

## **Chapter 169 RENT CONTROL**

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**[HISTORY: Adopted by the Township Council of the Township of East Brunswick 5-14-73 as Ord. No. 73-174.1; Added 12-10-79 by Ord. No. 79-201, entire ordinance amended 9-28-82 by Ord. No. 82-474]**

#### **GENERAL REFERENCES**

**Administration of government - See Ch. 3.**  
**Unfit dwellings - See Ch. 90.**  
**Housing discrimination - See Ch. 124.**  
**Housing standards - See Ch. 126.**

- § 169-1. **Definitions.**  
**[Amended 4/4/05 by Ord. No. 05-05]**

As used in this Chapter, the following terms shall have the meanings indicated.

- A. Dwelling. Includes any building or structure rented or offered for rent to one (1) or more tenants or family units. Exempt from this chapter are motels, hotels, and similar type buildings and buildings in which up to one-third (1/3) of the occupied floor space is commercial. Single and two-and-three-family units, as well as multi-family units are included. Housing units newly constructed or rented for the first time are exempted and the initial rent may be determined by the landlord. All subsequent rents will be subject to provisions of this chapter.
- B. Available for Rent to Tenants. Fit for habitation as defined by the statutes, codes and ordinances in full force and effect in the State of New Jersey, County of Middlesex, and Township of East Brunswick, whether occupied or unoccupied and actually offered for rent to prospective tenants.

- C. Consumer Price Index. The Consumer Price Index for All Items for New York/Northeast New Jersey for All Urban Consumers, as published by the Bureau of Labor Statistics. [Amended 4-4-05 by Ord. No. 05-05]
- D. Hardship. A situation wherein a landlord's net operating income shall have decreased below a just and fair rate of return. A Just and Fair Rate of Return Formula is set forth in Section 169-17 of this Ordinance.
- E. Gross Rental Income. The Total Rental Income derived by the landlord from the rental of all rental units, which shall also include, but not be limited to rents, garage rentals, commissions, vending machines, laundromats, etc.
- F. Net Operating Income. The difference between the gross rental income and the necessary and reasonable operating expenses.
- G. Operating Expenses. Expenses incurred during the period which were necessary for the efficient operation of a residential rental property. The Rent Leveling Board will review these expenses to determine the reasonableness under the circumstances. Debt service costs, depreciation and amortization are excluded from necessary and reasonable operating expenses.
- H. Capital Improvements Eligible for Surcharge. An improvement, addition or alteration of housing space, plant or equipment, not previously provided the affected dwelling, other than a repair, reconstruction, rehabilitation or replacement of the housing space, plant or equipment to its original condition, whether or not mandated by law. The expenditure must be subject to an allowance for depreciation under federal income tax provisions of more than one year, or accelerated cost recovery system.
- I. Consumer Price Index Energy Adjustment. A surcharge which has been obtained by a landlord from a tenant based upon an increase in energy costs prior to the effective date of this Ordinance. Henceforth, there shall be no Consumer Price Index Energy Adjustments for increases in energy costs.
- J. Surcharges. Charges in addition to base rent, as specified by this chapter, payable by the tenant to the landlord. Surcharges are not to be considered part of the base rent when calculating percentage increases based on the Consumer Price index.
- K. Base Rent. The rent paid upon initial occupancy plus any percentage increases based on the Consumer Price Index as specified in this chapter.
- L. Service of Notice. Wherever a landlord is required to serve a notice pursuant to this ordinance, service may be made either by certified mail, return receipt requested, or by personal service upon an individual 14 years of age or older who resides at the subject premises.

- M. Multiple Dwelling. [Added 4-11-88 by Ord. No. 88-922] Means any building or structure containing four or more dwelling units, other than dwellings constructed for occupancy by senior citizens and/or the disabled, rented or offered for rent to 4 or more tenants or family units.

**§ 169-2. Establishment of Rent Leveling Board, Members, Appointments, and Terms. [Amended 9-12-83 by Ord. No. 83-528; 4-4-05 by Ord. No. 05-05]**

There is hereby created a Rent Leveling Board within the Township of East Brunswick. The Board shall consist of seven (7) members, all of whom shall be appointed by the Mayor with the advice and consent of the Township Council. The membership of the Board shall consist of two (2) landlords owning property in the Township of East Brunswick or their representatives, two (2) tenants residing in the Township of East Brunswick, and three (3) persons owning and occupying their homes in the Township of East Brunswick. There shall also be three (3) alternate members, one of whom shall be a landlord, one of whom shall be a tenant and one of whom shall be a homeowner as defined above. The Mayor shall designate one of the homeowners to serve as chairperson of the Board. [Amended 4-4-05 by Ord. No. 05-05]

The alternate members of the Board are required to attend all meetings. In the event a regular member does not attend a meeting, the alternate member for that category shall have all of the powers of a regular member for that meeting. Attendance by five (5) members or alternates shall constitute a quorum. Passage of any motion requires an affirmative vote by a majority of members present. Not more than one tenant member shall reside in property owned by one of the landlord members, unless no other tenants have indicated a willingness to serve, in which case more than one such tenant may be appointed to the Board. The initial terms of office of the Board members shall be one (1), two (2) or three (3) years to be designated by the Mayor in making the appointment. The appointments shall be made in such a manner so that the terms of approximately one-third (1/3) of the members shall expire each year.

**§ 169-3. Vacancies: Removal for Cause.**

The Mayor may remove any members of the Board for cause on written charges served upon the members and after a hearing thereon, at which time the members shall be entitled to be heard either in person or by Counsel. A vacancy on the Board occurring otherwise than by expiration of the term, shall be filled for the unexpired term in the same manner as an original appointment.

**§ 169-4. Rent Leveling Board Powers.**

The Rent Leveling Board is hereby granted and shall have and exercise, in addition to other powers herein granted, all the powers necessary and appropriate to carry out and execute the purposes of this Ordinance, including but not limited to the following:

- A. To prepare and forward to the Township Council of the Township of East Brunswick such rules and regulations as it determines necessary to implement the purposes of this Ordinance. Said rules and regulations, however, shall not have the force and effect of law until they are adopted by ordinance according to law, by the Township Council of the Township of East Brunswick.
- B. To supply information and assistance to landlords and tenants to help them comply with the provisions of this Ordinance.
- C. To hold hearings and adjudicate applications from landlords for an increase in rental as hereinafter provided.
- D. To hold hearings or adjudicate applications from tenants for a reduction in rental as hereinafter provided.

The Rent Leveling Board shall give ten (10) days written notice of hearing to both the tenant and the landlord.

**§ 169-4.1. Meetings.**  
**[Added 4-4-05 by Ord. No. 05-05]**

There shall be no official meeting dates. The Rent Leveling Board shall meet on an ad hoc basis.

**§ 169-4.2. Administrator.**  
**[Added 4-4-05 by Ord. No. 05-05]**

The Housing Specialist of the Township of East Brunswick is hereby authorized to serve as Administrator for the Rent Leveling Board. The Administrator shall provide staff support to the Board. The Administrator shall have all the powers granted to the Board, with the exception of those powers in Section 169-4.C. and D. above.

**§ 169-5. Attorney.**  
**[Amended 4-4-05 by Ord. No. 05-05]**

There is hereby created the office of Rent Leveling Board Attorney. The Rent Leveling Board may annually appoint and fix the compensation of or agree upon the rate of compensation of the Rent Leveling Board Attorney, who shall be an attorney other than the Municipal Attorney. The Rent Leveling Board Attorney, in return for the annual retainer set by the Rent Leveling Board, shall attend all Rent Leveling Board meetings, prepare all usual and routine resolutions and provide advice and counsel on legal issues pertaining to this ordinance to the Board and its staff. The Rent Leveling Board Attorney shall be appointed by the Municipal Attorney and compensation shall be determined by the Department of Law.

**§ 169-6. Establishment of Rent; Increases in Rent.**

Establishment of rent between a landlord and a tenant to whom this Chapter is applicable shall hereafter be determined by provisions of this Ordinance.

- A. Rents may be increased no more than the percentage increase in the Consumer Price Index for all items except real estate taxes for New York/Northeastern New Jersey over the most recent twelve (12) month period. This method of calculating permitted rent increases shall be applicable to all increases sought by a landlord.
- B. A landlord seeking an increase in rent shall notify the tenant on a standardized form provided by the East Brunswick Department of Planning and Engineering, by certified mail, of the calculations involved in computing the increase, including the most recent and pertinent available Consumer Price Index and the Consumer Price Index twelve (12) months prior thereto. No increase in rent as set forth above, shall become effective less than thirty (30) days nor more than sixty (60) days after notice thereof by certified mail is given to the tenant. [Amended 4-24-89 by Ord. No. 89-12]
- C. For leases of less than one (1) year, the landlord shall calculate the percentage of rental increase by obtaining the ratio of the number of months since the last rental increase divided by twelve (12) months. This fraction shall then be multiplied by the Consumer Price Index percentage increase for the previous twelve (12) month period in order to determine the percentage of increased rental to which the landlord is entitled.

**§ 169-7. Unauthorized Increases in Rent Void.**

A rental increase at any time other than at the expiration of a lease or termination of a periodic lease shall be void. A rental increase in excess of that authorized by the provisions of this Ordinance shall be void.

**§ 169-8. Vacancy Decontrol - Initial Lease Excepted.**

The provisions of this ordinance shall not apply to the lease or rental agreement between the landlord and the initial or first tenant, nor shall they apply to a new tenant after the apartment has been vacated, and the landlord shall not be restricted in the amount of rent which he may charge to such tenant. Any subsequent rent increases, however, shall be subject to the terms and provisions of this Chapter.

**§ 169-9. Surcharge for Increase in Property Taxes.  
[Amended 3-10-86 by Ord. No. 86-734]**

- A. The landlord may seek a Property Tax Surcharge from a tenant based upon an increase in property taxes in the year in which the surcharge is sought over the immediately preceding year. The Property Tax Surcharge shall not exceed that amount authorized by the following provisions:
- (1) The landlord shall determine the increase in the present property tax over the property tax of the previous year and divide that increase by the total number of square feet in the dwelling or dwellings to determine the tax increase per square foot therein.
  - (2) The tenant may thereafter be surcharged for his proportionate share of the tax increase by multiplying the tax increase per square foot by the number of square feet occupied by the tenant.
- B. Specifically, the words "previous year" are intended to refer to the year previous to that in which the landlord is seeking a Property Tax Surcharge increase and to no other year. If a landlord has not attempted to obtain a Property Tax Surcharge for property tax increases from an immediately preceding year, the landlord shall be deemed to have waived the right to seek such increase in any subsequent year.
- C. Property Tax Surcharge: Cumulative Intent. Landlords shall be allowed to accumulate Property Tax Surcharges which have been passed through to their tenants as allowed by this ordinance. A landlord must notify his tenants of any increase in the Property Tax Surcharge attributable to property tax increases incurred in the preceding 12 months, and the total cumulative Property Tax Surcharge in any given lease.
- D. Calculating Property Tax Surcharge in the Event of a Decrease in Property Taxes Due to a Reduction in the Property's Assessed Value or a Reduced Tax Rate. In the event there is a decrease in property taxes due to a reduction in the property's assessed value or a reduced tax rate, the existing Property Tax Surcharge will be decreased. Decreases will be calculated and passed through in the same manner as increases in § 169-9A. Reductions in Property Tax Surcharges will be applied against previously imposed Property Tax Surcharges, in an amount not exceeding such surcharges. If there were no such surcharges, then there will be no reduction. The landlord may subtract administrative costs, calculated at 1 1/2 times the cost of certified mail, return receipt requested, from the reduction.

**§ 169-10. Notice of Property Tax Surcharge.**

A landlord seeking a Property Tax Surcharge shall notify the tenant by certified mail of the calculations involved in computing the surcharge, including the present property tax for the dwelling or dwellings, the property tax for the dwelling for the previous year, the number of square feet in the dwelling, the tax increase per square foot, the number of square feet occupied by the

tenant and the maximum allowable surcharge. No surcharge as set forth above shall become effective less than thirty (30) days after notice thereof by certified mail is given to the tenant. The landlord may send notice of a property tax surcharge to the tenant at any time after the new tax bill is received by the landlord.

**§ 169-11. Payment of Property Tax Surcharge.**

The tenant shall be permitted to pay the property tax surcharge as determined under this chapter in twelve (12) consecutive equal monthly installments.

**§ 169-12. Property Tax Surcharge not Considered Rent for Subsequent Increases.**

The Property Tax Surcharge shall not be considered rent for purposes of computing cost of living rental increases.

**§ 169-13. Refund to Tenant in Case of Successful Tax Appeal by Landlord.**

In the event that a tax appeal is taken by a landlord and the landlord is successful in said appeal and the taxes are reduced, the tenant shall receive one hundred percent (100%) of said reduction after deducting all expenses incurred by the landlord in processing said appeal. Tax refunds will be applied against previously imposed tax surcharges in an amount not exceeding such surcharge, but if there was no such tax surcharge, then the tax refund will not be payable to a tenant. The tenant refund shall be calculated in the same manner that the Property Tax Surcharge was calculated. In the same manner, existing property tax surcharges will be lowered to reflect the reduced property tax.

**§ 169-14. Conversion of Rental Units to Cooperatives or Condominiums.**

All tenants in occupancy at the time of conversion of rental units to cooperatives or condominiums and all landlords of such rental units shall be subject to the terms and conditions of this Ordinance. No increase in taxes caused by such conversion above the average increase in taxes throughout the Township shall be passed on to tenants in occupancy at the time of such conversion.

**§ 169-15. Consumer Price Index Energy Adjustment Not Considered Rent for Subsequent Increases.**

Existing Consumer Price Index Energy Adjustments which have been previously passed on to the tenant are to be kept separate from the base rent when computing the cost of living rental increases. Should fuel costs fall below the level in effect as of the date of this ordinance, renewing tenants will have their Consumer Price Index Energy Adjustment surcharge reduced accordingly. Should



Consumer Price Index Energy Adjustment surcharges be reduced to zero, they will be eliminated permanently.

**§ 169-16. Capital Improvement Surcharge.**

- A. A landlord contemplating an optional capital improvement, as defined in Section 169-1, Definitions, must file an application to the Board for a surcharge prior to construction or installation if he seeks to impose a Capital Improvement Surcharge upon the tenants. The application must set forth the projected costs, the method of calculation, the method of financing, the cost of financing, the useful life and a justification for seeking the Capital Improvement Surcharge. If the Rent Leveling Board is not satisfied with the justification, it may request additional information or may reject the application based upon evidence presented.
- B. The landlord shall be required to send official notices to each tenant affected by the application at least ten (10) days prior to the hearing scheduled before the Board. In addition, the Rent Leveling Office will publish official notice of the Hearing date in the official Township newspaper at least ten (10) days prior to the hearing date.
- C. Whenever application is made by the landlord for a Capital Improvement Surcharge for improvements which are mandated by a governmental authority, the landlord shall follow the procedures set forth in paragraph A above unless the landlord can justify to the Board why it was impossible to furnish notice and seek Board approval prior to the installation or construction of the improvement.
- D. The length of the surcharge shall be based on "the useful life" of the improvement as defined by the manufacturer. The Housing Office will verify the reasonableness of the "useful life" by surveying at least three other manufacturers (if possible) as to their estimate of "useful life". Payment shall be made by the tenant in equal monthly installments.
- E. Where per apartment costs are known, they should be used as a basis for apportioning the surcharge. When per apartment costs are unknown, a pro-ration based upon square footage should be used.
- F. The Capital Improvement Surcharge shall become effective no sooner than the renewal date of the next lease and no time during a pending or current lease.
- G. The Capital Improvement Surcharge shall be kept separate from the base rent when computing cost of living rental increase.
- H. Only the initial investment and financing costs are eligible for the Capital Improvement Surcharge. Repairs and replacements are to be absorbed by the landlord as operating expenses and are not eligible for the Capital Improvement Surcharge.

- I. Formal notification shall be given by the landlord to the tenants of any determination made by the Board upon an application for a Capital Improvement Surcharge within ten (10) days of any determination. In addition, the Rent Leveling Board will publish official notice of the determination in the official Township newspaper within ten (10) days of any determination.

**§ 169-17. Rent Increases; Hardship.**

In the event that a landlord claims a hardship in accordance with the definitions set forth in this ordinance, he may apply to the Rent Leveling Board for increased rental. The Board may grant the landlord a Hardship Rent Increase subject to the terms of this Ordinance. Such increases shall not be considered rent for purposes of computing cost of living rent increases.

- A. In determining any hardship application, the Rent Leveling Board shall consider financial factors which are to be submitted by the landlord. The landlord shall submit a Profit and Loss Statement reflecting information for three (3) years prior to the year of the application. A landlord seeking an increase in rent shall provide a minimum of financial factors as indicated on a standardized form provided by the East Brunswick Department of Planning and Engineering, as well as any other information pertinent as required under this Ordinance. [Amended 4-24-89 by Ord. No. 89-12]
- B. The services of a financial consultant shall be provided for to assist the Board in evaluating complicated accounting information. The financial consultant fees shall be funded through an escrow account required of landlords making hardship appeals. The escrow may be no more than \$1,000.00 for a landlord of more than 100 units and \$500.00 for landlords of less than 100 units. Any money not required for consulting fees shall be refunded to the landlord.
- C. Hardship appeals will be based on a Fair Rate of Return formula which allows, with just cause, for the maintenance of a Dollar Net Operating Income (NOI) with a cost of living increase on that portion of the NOI which is the profit.  
  
Only valid cause for loss of return of Net Operating Income shall be permitted as the basis for a hardship application hereunder.
- D. Hardships resulting from mandatory refinancing or resale will be addressed by the Board as Special Circumstances as defined in Section 169-18.
- E. The landlord shall be required to send by certified mail official notices to each tenant affected by the application, at least ten (10) days prior to the date scheduled for the hearing of the application by the Rent Leveling Board. In addition, the Rent Leveling office will publish official notice of the hearing date in the official Township newspaper at least ten (10) days prior to the hearing. Formal notification

shall be given by the landlord by certified mail to each affected tenant of any determination made by the Board upon an application for a hardship increase in rental within ten (10) days from the date of the determination. In addition, the Rent Leveling office shall publish official notice of the Board's determination in the official Township newspaper within ten (10) days of the date of determination. The Rent Leveling Board shall make a determination of any application within forty-five (45) days from the conclusion of the last scheduled hearing.

**§ 169-18. Hardship; Special Circumstances.**

In applying the Net Operating Income formula, necessary financing shall be considered upon applications.

- A. The additional debt requirements attributable to necessary refinancing will be permitted only at the expiration of the term of the mortgage, and if the Board determines that the mortgage payments result from refinancing terms which are commercially reasonable under the circumstances.
- B. This section applies only to the costs of refinancing of the unpaid balance on a first mortgage or secondary financing which is part of the original purchase, provided the same is the result of an arms length transaction. The refinancing of junior mortgages shall not qualify.
- C. In a circumstance where a new apartment owner is in a negative cash flow position, the criterion to be used by the Board is whether the mortgage payments resulted from a capitalization debt-equity ratio that is commercially reasonable and is reasonably related to the acquisition of the apartment complex for rental purposes.

**§ 169-19. Relief Provisions, Temporary in Nature.**

The rules afforded by Sections 169-17 and 169-18 hereof are to be temporary in nature and in authorizing that relief, the Rent Leveling Board shall determine the period of time for which the temporary relief shall be applicable. The duration of the Hardship Surcharge which may be granted to a landlord shall be determined by the nature of the hardship for which relief is sought.

**§ 169-20. Protected Tenancy Status for Senior Citizens and Disabled Tenants.**

Pursuant to the provisions of the Senior Citizens and Disabled Protected Tenancy Act (P.L. 1978 c. 225) of New Jersey, all eligible senior citizens and disabled tenants shall be protected from eviction in rental housing units which are converted to condominiums or cooperatives.

- A. The East Brunswick Township Housing Specialist in the Township Department of Planning and Engineering shall serve as the administering agent of this portion of the Ordinance. [Amended 4-24-89 by Ord. No. 89-12]
- B. The East Brunswick Township Rent Leveling Board shall serve as the formal review Board to hear any appeals filed from either the landlords or tenants pursuant to this Section of this Ordinance. Fees deemed necessary to cover the cost of the appeal to the Township may be established and available at the Rent Leveling Board office.

**§ 169-21. Filing of Rent Rolls.**  
**[Amended 2-24-86 by Ord. No. 86-734]**

At the request of the Rent Leveling Board or staff, landlords shall be required to provide information on their rental units. This information may include base rent, surcharges, number of bedrooms and/or any other information pertinent to the Rent Leveling Ordinance.

**§ 169-22. Rounding Off of Calculations.**

In computing any percentage change in the Consumer Price Index, said increase or decrease shall be calculated to the nearest one tenth of one percent. All dollar calculations made in connection with the provisions of this Ordinance shall be computed to the nearest cent.

**§ 169-23. Exemption of Units Receiving (Federal Section 8, Moderate Rehabilitation Program Subsidies or other) Federal Subsidies.**  
**[Amended 4-4-05 by Ord. No. 05-05]**

The provisions of this Chapter shall not apply to units participating in Federal or State Programs or receiving Federal or State subsidies. [Amended 4-4-05 by Ord. No. 05-05]

**§ 169-24. Maintenance of Premises by Landlord.**

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

An individual tenant or a class of tenants who are not receiving substantially the same standards of service, maintenance, furniture or furnishings or equipment may appeal to the Rent Leveling Board for a determination as to reasonable rental value of the housing unit or dwelling in view of this deficiency. The tenant or class of tenants shall pay the reasonable rental value as determined by the Rent Leveling Board in lieu of full payment of rent until the landlord corrects the deficiency.

**§ 169-25. Tax Rebate; N.J.R.S. 54:4-5.2.**

The property tax reduction for residential rental property provided for in N.J.R.S. 54:4-5.2 et seq. shall be divided by the total rentable square feet contained within all mobile homes spaces or residential rental units on such property to determine the annual property tax rebate or credit per square foot for every residential unit in the entire property. The square footage of each unit shall be multiplied by such property tax rebate or credit for each residential unit. However, where one (1) or more residential rental units, spaces or equivalent are occupied by the property owner or his employees, the tax credit or rebate for the residential rental units on such property shall be computed by first reducing the property tax reduction by the proportion that the number of units occupied by the property owner or his employees bears to the total number of residential units on the property.

**§ 169-26. Extra Charges by Landlord; Regulation.**

All charges paid by the tenant for use of facilities such as pools, playgrounds, tennis courts, golf courses, tenants' association and other recreational or like facilities and programs shall not be considered as rent for purposes of the application of the regulatory provisions of this ordinance.

**§ 169-27. Appeals to the Township Council.**

Any landlord or tenant affected by the findings and determinations of the Board may appeal to the Township Council of the Township of East Brunswick within twenty (20) days after the date of such determination. The Township Council may extend the time within which to file an appeal by an additional thirty (30) days upon a showing of good cause. The Township Council shall conduct a hearing based upon the record and transcript made at the Rent Leveling Board meeting and shall permit oral argument and submission of written argument but shall entertain no new evidence at the time of the Council hearing.

**§ 169-28. Waiver of Increases.**

The landlord shall be determined to have waived his right to collect at a future date any surcharges or rent increase(s) to which he may be entitled under this chapter if said increase(s) is (are) not applied for at that lease renewal.

**§ 169-29. Penalty.**

No landlord shall, after the effective date of this Chapter, charge any rents in excess of what he was receiving from the effective date of this Chapter except for increases authorized by this Chapter. A willful violation of this Chapter, including but not limited to, the willful filing with the Rent Leveling Board of any material misstatement of fact, shall be punishable in accordance with

provisions of Section 1-15 of the Code of the Township of East Brunswick. A violation affecting more than one (1) leasehold shall be considered a separate violation as to each leasehold.

**§ 169-30. Enforcement.**  
**[Amended 4-4-05 by Ord. No. 05-05]**

Any person claiming to be aggrieved by a violation of this ordinance, including any member of the Rent Leveling Board or the Rent Leveling Board as a body or the Rent Leveling Board Administrator, through its chairman may, by himself/herself, or through his/her attorney, make, sign and file a written complaint with the Clerk of the Municipal Court of the Township of East Brunswick, which complaint shall set forth the basis thereof and specify those sections of the ordinance violated. The Clerk of the Municipal Court of the Township of East Brunswick shall thereafter cause to be served a copy of the complaint upon the defendant pursuant to the rules of court and set the matter down for hearing forthwith.

**§ 169-31. Liberal Construction.**

This ordinance being necessary for the Welfare of the Township of East Brunswick and its inhabitants shall be liberally construed to effectuate the purposes thereof.

**§ 169-32. Exemption for Newly Constructed Multiple Dwellings.**  
**[Added 4-11-88 by Ord. No. 88-922; amended 4-4-05 by Ord. No. 05-05]**

The provisions of this ordinance shall apply to multiple dwellings constructed after June, 1987, 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.

The owner of any multiple dwelling exempted from this Rent Leveling Ordinance pursuant to this paragraph 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 leveling for such time as remains 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.

The owner of any multiple dwelling claiming an exemption from rent leveling shall, at least 30 days prior to the issuance of a certificate of occupancy for the newly constructed multiple dwelling, file with the Municipal Construction Official, a written statement of the owner's claim of exemption, 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 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 ordinance, file with the Municipal Construction Official a notice of the date of termination of the exemption period for the effected multiple dwelling.

**§ 169-33. Garbage and Solid Waste Removal Surcharge.**  
**[Added 4-15-88 by Ord. No. 88-919]**

State-mandated increases in tipping fees and/or solid waste removal carting fees may be passed through by garden apartment landlords to tenants, subject to action by the East Brunswick Township Council which would provide reimbursement to landlords for such increases. Total increases incurred by landlords in said costs will be passed through to the tenants as a Garbage and Solid Waste Removal Surcharge on the following basis: 40% of the increase payable to the tenant, and 60% of the increase payable to the landlord.

- A. The landlord may seek a Garbage and Solid Waste Removal Surcharge from a tenant based upon state-mandated increases in garbage and the surcharge is sought over the immediately preceding year. The Garbage and Solid Waste Removal Surcharge shall not exceed that amount authorized by the following provisions.
  - (1) The landlord shall determine the increase in the present garbage and solid waste removal carting and tipping fees over the same fees charged in the previous year, and divide that increase by the total number of square feet in the dwelling or dwellings to determine the Garbage and Solid Waste Removal Surcharge per square foot therein.
  - (2) The tenant may thereafter be surcharged for his/her proportionate share of the garbage and solid waste removal carting and tipping fee increase by multiplying the increase per square foot by the number of square feet occupied by the tenant.
- B. Specifically, the words "previous year" are intended to refer to the year previous to that in which the landlord is seeking a Garbage and Solid Waste Removal Surcharge and to no other year. If a landlord has not attempted to obtain a Garbage and Solid Waste Removal Surcharge for increases from an immediately preceding year, the landlord shall be deemed to have waived the right to seek such increases in any subsequent year.

**§ 169-34. Notice of Garbage and Solid Waste Removal Surcharge.**  
**[Added 4-25-88 by Ord. No. 88-919]**

A landlord seeking a Garbage and Solid Waste Removal Surcharge shall notify the tenant of the calculations involved in computing the surcharge, including the present garbage and solid waste costs for the dwelling or dwellings, the garbage and solid waste removal costs for the dwelling for the previous year, the number of square feet in the dwelling, the garbage and solid waste removal

fee increase per square foot, the number of square feet occupied by the tenant and the maximum allowable surcharge. No surcharge as set forth shall become effective less than thirty (30) days after the notice thereof by certified mail is given to the tenant, and said increase shall only be applied at time of lease renewal.

**§ 169-35. Payment of Garbage and Solid Waste Removal Surcharge.**  
**[Added 4-25-88 by Ord. No. 88-919]**

The tenant shall be permitted to pay the Garbage and Solid Waste Removal Surcharge as determined under this Chapter in twelve (12) consecutive equal monthly installments. The tenant shall continue to pay the same monthly surcharge until such time as the costs to the landlord are decreased and notice of same has been given by certified mail to the tenant.

**§ 169-36. Decreases in Garbage and Solid Waste Removal Fees.**  
**[Added 4-25-88 by Ord. No. 88-919]**

In the event there is a decrease in garbage and solid waste removal fees, the existing Garbage and Solid Waste Removal Surcharge will be decreased. Decreases will be calculated and passed through in the same manner as increases in Section 37. Section 169-32. Garbage and solid waste removal surcharges will be applied against previously imposed garbage and solid waste surcharges in an amount not exceeding such surcharges. If there were no such surcharges, then there will be no reduction. The landlord may subtract from the reduction administrative costs calculated at 1-1/2 times the cost of certified mail, return receipt requested.

**§ 169-37. Garbage and Solid Waste Removal Surcharge Not Considered Rent for Subsequent Increases.**  
**[Added 4-25-88 by Ord. No. 88-919]**

The Garbage and solid waste removal surcharge shall not be considered rent for purposes of computing costs of living rental increases.