

**Hoboken  
NJ****CC - Ordinance**

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**Ordinance Amending Hoboken City Code Chapter 155 "Rent" to Adjust Permissible Cpi and Vacancy Decontrol Increases**

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**Information****Department:**

City Clerk

**Sponsors:**

Council-at-Large James Doyle

**Category:**

First Reading

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**Attachments**[Printout](#)

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**Body**

**WHEREAS**, a comparison of Hoboken's rent control ordinance with those of other rent control ordinances in Hudson Control County demonstrates that while the purpose of the law, to help ensure rent levels are remain stable and affordable to promote a diverse population and community, our ordinance is less protective of tenants than many neighboring communities; and

**WHEREAS**, the most common basis for rent increase is the potential for an annual cost of living increase based on the consumer price index, and that potential increase is currently capped at 7.5% in our ordinance; and

**WHEREAS**, the most common basis for rent increase is the potential for an annual cost of living increase based on the consumer price index, and that potential increase is currently capped at 7.5% in our ordinance; and

**WHEREAS**, it is imperative that we act to ensure that the potential increases based on looming inflation not more adversely impact tenants, who are already being displaced from Hoboken at a significant rate, in an effort to preserve and maintain a diverse and welcoming community; and

**WHEREAS**, vacancy decontrol, which relaxes certain rent control requirements in specified instances, allows a landlord to increase up to a capped amount when a unit becomes legally vacant after a certain duration expires; and

**WHEREAS**, our rent control ordinance allows a landlord to increase the rent up to 25% percent on a new tenancy after a three-year period elapses; and

**WHEREAS**, in other rent control ordinances in Hudson County, vacancy decontrols do not exist or are very rare in other forms. Because of this fact, and the irreversible impact that these very significant 25% increases can have on escalating rents in Hoboken, rents in Hoboken can a city that has as much turnover in tenancy as Hoboken, this means that in a period of less than a decade, a unit's base rent can close to double, which may serve to incentivize certain landlords to prefer vacancies over longer tenancies; and

**WHEREAS**, there is a desire to lower the allowable percentage caps on the cost of living increases and the vacancy decontrol increases and to extend the duration necessary for such a vacancy decontrol to be permissible.

**NOW, THEREFORE**, the City Council of the City of Hoboken does hereby Ordain as follows (additions noted in underline, ~~deletions noted in strikethrough~~):

#### **SECTION ONE: AMENDMENT OF CITY CODE SECTION 155-4.D.**

D. Alternative proofs of rents and vacancies. For the purpose of calculating the earliest date of a verifiable rent and determining the legal rent of the dwelling, including but not limited to the consideration of a vacancy of a dwelling, and in the absence of a filed and timely submitted registration statement and/or the absence of a filed and timely submitted vacancy decontrol certificate, a landlord shall be permitted to submit credible alternative proofs for consideration by the Rent Regulation Officer or the Rent Leveling and Stabilization Board to determine the earliest date of a verifiable rent, the legal rent of the dwelling and/or whether vacancies occurred. These alternative proofs may consist of, but are not limited to, leases showing vacancies, and/or statements under oath from reliable sources. In presenting alternative proofs for a vacancy, a certified statement from the landlord should be submitted indicating that the tenant vacated the apartment voluntarily and without harassment, duress or unreasonable pressure from the landlord or his agents. The Rent Regulation Officer and/or the Rent Leveling and Stabilization Board shall have absolute discretion to determine the reliability of any such alternative proofs. While Note: The provisions of this section shall also apply to Article VII, Vacancy Decontrol, the calculation of a permissible vacancy decontrol increase shall be consistent with the limitations set forth in § 155-31 of that Article.

#### **SECTION TWO: AMENDMENT TO HOBOKEN CITY CODE SECTION 155-5 TO AMEND THE ANNUAL COST OF LIVING INCREASE**

##### **§ 155-5 EXPIRATION OR TERMINATION OF LEASE.**

At the expiration of a lease or at the termination of a lease of a periodic tenant, no landlord may request or receive a percentage increase in rent which is greater than 4%7-1/2% or the percentage difference between the consumer price index three months prior to the expiration or termination of the lease and three months prior to the commencement of the lease term, whichever is less. For a periodic tenant or for a tenant whose lease terms shall be less than one year, said tenant shall not suffer or be caused to pay more than one rent increase in any twelve-month period that which exceeds

~~4% to 7 1/2%~~ or the consumer price index percentage differential for the twelve-month period commencing 15 months prior to and ending three months prior to the effective date of the proposed increase, whichever is less. No more than one such cost-of-living rental increase in any one twelve-month period shall be permitted irrespective of the number of different tenants occupying said ~~rental unit housing space~~ during said twelve-month period.

### SECTION THREE: AMENDMENT OF ARTICLE VII VACANCY DECONTROL

#### ARTICLE VII VACANCY DECONTROL

##### § 155-31 DWELLING DECONTROLLED AND EXEMPTED.

Provided that a dwelling is registered in accordance with § 155-30 upon the vacation of a residential ~~rental apartment~~ unit by a tenant, the ~~rental apartment~~ unit shall become decontrolled and exempt from the provisions of this Chapter for the new tenant's initial ~~tenancy rental~~; provided, however, that ~~the new said rental amount~~ shall be limited to an increase of ~~10% to 25%~~ over the last ~~rental amount~~ paid by the ~~prior tenant~~ and only on condition that the prior tenant who voluntarily vacated the rental unit. The 10% increase limit shall be exclusive of any capital improvement surcharge that is a component of the said last rental amount. However, any additional rental increase beyond the amount of the initial rental of the new tenant shall be subject to the provisions of this Chapter. For the purpose of any computations under this Chapter, the initial base rent charged to the new tenant under this section shall be considered the base rent going forward and be subject to the provisions of this Chapter.

##### § 155-32 CIRCUMSTANCES ENTITLING DECONTROL.

The landlord shall be entitled to decontrol the ~~rental apartment~~ unit under this article only under the following circumstances:

- A. If the tenant vacates the apartment voluntarily, without harassment, duress or unreasonable pressure from the landlord or his agents, or if the tenant is legally evicted.
- B. If the tenant vacates the apartment as a result of a court order from a court of competent jurisdiction. This ground for decontrol shall not be available to a landlord who receives a court order to dispossess a tenant based upon the tenant holding over and continuing in possession of the premises after the expiration of his term. Whenever there is an issue as to the circumstances under which a tenant has vacated ~~an rental apartment~~ unit, that issue shall be determined by the rent control board after a hearing. If the board finds that a landlord is seeking to decontrol or has decontrolled ~~an rental apartment~~ unit and the tenant has vacated ~~that~~ unit under circumstances other than those set forth in this section, the rent board may rescind the decontrol of the apartment unit, and the rent amount shall revert to that ~~rental amount~~ on the ~~rental apartment~~ unit prior to the vacation of the ~~unit apartment~~, and the rent board may prosecute the landlord for violation of this Chapter under § 155-21.

##### § 155-33 FILING OF CERTIFICATE FOR DECONTROLLED UNITS.

When any ~~rental apartment~~ unit is decontrolled under this article, the landlord shall file a certificate, provided by the rent leveling board, indicating the name of the vacating tenant, the existing ~~rental amount~~, the circumstances under which the tenant vacated the ~~rental apartment~~ unit, the name of the new tenant, the new ~~rental amount~~ and the effective date of the new ~~tenancy rental~~.

##### § 155-34 LIMIT ON NUMBER OF TIMES FOR DWELLING RENTAL UNITS CANTO BE DECONTROLLED LIMITED.

No ~~rental dwelling~~ unit shall be decontrolled pursuant to this article more than once in any ~~five~~three-year period.[1],[2]

[1] Editor's note: former §§ 155-35, vacancy decontrol, added 12-21-1988 by ord. No. P-27, was repealed 2-15-1989 by ord. No. P-42.

[2] Editor's note: former art. Viii, condominiums and family-owner occupied residential units, added 9-7-1994 by ord. No. R-65, which consisted of §§ 155-35 through 155-36, was repealed 12-7-1994 by ord. No. R-91.

#### **SECTION FOUR: REPEAL OF INCONSISTENT PROVISIONS**

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

#### **SECTION FIVE: SEVERABILITY**

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

#### **SECTION SIX: EFFECTIVE DATE**

This Ordinance shall take effect immediately upon passage and publication as provided by law.

#### **SECTION SEVEN: CODIFICATION**

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any ~~c~~Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.