protect the interests of both tenants and landlords.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF PATERSON** that the City Code shall be amended and supplemented, with additions indicated by underlining and deletions indicated by [brackets], to state as follows:

**SECTION I**

**§ 381-1. Statement of policy.**

The governing body of the City of Paterson does hereby declare that:

A. An emergency exists within the City of Paterson with respect to the rental of housing space in dwellings.

B. This emergency has been created by housing demolitions, deterioration of a substantial portion of the existing housing stock, insufficient new housing construction, increased cost of construction and finance and growing inflation. This has caused high rents and a substantial and increasing shortage of rental housing accommodations for families of low and moderate income.

C. Unless residential rents of tenants are regulated and controlled, such emergency and the further inflationary pressures resulting therefrom will produce serious threats to the public health, safety and general welfare of the citizens of the City of Paterson.

D. The fear of being evicted without just cause and being forced to seek housing in such a market discourages tenants from complaining about exorbitant increases in rent and about the continued deterioration of housing, and this fear thus contributes to these harmful conditions; this warrants legislative action by the governing body.

E. Legislative action by the governing body shall serve the interests of:

(1) Tenants, in terms of assuring their occupancy of well-maintained and improved housing at fair and reasonable levels of rent.

(2) Landlords, in terms of assuring them as far as possible rentals which will yield a fair return on their investments while affording them the opportunity to make expenditures designed to upgrade the quality of the housing stock.

(3) The City of Paterson, in terms of assuring the maintenance of the fiscal well-being of the City to the extent that this well-being is based on the taxing of real property and on the welfare of tenants and landlords as well as on the preservation of good housing and the enhancement of neighborhoods.

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F. Except as otherwise set forth, it is the intent of this chapter to exercise control over rents in existing housing stock to the maximum extent, excluding control over federally and state subsidized housing.

G. Under the police powers granted to the City of Paterson and in order to protect the health, safety and welfare of the citizens of the City of Paterson, it is necessary to regulate, control and stabilize rents and create a Rent Leveling Board for the City of Paterson.

**§ 381-2. Definitions.**

The following terms whenever used or referred to in this chapter shall have the following respective meanings for the purposes of this chapter, unless a different meaning clearly appears from the context:

**ADMINISTRATOR**

Rent Leveling Administrator

**BASE RENT**

The legal rent charged or actually received by the landlord for the rental of a housing space on January 11, 1976; or if not occupied at that date, the "base rent" shall be that actually charged to and received from the previous tenant; plus any increases under this chapter except tax capital improvement surcharge increases.

**BOARD**

The Rent Leveling Board.

**CAPITAL IMPROVEMENT**

A permanent improvement that must benefit the dwelling and can be reasonably expected to last more than five years.

**DWELLING**

Any building or structure rented or offered for rent to one or more tenants for family residential units.

**EQUITY IN REAL PROPERTY INVESTMENT**

The actual cash contribution of the purchaser at the time of closing of title and any principal payments to outstanding mortgages.

**FAIR MARKET VALUE OF REAL ESTATE**

Presumed to be assessed value of said property divided by the county equalization ratio for Paterson. Any owner may also introduce an appraisal of said property in an effort to rebut the formula definition of "fair market value" set forth above. The Rent Leveling Board may accept or reject the fair market value set forth in an appraisal and shall set forth the reasons for said action.

**FAIR RETURN**

The percentage of return on equity in real property investment. Amount of return shall be measured by the net income before depreciation.

**HOUSING SPACE**

Includes that portion of a dwelling rented or offered for rent for living and dwelling purposes with all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy of such portion of the real property.

**LANDLORD**

An owner, lessor, sub lessor or any other person entitled to receive rent for the use of occupancy of any dwelling unit, or any agency or successor of any of the foregoing.

**LIVING AREA**

The amount of total rentable space applicable to any given housing space, measured either in terms of rooms or square footage.

**NET INCOME BEFORE DEPRECIATION**

Annual income derived from the dwelling after reasonable allowances for the following items of expenses are considered: heating fuel; utilities; real estate taxes; insurance; payroll; janitorial materials; painting and decorating; repairs and replacements; additions to furniture and furnishings; and allowances for vacancies and uncollectibles.

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**RENT**

Any price for the use of a housing space. It includes any charge, no matter how set forth, paid by the tenant for the use of any service in connection with the housing space.

Security deposits, late fee and charges for accessories, such as air conditioners, boats, mobile homes, garages and automobiles not used in connection with the housing space, shall not be construed as "rent."

**REPRESENTATIVE**

A person who acts on behalf of a tenant or landlord before the Rent Leveling Board.

**ROOMING HOUSE**

Any building, together with any related structure, accessory building, any land appurtenant thereto and any part thereof, which contains two or more units of dwelling space arranged or intended for single room occupancy, exclusive of any such unit occupied by an owner or operator, including any residential hotel or congregate living arrangement, but excluding any hotel, motel or established guest house wherein a minimum of 85% of the units of dwelling space are offered for limited tenure only, any foster home, as defined in N.J.S.A. 30:4C-26.1, any community residence for the developmentally disabled, as defined in N.J.S.A. 30:11B-2, any dormitory owned or operated on behalf of any nonprofit institution of primary, secondary or higher education for the use of its students, any building arranged for single-room occupancy wherein the units of dwelling space are occupied exclusively by students enrolled in a full-time course of study at an institution of higher education approved by the Department of Higher Education and any facility or living arrangement operated by or under contract with any state department or agency upon the written authorization of the Commissioner.

**SERVICE**

The provision of electric power, heat, hot water, maintenance, painting, elevator service, air conditioning, storm windows, screens, superintendent service, kitchen, bath, laundry facilities and privileges, refuse removal, furnishings, parking and any other benefit, privilege or facility connected with the use or occupancy of any dwelling or housing space.

**SERVICE RENT INCREASE**

Refers to an additional charge over and above the rental due to new or additional services. Existing services may be subject to a "service rent increase" also, under extenuating circumstances as may be determined by the Rent Leveling Board.

**SUBSTANTIAL COMPLIANCE**

The housing space and dwelling are essentially in compliance with the municipal health, safety, housing and fire codes.

**SUBSTANTIALLY REHABILITATED RESIDENTIAL STRUCTURE**

Defined in § 381-12 of this chapter.

**TENANT**

A tenant, lessee or any other person entitled under the terms of a rental housing agreement to the use or occupancy of any rental unit.

**§ 381-3. Rent leveling established.**

A. Establishment of rents between a landlord and tenant in dwellings to which this chapter is applicable shall hereafter be determined by the provisions of this chapter.

B. Any rental increase in excess of that authorized by the provisions of this chapter shall be void and reimbursed to the tenant(s) who were overcharged and the landlord subject to the provisions of § 381-22.

C. All rents for rental of housing space and services in dwellings to which this chapter is applicable are hereby controlled at the base rent level received by the landlord as of January 11, 1976, and no rental increases shall be hereinafter demanded or paid except as provided in this chapter.

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D. No new leases shall be executed or performed except as provided in this chapter, and the base rent level in leased housing space shall be the rental in effect at the expiration of the existing lease.

E. Notwithstanding any language to the contrary, this Chapter shall apply to all Dwellings offered for rent within the City of Paterson to three or more units when the Dwelling is owner-occupied, or two or more units if the Dwelling is not owner-occupied.

**§ 381-4. Rent Leveling Board; membership; terms; meetings; operation; records.**

A. There is hereby continued a Rent Leveling Board within the Department of Health and Human Services. The Board shall consist of [14] eleven members. [,] Nine members shall be appointed by the Council and two members shall be appointed by the Mayor. The composition shall be [five] five tenants, [five] four landlords, [three] two homeowners [and one of either designation]. The terms shall be for periods of two years [except that two tenants and two landlords appointed by the City Council after the initial passage of this chapter shall serve for terms of one year]. Tenant [, landlord] and homeowner Board members shall reside in the City during their tenure. Three landlord Board members shall reside in the City during their tenure.

B. Disqualification for interest; removal. No member of the Rent Leveling Board shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interests. Members may be removed for inefficiency, neglect of duty or malfeasance in office by the Council at its discretion after proper hearing.

C. Disclosures by candidates. Candidates for the position of Rent Leveling Board member shall submit a verified statement listing all of their interest and dealings in real property, including but not limited to the ownership, sale or management of real property during the previous three years.

D. Attendance required. Unless otherwise provided by law, no member of the Board shall be allowed to vote on a case for which that member has not been present for the full hearing or hearings concerning said case.

E. Compensation. All members of the Rent Leveling Board shall serve without compensation. [be compensated at an annual rate of \$600 per Board member, payable at \$50 per month. An appropriate adjustment in salary shall be made in the salary of any Board member who misses three meetings.]

F. Rules and regulations; public inspection of documents. The Rent Leveling Board shall issue and abide by such rules and regulations, including those which are contained in this section, as will further the purposes of this chapter. All rules and regulations shall be promulgated by the Council by ordinance and filed in the City Clerk's office. All rules and regulations, internal staff memorandum and written correspondence explaining the decisions and policies of the Board shall be kept in the office of the Board and shall be available to the public for inspection and copying.

G. Meetings. Pursuant to the Sunshine Law, the Board shall determine the schedule of meetings and hearings as necessary to carry out the provisions of this chapter. Special meetings may be called as provided by law. All meetings shall be open to the public. Rent adjustments shall be conducted during regularly scheduled meetings and in accordance with the provisions of this chapter. The Board shall hold a minimum of six regularly scheduled meetings per year.

H. For the purpose of convening a meeting, [eight] six Board members shall constitute a quorum, at least one of whom shall be a tenant member, one of whom shall be a landlord and one of whom shall be a homeowner. In the event that a proper quorum is convened at the beginning of a meeting pursuant to this section and Board members later leave said meeting while in progress, any remaining eight members, regardless of appointment designation, shall constitute a quorum.

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I. Dockets. The Board shall maintain and keep at its office rent adjustment hearing dockets. The dockets shall list the time, date, place of hearing, the names of the parties involved and the final disposition of the petitions heard by the Board.

J. Languages. All rules, notices, orders and regulations of the Rent Leveling Board shall be printed in English, [and] Spanish and other languages as deemed necessary based on the availability of funds. Information disseminated to the public by the Board may be disseminated in English, [and] Spanish and other languages as deemed necessary based on the availability of funds. At the request of a Board member or party to a hearing, provision shall be made for concurrent oral translation of any hearings before the Board into Spanish and other languages as deemed necessary based on the availability of funds. [of any hearings before the Board.]

K. Registration of dwelling units.

(1) The Board shall require registration of all dwelling units to be provided upon enactment of this chapter. An annual update is required if there is any change in status. In lieu of an annual update, the landlord is required to submit a registration with all applications to the Rent Leveling Office. This registration shall include the following:

- (a) The address of each dwelling unit.
- (b) The name and usual address of the manager of the dwelling.
- (c) The name and usual address of the owner or person authorized to act for and on behalf of the owner for the purpose of receiving services of process and for the purpose of receiving and receipting all notices and demands.
- (d) The rents for each unit.
- (e) The housing services provided for the unit or the occupants or tenants thereof.
- (f) The surcharge, if any, presently being charged.
- (g) The surcharge expiration date.
- (h) The date of the last increase.

(2) Registration must be completed within a six-month period after adoption of this chapter.

(3) All registration forms shall be provided by the Rent [Administration] Leveling Office and shall be included in the tax bills to be mailed in the next tax period.

L. Records. A copy of this registration information shall be kept at the office of the Board.

M. Board members absent from three or more consecutive meetings or five meetings during the course of an appointment year shall be subject to immediate consideration for a request of dismissal by the Board. This recommendation will be forwarded to the City Council for prompt action.

**§ 381-5. Powers of Rent Leveling Board**

**Leveling Board; hearings; determinations; requests for increases and decreases.**

A. The Rent Leveling Board is hereby granted and shall have and exercise, in addition to other powers herein granted, all powers necessary and appropriate to see that the purposes of this chapter are carried out and executed, including but not limited to the following:

(1) To issue such procedural rules and regulations as it deems necessary to implement the purposes of this chapter, provided that such rules and regulations are adopted pursuant to the provisions of § 381-4F.

(2) To supply information and assistance to landlords and tenants to help them comply with the provisions of this chapter.

(3) To hear and decide, when the procedures set forth in § 381-10 lead to no agreement, all requests for increases or decreases in the amounts paid by the tenant to the landlord.

(4) To issue subpoenas requiring the production of witnesses and documents and to take testimony and swear in witnesses in the execution of its power.

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B. The Board shall give both the landlord and the tenant notice and reasonable opportunity to be heard before making any determination. All determinations of the Board must be approved as to law and form by the Corporation Counsel prior to release. All Board determinations must be in writing.

C. All requests to the Board for increases or decreases in the amounts paid by the tenant to the landlord shall be filed on forms provided by the Board.

**§ 381-6. Rent Leveling Board Attorney.**

A. There is hereby continued the position of Attorney to the Rent Leveling Board.

B. [The Council] Corporation Counsel shall [annually appoint] assign a current City Attorney to the Rent Leveling Board who shall be given compensatory time. [The Attorney shall be paid an annual salary as provided by ordinance.]

C. The duties of the Rent Leveling Board Attorney shall be as follows:

- (1) To attend [monthly] scheduled Board meetings and advise on matters of official procedure and law which come before the Board.
- (2) To be available for legal consultation with the Board personnel, members and staff.

**§ 381-7. Rent Leveling Board Secretary.**

A. There is hereby continued the position of Secretary to the Rent Leveling Board. Said position shall be filled by the Rent Leveling Administrator who shall be given compensatory time.

[B.] [The Council shall annually appoint a Secretary who shall hold office for the term of one year. The Secretary shall be paid an annual salary of \$3,125.]

[C.] B. The duties of the Secretary to the Rent Leveling Board shall be as follows:

- (1) To supply information and assistance to landlords and tenants and to help them to comply with the provisions of this chapter.
- (2) To keep an accurate record of the procedures of the Board and to enter the same upon the minutes.
- (3) To receive all applications and to process the same for determination by the Rent Leveling Board.
- (4) To submit a monthly report of the activities of the Rent Leveling Board to the Council.
- (5) To perform such other duties as the Rent Leveling Board may specify.

**§ 381-8. Appeals; fee; transcript of proceeding.**

A. Both the landlord and the tenant may appeal the findings of any determination of the Board to the Council by filing an appeal with the City Clerk within a period of 15 days from the date notification of the determination of the Board is received. The fee for filing said appeal should be \$20, payable to the City Clerk upon the filing of said appeal. The applicant should also bear the responsibility for the cost of preparation of the transcript of the Rent Leveling Board proceeding, which cost shall be a current charge for such transcript as quoted by a certified shorthand reporter. The applicant shall arrange with a certified shorthand reporting firm for preparation of the transcript, and the applicant shall be responsible for the deposit and payment for the same directly to said certified shorthand reporting firm. Upon being notified by the certified shorthand reporting firm retained by the applicant, the Secretary to the Rent Leveling Board, after making a copy of the audiocassette tape(s) of the meeting in question, shall forward the original tape(s) to the certified shorthand reporting firm retained by the applicant. The above copies of the transcript of the Rent Leveling Board proceedings which form the basis of the appeal shall be received by the City Clerk prior to the matter being heard by the City Council. Such transcripts shall be received by the City Clerk within 90 days of the filing of the appeal or the appeal shall be dismissed by the City Council, subject to being reopened upon a finding of good cause for such late receipt of transcript by the City Council upon a written request by the applicant which is on notice to the opposing party and the Secretary of the Rent Leveling Board.

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B. Any appeal to the Council of a determination of the Board shall be heard by the Council solely on the basis of the record before the Rent Leveling Board and without recourse to a de novo hearing. In the event that no record of proceedings before the Rent Leveling Board shall exist, regardless of the reason for the absence of such transcript, the Council shall not have jurisdiction to hear said appeal. Under no circumstances shall the Council have jurisdiction to conduct de novo hearings on appeals from actions of the Rent Leveling Administrator or Rent Leveling Board. This provision shall not affect the ability of any applicant to appeal the actions of the Rent Leveling Administrator or the Rent Leveling Board to a court of competent jurisdiction.

C. The City Council shall hear any appeal from the Rent Leveling Board within 45 days after receipt of a complete transcript of the proceeding below or within such extension of time as may be consented by the appellant, provided that the appellant has paid the fees as required in Subsection A above. Notice of the appeal shall be sent by certified mail to the appellant and all persons appearing at the rent leveling hearing below at least 10 days prior to the scheduled hearing. Notice shall be effective upon mailing.

D. All contested rent increases or surcharges shall be kept in an interest-bearing escrow account administered jointly by the landlord and the Rent Leveling Administrator pending the outcome of an appeal and/or final adjudication of the case. Whenever, under this chapter, rent increase or surcharges are put in an interest-bearing account, the interest earned thereon will be paid to whomever wins the appeal of final adjudication.

**§ 381-9. Office of Rent Leveling; appointment of Rent Leveling Administrator.**

A. There is hereby continued within the Department of Health and Human Services an Office of Rent Leveling, as heretofore created, the head of which shall be the Rent Leveling Administrator. The Rent Leveling Administrator shall possess all the qualifications necessary to administer this chapter and the Office of Rent Leveling.

B. The Rent Leveling Administrator is a Civil Service titled position and shall be appointed by the Director of the Department of Health and Human Services. [The appointment shall be subject to approval by the Council and [shall be for a term of one year] The Rent Leveling Administrator shall be a resident of the City.

C. The annual salary for the position of Rent Leveling Administrator shall be established by [Ordinance] the Administration and approved by the Council.

**§ 381-10. Powers and functions of Rent Leveling Administrator.**

A. Under the direction of the Rent Leveling Board, the Rent Leveling Administrator shall have the following powers and functions:

(1) To supply information and assistance to landlords and tenants and to bring together tenants and landlords in informal conferences and suggest resolutions of conflicts between them, in order to help them comply with the provisions of this chapter.

(2) To remedy violations of this chapter by ordering rebates and increases and bringing appropriate legal charges as provided in this chapter.

(3) To accept and process complaints from tenants of illegal rental increases, provided that all claims are sworn to and acknowledged by a person authorized by law to administer oaths.

(4) To accept and process applications from landlords for rental increases under the hardship, exemption, capital improvement and service rent increase and tax surcharge provisions of this chapter, provided that all applications are sworn to and acknowledged by a person authorized by law to administer oaths.

(5) To review applications and investigate complaints prior to a decision being rendered in any case.

(6) To collect and update housing data to include property owner contact information.

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B. Any rebate ordered by the Rent Leveling Administrator or the Board shall be considered a penalty against the landlord if said rebate is not made to the tenant within 30 days of the service of a final determination by the Administrator or the Board. The Administrator or Board may authorize a reduction in rent until such time as the overpayment is reimbursed. The tenant may bring an action in the Municipal Court for the collection of this penalty after the time allowed as provided in New Jersey Court Rules 4:70-1.

C. In case of failure by a tenant to pay rents as determined by the Administrator or the Board, the landlord may resort to the appropriate legal remedies for nonpayment of rent.

D. Recommendations of the Rent Leveling Administrator shall be final unless, within 30 days of the service of such recommendations, an aggrieved party appeals to the Rent Leveling Board under § 381-5.

E. Any rebate for payment of rent in excess of the maximum lawful rent shall include the excess payments plus the maximum passbook demand deposit savings account interest rate in the City.

Any such payment of interest shall not be reimbursable under the hardship provision of this chapter.

**§ 381-11. Exemptions, limitations and prohibitions.**

A. The following types of dwellings are exempt from this chapter:

- (1) Buildings in which only one dwelling unit is rented.
- (2) Motels.
- (3) Hotels.
- (4) [Buildings as to which initial certificates of occupancy for new construction are issued after the effective date of this chapter.] Multiple dwellings constructed after December 23, 1999, for a period of time not to exceed the period of amortization of any initial mortgage loan obtained for the multiple dwelling, or for 30 years following completion of construction, whichever is less. In the event there is not initial mortgage financing, the period of exemption from this chapter shall be 30 years from the completion of construction.
- (5) Substantially rehabilitated residential structures, as defined in § 381-12 of this chapter, and for a period as specified in § 381-13 of this chapter.
- (6) Dwelling units which are certified by the Director of the Department of Community Development or his designee as part of the City's neighborhood preservation or rehabilitation program within the City's innovative grant program or as being in accordance with an agreement, determined by the Director or his designee to have been voluntarily arrived at, between the landlord or his duly authorized representative and a tenant or tenants occupying premises of the landlord, which agreement shall be certified by the Director of the Department of Community Development or his designee to be in accordance with the interests directed to be served by the governing body in § 381-1E of this chapter.
- (7) Rooming houses, licensed by the Director of the Department of Community Development or his designee, the Division of Community Improvements or the New Jersey Department of Community Affairs.
- (8) Housing Developments owned or subsidized by the U.S. Department of Housing and Urban Development (HUD), the New Jersey Housing and Mortgage Finance Agency (HMFA) or regulated by the New Jersey Public Housing and Development Authority.

B. Any landlord seeking to convert to a co-op or condominium must file appropriate notification with the Rent Leveling Board. The Rent Leveling Board may request any additional information necessary to see that the landlord is in compliance with all state and federal laws.

C. The owner of any multiple dwelling claiming an exemption from a rent control or rent leveling ordinance pursuant to this Chapter shall file with the municipal construction official, at least 30 days prior to the issuance of a certificate of occupancy for the newly constructed multiple dwelling, a written statement of the owner's claim of exemption under this chapter, including therein a statement of the date upon which the exemption period so claimed shall commence, such information as may be necessary to effectively locate and identify the multiple

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dwelling for which the exemption is claimed, and a statement of the number of rental dwelling units in the multiple dwelling for which the exemption is claimed. The owner shall, at least 30 days prior to the date of the termination of the exemption period afforded pursuant to this chapter, file with the municipal construction official a notice of the date of termination of the exemption period for the affected multiple dwelling.

D. The owner of any multiple dwelling exempted from this Chapter shall prior to entering into any lease with a person for tenancy of any premises located in the multiple dwelling, furnish the prospective tenant with a written statement that the multiple dwelling in which the premises is located is exempt from rent control or rent leveling for such time as may remain in the exemption period. Each lease offered to a prospective tenant for any dwelling unit therein during the period the multiple dwelling is so exempted shall contain a provision notifying the tenant of the exemption.

**§ 381-12. Guidelines and qualifications for exemptions for substantially rehabilitated structures.**

A. Substantially rehabilitated residential structures are properties or any portion thereof which, in the determination of the Rent Leveling Administrator of the Department of Health and Human Services (hereinafter "RLA"), are in need of significant renovation or improvement based upon defects in or deterioration of their physical condition and the proposed rehabilitative work substantially renovates or improves the overall condition of such properties as well as all essential service systems of such properties which are in need of significant renovation or improvement. The existence or absence of building, housing and related code violations shall be considered in the determination of need for improvement or renovation of a structure or portion thereof or of any essential service systems.

B. Essential service systems are plumbing, heating, cooling, electrical and fire protection, and it is the intent of this section that all such systems in need of improvement or renovation must be included in the proposed substantial rehabilitation work in order for an exemption under § 381-11A(5), as amended, to be granted.

C. In this section, "significant renovation or improvement" means modernization, rehabilitation and/or reconstruction of the affected properties or portions thereof and does not include landscaping, normal maintenance or repairs, including but not limited to interior painting, and the conversion of existing single heating or hot-water systems to multiple units for individual apartments.

D. In determining whether a property or portion thereof is to be substantially rehabilitated in order to qualify for exemption under § 381-11A(5), as amended, the RLA and/or his or her designee shall inspect the current condition of such property or portion thereof and shall examine the plans, specifications and projected costs for such work which shall be made available to the RLA by the landlord of such property.

E. No applications for substantial rehabilitation exemptions from rent leveling of a property or of a portion thereof shall be preliminarily or finally approved by the RLA unless it is determined that such rehabilitation work will increase the value of such properties and also benefit the living conditions of the affected tenants.

F. The amount required to be spent to qualify for a substantial rehabilitation exemption from rent leveling shall be at least 25% of the dollar amount resulting from dividing the assessed value of the subject property by the Passaic County equalization ratio for Paterson at the time the application is submitted for consideration. If only a portion of the subject building is to be substantially rehabilitated, the required expenditures shall be adjusted on a pro rata basis according to the square footage of the area to be worked on.

G. Costs which are not directly contributory to the improvement of the building in question, including but not limited to reasonable professional fees, may be included in the overall amount of the expenditures necessary to qualify for a substantial rehabilitation exemption from rent leveling but only in an amount not to exceed 20% of the overall project costs as approved by the RLA.

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H. The costs of proposed capital improvements may be included in the overall amount required to be spent in order to qualify for a substantial rehabilitation exemption from rent leveling if such capital improvements are part of the overall rehabilitation work to be done pursuant to the application for such exemption. Any such capital improvement cost which becomes part of the costs of an approved rehabilitation exemption may not also at any time qualify for a capital improvement rental increase under § 381-16 of this chapter.

I. All applications for substantial rehabilitation exemptions from rent leveling pending prior to the effective date of this amendatory section of this chapter as well as the amended §§ 381-11A(5) and 381-13 of this chapter shall be considered under the within definition of substantially rehabilitated residential structures. Such pending applications are exempt from the filing fee requirement of § 381-13 of this amended chapter and may be considered for exemption from rent leveling, notwithstanding that the work for the proposed exemption had been completed prior to the decision of the RLA. Such applications shall be processed in such a manner as to comply as closely as possible with the aforesaid amendatory sections of this chapter.

**§ 381-13. Approval process for exemption from rent leveling for substantially rehabilitated structures.**

A. The property owner shall submit an application to the RLA in such form as the RLA may require, together with a fee of \$50 per apartment with a minimum fee of \$200, prior to the rendering of a decision by the Rent Leveling Administrator (hereinafter "RLA") to preliminarily approve or disapprove an application for a substantial rehabilitation exemption from rent leveling. The application shall set forth the manner in which the exemption request complies with the requirements of the pertinent sections of this chapter as to the nature of and the need for the rehabilitation work and in detail as to the expenditures for such work. The application must specify the defects or deteriorated areas to be worked on and describe the nature of any improvements to the essential service systems to be included in the work and shall include such other information and documentation as may be deemed relevant and necessary by the RLA.

B. At the time of such application, the property owner will provide the RLA with the disclosure of rental registration information required pursuant to § 381-4K(1) of this chapter for all or part of the immediately preceding three-year period for which no such information has been filed with the RLA. If the current owner has owned the subject property for less than said three-year period, he or she shall provide the required information for their period of ownership. In the event that three years of rental registration information is unavailable due to a change in ownership of the subject property, good faith efforts shall be made by the current owner to obtain

the required information, but if the same is found to be wholly or partially unobtainable, despite evidence of such good faith efforts, this requirement may be waived by the RLA to the extent that the information is not available.

C. The application, certified to be true, must also contain a schedule of current and proposed estimated range of initial rents for the units to be rehabilitated. Within five days of filing of the

application, a copy of the application and rent schedule along with notice of the tenant's right to object must also be submitted by the applicant to the affected tenants, simultaneously by certified mail, return receipt requested, and regular mail. Proof of service of the same in the form of the certified mail receipt card or affidavit of mailing by regular mail and certified mail, return receipt requested, must be filed with the RLA. The tenants have 35 days from such mailing service of notice to file any objections in writing to the substantial rehabilitation application with the RLA who shall investigate and consider the validity of these objections in determining the eligibility of the application for a substantial rehabilitation exemption. The validity of any such objections shall be considered and evaluated by the RLA under the standards of § 381-12 of this chapter.

D. The RLA shall, within 60 days of receipt of the completed application, render a decision and notice all affected parties of such decision as to the preliminary eligibility of the property or portion thereof for a substantial rehabilitation exemption. Such decision shall include findings and reasons as to which items of rehabilitation work were approved or rejected under the pertinent section(s) of this chapter.

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E. In the event that either the landlord and/or tenant(s) object to the determination of the RLA, an appeal of the decision must be filed within 20 days of the date of the notice of decision by either party with the RLA for a hearing before the Rent Leveling Board (hereinafter "RLB"). Such appeals shall set forth the reasons upon which the appeal is based. The hearing of such appeal must be held and a decision rendered within 45 days of the filing of the appeal or else the determination of the RLA shall stand as valid. Any appeal from such decision of the RLB or RLA in cases where the RLB does not render a timely decision must be made to the City Council within 15 days of the notice of such decision of the RLB or within 15 days of the expiration of the forty-five-day appeal period if the RLB does not render a timely decision.

F. Following a decision of preliminary approval of an exemption, the property owner must advise the RLA of any changes in the rehabilitation work or cost of such work as such changes may result in a reversal or revision of the preliminary approval. The RLA shall decide whether or not any such changes affect the preliminary approval and advise all affected parties of his or her findings, in writing, with reasons for the same, and such decision may be appealed to the RLB.

G. Upon completion of the rehabilitation work following a decision in favor of preliminary eligibility for an exemption, the property owner shall submit to the RLA proof of approvals of all required governmental inspections as well as proof of the actual work completed and the amount actually spent for such work for the purpose of receiving final approval for an exemption from rent leveling. If such items are submitted and are consistent with the application and preliminary approval of exemption, implementation of rent increases may occur pursuant to Subsection H of this section. The failure to produce any such approvals of governmental inspections, variations between the completed work and the proposed work included in the application which the RLA determines adversely affects part or all of the exemption status and the actual expenditure of less than the amount required by § 381-12 to qualify for such exemption shall result in disapproval of all or part of the rent leveling exemption. The RLA shall advise all affected parties of his or her findings, in writing, as to final approval or disapproval for the exemption, with reasons for the same, and such decision may be appealed to the RLB.

H. Upon final approval of a substantial rehabilitation exemption from rent leveling, the initial rents charged for any exempted rehabilitated structure or portion thereof shall be in accordance with the schedule of proposed estimated rents submitted with the original application and may be put into effect only upon compliance with the provisions of any existing leases and with state statutes governing landlord tenant law. After an initial rent increase exempted from this chapter, two additional exempted rent increases may, at the option of the property owner, be effectuated annually thereafter in the two years immediately succeeding the year of the initial exempted increase.

I. Any landlord whose substantial rehabilitation application for exemption from rent leveling has been approved must accept rent subsidy program participation from existing tenants in the affected building who are eligible for such program.

J. No tenant shall be evicted from any dwelling unit for the purpose of effecting rehabilitation work pursuant to this chapter, and the RLA shall have the authority to determine if any coercion was used to remove tenants in order to do such work. If it is determined that prior to the preliminary or final approval of a substantial rehabilitation exemption such coercion was used, the RLA shall deny the entire application.

**§ 381-14. Rent increase restrictions; cost of housing index.**

**A. Rent increases.**

(1) Every landlord without recourse to the Board or Administrator may annually request of a tenant an increase in rent which shall not be greater than 5%, or 3 1/2% for head of household tenants 65 years of age or older or found to be disabled by the Social Security Administration under either the Social Security Disability or Supplemental Security Income Disability Programs, of the existing rent at the time notice of increase is delivered to the tenant.

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(2) Landlords about to execute leases for a term of more than one year may provide in such leases for annual increases not to exceed 5%, or 3 1/2% for tenants 65 years of age or older or found to be disabled by the Social Security Administration under either the Social Security Disability or Supplemental Security Income Disability Programs, for each year of the lease.

(3) Notwithstanding any of the foregoing, no landlord under this section shall request or receive more than one rental increase during any twelve-month period for the same apartment. 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 registration requirements as specified in this Chapter.

B. The provisions of Subsection A above shall apply until such time as a cost of housing index has been established for the City and which has been adopted by ordinance of the City.

C. The establishment and adoption of a cost of housing index for the City shall not be valid unless said index shall have taken into account the ratio of operating expenses of apartment units in relation to the total income derived from such units and shall consider specifically expenses such as but not limited to taxes; labor; heating fuel; gas and electricity; water; contract services; administrative costs; insurance; and supplies.

D. The Council shall appoint a committee of persons living and/or working in the City to undertake the preparation of a cost of housing index for Paterson utilizing any cost of housing figures prepared in conjunction with the Master Plan of the City.

**§ 381-15. Procedure for seeking rent increase.**

A. Any landlord seeking a rental increase pursuant to § 381-14 shall give the Rent Leveling Administrator and the affected tenant written notice of the proposed increase at least 30 days in advance.

B. The written notice shall provide the following information:

- (1) The name and address of the tenant and the apartment number.
- (2) The date the tenant's existing lease began.
- (3) The present rent of the tenant.
- (4) The previous year's rent and the date of the last increase in rent prior to the current notice of increase.
- (5) The actual dollar amount of the proposed increase.
- (6) The amount of the proposed increase stated as a percentage of tenant's present rent.

C. Any landlord seeking a rent increase based on the cost of housing index for Paterson shall comply with the procedures promulgated at the time of the public advertisement of such index.

**§ 381-16. Computation of capital improvements and services rent increase; dwellings to be in compliance with all standards.**

A. A landlord may apply to the Administrator for a rental increase for capital improvements or for increased or improved services. The landlord shall compute the average cost of the improvements or services per year of useful life by dividing the cost of the computed capital improvements or services by the number of years of useful life of the improvements or services and as agreed to by the Board or Administrator as to the reasonable duration of such improvements or services. The landlord shall apportion the average cost of the completed improvements or services per year of useful life among the tenants in the dwelling in accordance with one of the following methods:

- (1) If the capital improvements or services benefit certain housing spaces only, then the cost of the improvements or services shall be surcharged to only these units.
- (2) If the capital improvements or services benefit all housing spaces but in varying degrees according to the amount of living area of each housing space, then the cost for the improvements or service shall be surcharged according to either the number of rooms or the number of square feet in the housing space in proportion to the total rentable area in the dwelling.

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(3) If the capital improvements or services is equally beneficial to all housing spaces regardless of the living area within any housing space, then the cost of the improvements or services shall be surcharged according to the number of housing spaces within the dwelling.

B. Permits as required by law are to be secured from all agencies having control and jurisdiction for alterations, repairs, replacements, extensions and new buildings. All work must adhere to appropriate code standards and must be inspected by all agencies having control and jurisdiction and their approval obtained. A certificate of occupancy must be secured as required by law.

C. A landlord shall not be granted a rental increase for capital improvements or increased services unless the dwelling is in substantial compliance with all municipal codes that affect the habitability of the dwelling.

**§ 381-17. Notice of capital improvements and services rent increase request; date of increase; fee.**

A. Prior to any application under § 381-16, the landlord shall serve upon each tenant, by registered or certified mail or personal service or a notice of application to the Administrator setting forth the basis for said application, the amount of rental increase applied for with respect to that tenant and the calculations involved. A sample copy of such notice shall be filed with the application of the landlord, together with an affidavit or certification of service of notice of application upon each tenant.

B. It shall be within the discretion of the Board or Administrator, if empowered by the Board, to fix the effective date of any approved rent increase to be at any reasonable time prior to or after the decision on the application has been made.

C. A fee for processing all capital improvement applications will be collected. The fee shall be \$50 per apartment but not more than \$500 per building.

D. All fees should be paid to the Receiver of Collections for the City. The rate schedule will be kept on file in the Rent Leveling Office.

**§ 381-18. Criteria for hardship rental increase request; application; dwellings to be in compliance with all standards.**

A. In the event that a landlord cannot meet his mortgage payments, operating expenses or does not make a fair return on his investment, he may appeal to the Administrator for increased rentals.

B. A fair return on the equity investment in real property shall not exceed 6% above the maximum passbook demand deposit savings account interest rate in the City. The maximum of 6% above the maximum passbook demand deposit savings account interest rate is specified to

add incentive for investment in residential real estate, to compensate for the greater risk involved in such investment, for the lesser liquidity which such investment offers and for other factors associated with ownership of residential real estate.

C. Tax, capital improvement and service surcharges duly authorized by the Rent Leveling Board shall either be included in annual gross income and included as an operating expense or be totally disregarded so that they are excluded from annual gross income and excluded from operating expenses. All items of expense and the amount of annual income shall be presented in affidavit form by the owner. All landlords shall submit statements of expenses and of annual income for the current year wherein the application is made and for two years prior thereto, together with documentary evidence in support thereof. In dwellings involving 50 units or more, the statement of expenses for the current year and for two years prior to the making of the application shall be certified by a certified public accountant. All statements of expenses submitted to the Board shall be judged by the Board as to the reasonableness of such items and the amount stated for each item.

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D. The Rent Leveling Board, subject to the specific approval of the Council, shall promulgate rules and regulations establishing adequate standards to guide the Rent Leveling Board in determining the amount of increase to be granted to landlords pursuant to the provisions of this section.

E. A landlord shall not be granted a rental increase unless the dwelling is in substantial compliance with all municipal codes affecting the habitability of the dwelling.

**§ 381-19. Notice of hardship rental increase request; date of increase; fee.**

A. Prior to any application under § 381-18, the landlord shall serve upon each tenant by registered or certified mail or personal service a notice of said application setting forth the basis for said application, the amount of rental increase applied for with respect to that tenant and the calculations involved. A sample copy of such notice shall be filed with the application of the landlord together with an affidavit or certification or service of notice of application upon each tenant.

B. The Administrator must decide any hardship case within 45 days from the date of completion of application by the landlord.

C. It shall be within the discretion of the Board, or Administrator if empowered by the Board, to fix the effective date of any approved rental increase to be at any reasonable time as determined by the Board, subject to the landlord's compliance with statutory and legal requirements of notice of rent increase.

D. A fee for processing all hardship applications will be collected. The fee shall be \$50 per apartment [but not more than \$500 per building].

E. All fees should be paid to the Receiver of Collections for the City. The rate schedule will be kept on file in the Rent Leveling Office.

**§ 381-20. Standards to be maintained; decrease in rent on failure to comply.**

A. During the term of this chapter, the landlord shall maintain the same standards of service, maintenance, furniture, furnishings and equipment in the housing space and dwelling as he provided or was required to do by law or lease at the date the lease was entered into.

B. When services, care or maintenance or when the standards of service, maintenance, furniture, furnishings and equipment in the housing space or dwelling are not substantially maintained as specified above, any tenant may apply to the Rent Leveling Board for a decrease in rent. A copy of said application shall be served upon the landlord and all other tenants setting forth, in detail, the reasons for such application. At least 20 days shall elapse before a hearing thereon can be set.

C. A decrease in services, such as to justify a rent decrease under this section, shall include any cessation or inadequate provision of the vital services listed herein, due to deterioration or improper maintenance of the services, where it's the responsibility of the landlord to provide the services. For the following decrease in services, a petitioner's or petitioners' rents may be decreased in accordance with the following percentages of the total rent or rents collected during the period of the decrease in services:

- (1) No heat (when provisions of heat is the responsibility of the landlord): 45%.
- (2) No water (when provision of water is the responsibility of the landlord): 30%.
- (3) No hot water (when provision of hot water is the responsibility of the landlord): 20%.
- (4) Roof leaks (such as to make an apartment or dwelling unit uninhabitable): 50%.
- (5) Nonfunctioning stove or refrigerators (where supplied by landlord): 10%.
- (6) Faulty electrical fixtures (such as to constitute a dangerous condition or threat to the health and safety to the tenants): 35%.
- (7) Faulty plumbing (defined as inoperable fixtures, i.e., tub, sink, toilet, kitchen sink): 15%; (15% per fixture, but not to exceed a maximum of 75% of the total rent of all petitioners).
- (8) Inoperable elevator (when inoperability is due to the neglect of the landlord): 10%.

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D. No petition for a rent decrease due to a decrease in service shall be considered under this section unless the potential decrease in rent for each petitioner or each tenant in a group petition shall be greater than 44% of their rent for the period for the decrease in services, as determined by the administrative branch of the Rent Leveling Board. In no event shall any rent decrease for a decrease in services exceed 100%.

E. In considering any alleged decrease in services, the Board shall not take into account evidence of the alleged decrease terminating more than 30 days prior to the filing of the petition, and no rent decrease shall be imposed by the Board for any period terminating prior to the 30 days.

F. No petition for a decrease in rent shall be considered when the failure to maintain services is beyond the control of the landlord, insofar as technical assistance on a timely basis, to remedy the reduction of service.

G. If a rent decrease is made conditional upon the landlord's performing whatever repairs are deemed necessary to correct a decrease in services, the landlord may petition, upon completion of 75% or more of the repairs ordered, for a restitution of all or part of the decreased rents. A specific time for the completion of the remaining 25% of all the work to be performed shall be reported to the Rent Leveling Administrator's office.

H. Where it is found that the landlord has contracted to change the heating service by changing a heating unit or otherwise requiring the tenants to pay for their heat, the Board may grant a rent decrease equal to the cost of providing heat as that cost is determined by the office of rent leveling. A maximum period for the decreased services stated above shall elapse before a hearing can be held concerning the maintenance of service. The minimum periods are as follows:

- (1) No heat.
  - (a) No heat during a period wherein the average temperature is less than 55° F.: two days.
  - (b) No heat during a period wherein the average temperature is 55° F.: five days.
- (2) No water: five days.
- (3) No hot water: five days.
- (4) Roof leaks: 10 days.
- (5) No functioning stove or refrigerator: five days.
- (6) Faulty electrical fixtures: five days.
- (7) Faulty plumbing: five days.
- (8) Inoperable elevator: 10 days.

I. In instances of petitions for a decrease in rent not listed in the above schedules, a period of 20 days must elapse prior to the scheduling of a hearing.

**§ 381-21. Time for filing complaints and claims; agreed increases.**

Any complaint of an illegal increase or failure to maintain standards or claim to lower rentals or any other claim or application brought by either a tenant or a landlord must be filed with the Office of Rent Leveling no later than 24 months after the effective date of the disputed increase or the date of the action or inaction which is the subject of the complaint, unless a different time period is specifically designated by other provisions of the Rent Leveling Ordinance.

**§ 381-22. Violations and penalties.**

A. A violation of § 381-14 of this chapter constituting an illegal increase of rent shall be punishable by a fine of not less than \$100 and not more than \$1,500, imprisonment for not more than 90 days or by a period of community service for not more than 90 days, or any combination thereof.

B. A willful violation of any other provision(s) of this chapter, including but not limited to the willful filing with the Board of any material misstatement of fact, shall be punishable by a fine of not more than \$1,500, imprisonment for not more than 90 days or by a period of community service for not more than 90 days, or any combination thereof. A violation affecting more than one leasehold shall be considered a separate violation as to each leasehold. No landlord shall

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bring any action to recover possession of a dwelling unit as a reprisal for the tenant's efforts to secure or enforce any right under this chapter.

**§ 381-23. When effective.**

This ordinance codified in this chapter shall take effect upon final passage and publication in accordance with the law. All rents for rental of housing space and services in dwellings to which this chapter is applicable are controlled at the rent level received by the landlord as of the date the ordinance codified in this chapter was adopted, and no rental increase shall hereafter be instituted except as provided in this chapter.

**§ 381-24. Dwelling decontrolled and exempted.**

- A. Upon the rehabilitation of a property previously on the City of Paterson’s Vacant and Abandoned property list pursuant to T.C.O.P. Chapter 157, the units contained therein shall become decontrolled and exempt from the provisions of this chapter for the new tenant's initial rental.
- B. The landlord shall file with the RLA and provide a copy to the tenant in occupancy, a “Vacancy Decontrol Certification” within fifteen (15) days after renting the dwelling to a new tenant, which shall include the following information:
  - 1. Property address
  - 2. Apartment number
  - 3. New tenant’s monthly based rent
  - 4. Name, address and telephone number of landlord
  - 5. A certification stating that the property was previously on the City of Paterson’s Abandoned Property List and was removed from the list by the Public Officer due to the rehabilitation of the property.
- C. No dwelling unit shall be decontrolled pursuant to this article more than once in any three-year period

**SECTION II:** All Ordinances or portions of Ordinances inconsistent herewith are hereby repealed to the extent of their inconsistency only.

**SECTION III:** If any part of this Ordinance shall be declared to be invalid or inoperative, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

**SECTION IV:** The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Code of Paterson.

**SECTION V:** This Ordinance shall take effect upon passage, approval and publication as required by law.

**SECTION VI:** The City Clerk and the Corporation Counsel may change any chapter numbers, article numbers and section numbers if codification of this Ordinance reveals a conflict between those numbers and the existing Code, in order to avoid confusion and possible accidental repealers of existing provisions.

**SECTION VII:** The City Clerk and the Corporation Counsel may correct any clerical errors in the printing, publication and codification of this Ordinance, provided both concur with the correction being made and both certify in writing to the Municipal Council as to the specifics of the clerical correction no later than seven (7) days before the correction is made, or, where a legal deadline for publication applies, no later than the date of the next Regular Meeting. The said certifications shall also be prominently posted no later than the date of the next Regular Meeting, and thereafter shall be annexed to the corrected original Ordinance and retained by the City Clerk.

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**STATEMENT OF PURPOSE**

The purpose of this Ordinance is to amend The Code of Paterson Chapter 381 titled “Rent Leveling” in order to provide for dwelling decontrol for rehabilitated abandoned properties and to make changes to Rent Leveling Board membership and operation.

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