

FAIR RENT COMMISSION

Section 1. Creation of Fair Rent Commission

(a) Pursuant to and in conformity with C.G.S. §§ 7-148b through 7-148f, 47a-20 and 47a-23c, there is hereby created a Fair Rent Commission (“Commission”) for the purpose of reviewing and making determinations of harsh and unconscionable rental charges for housing accommodations within the town, and to carry out the purposes, duties, responsibilities and provisions of the above described sections, pertaining to fair rent commissions.

(b) The Commission shall consist of five (5) members and three (3) alternates, all of whom shall be residents or employed in the Town of **Southington**. Of the five (5) regular members, no more than one (1) and no less than one (1) shall be a residential landlord and no more than one (1) and no less than one (1) shall be a residential tenant. The Commission shall always consist of an equal number of appointed tenants and landlords that hear a given complaint. The Town’s Corporation Counsel or his/her designee shall be a non-voting ex-officio member of the Commission. Among the alternate members, one (1) shall be a residential landlord and one (1) shall be a residential tenant. Membership shall follow minority representation guidelines as set forth in the Southington Town Charter. The members and alternates shall be appointed by the Southington Town Council and shall convene meetings annually for organizational purposes and also as needed when complaints are filed. A quorum shall consist of five voting (5) members or seated alternates. Members of the commission shall serve without compensation.

(c) Members of the Commission shall be appointed for staggered terms of four (4) years. Vacancies on the Commission shall be filled, within a reasonable time, in the manner of original appointment for the unexpired portion of the term. Any member of the Commission may be reappointed in the manner of original appointment.

Section 2. Powers of the Commission

(a) The Commission’s powers shall include the power to:

(1) Receive complaints, inquiries, and other communications concerning alleged excessive Rental charges and alleged violations, including retaliation, of C.G.S. §§ 7-148b to 7-148f, inclusive, C.G.S. § 47a-20, C.G.S. 21-80a and C.G.S. § 47a-23c in housing accommodations, except those accommodations rented on a seasonal basis, within its jurisdiction, which jurisdiction shall include mobile manufactured homes and mobile manufactured home park lots. “Seasonal basis” means housing accommodations rented for a period or periods aggregating not more than 120 days in any one calendar year. “Rental charge” includes any fee or charge in addition to rent that is imposed or sought to be imposed upon a tenant by a landlord, and includes any charge that is already in effect;

(2) Make such studies and investigations regarding rental housing within the Town of Southington as are appropriate to carry out the duties and responsibilities delegated hereunder, and subject to the terms, limitations and conditions set forth herein;

(3) Conduct hearings on complaints or requests for investigation submitted to it by any person,

subject to the terms, limitations and conditions as set forth herein;

(4) Compel the attendance of persons at hearings, issue subpoenas and administer oaths, issue orders and continue, review, amend, terminate or suspend any of its orders and decisions;

(5) Determine, after a hearing as set forth herein, whether or not the rent for any housing accommodation is so excessive as to be harsh and unconscionable;

(6) Determine, after a hearing as set forth herein, whether the housing accommodation in question fails to comply with any municipal ordinance or state statute or regulation relating to health and safety;

(7) Determine, after a hearing as set forth herein, whether a landlord has engaged in retaliation in violation of Section 6 below and make such orders as are authorized herein;

(8) Order a reduction of any harsh and unconscionable rent to an amount which is fair and equitable, and make such other orders as are authorized herein;

(9) Order the suspension or reduction of further payment of rent by the tenant until such time as the landlord makes the necessary changes, repairs or installations so as to bring such housing accommodation into compliance with any municipal ordinance or state statute or regulation relating to health and safety;

(10) Establish an escrow account with a local bank or financial institution into which it shall deposit all rent charges or other funds paid to it pursuant to Section 5 herein; and

(11) Carry out all other provisions of C.G.S. §§ 7-148b to 7-148f, inclusive, C.G.S. § 47a-20, 21-80a and C.G.S. § 47a-23c as now existing and as hereinafter amended, as they apply to fair rent commissions.

Section 3. Determination of Excessive Rent

(a) In determining whether a rental charge or a proposed increase in a rental charge is so excessive, with due regard to all the circumstances, as to be harsh and unconscionable, the Commission shall consider such of the following circumstances as are applicable to the type of accommodation:

(1) The rents charged for the same number of rooms in other housing accommodations in the same and in other areas of the municipality;

(2) The sanitary conditions existing in the housing accommodations in question;

(3) The number of bathtubs or showers, flush waste closets, kitchen sinks and lavatory basins available to the occupants thereof;

(4) Services, furniture, furnishings and equipment supplied therein;

- (5) The size and number of bedrooms contained therein;
- (6) Repairs necessary to make such accommodations reasonably livable for the occupants accommodated therein;
- (7) The amount of taxes and overhead expenses, including debt services thereof, specific to the subject property
- (8) Whether the accommodations are in compliance with the ordinances of the Town of Southington and the General Statutes of the State of Connecticut relating to health and safety;
- (9) The verifiable income and other support of the petitioner, including but not limited to all tenants listed on the lease(s)
- (10) The availability of utilities;
- (11) Damages done to the premises by the tenant, caused by other than ordinary wear and tear;
- (12) The amount and frequency of increases in rental charges; and
- (13) Whether, and the extent to which, the income from an increase in rental charges has been or will be reinvested in improvements relevant to the tenant's occupancy of the property or accommodations available to tenant including common amenities and areas of subject property.

(b) Determinations by the Commission shall not be made solely based on equity of either party in a hearing. All applicable factors in this section shall be taken into consideration and nothing in this section shall preclude the Commission from considering other market-based, relevant information in making its findings.

(c) To aid in the Commission's ability to make appropriate determinations and to completely satisfy the conditions of conducting studies as set forth in Public Act 22-30 and also this ordinance, the Commission shall conduct annually a study to determine the market rental rates within the Commission's jurisdiction, including but not limited to multi-family, condominiums, apartments, single family homes, mobile manufactured homes and mobile manufactured home park lots and make the output of the study available to the public.

(d) The rent of a tenant protected by C.G.S. § 47a-23c who files a complaint with the Commission pursuant to C.G.S. § 47a-23c(c)(2) may be increased only to the extent that such increase is fair and equitable, based on the criteria set forth in C.G.S. § 7-148c.

Section 4. Procedures and Hearing on Complaints

(a) To be eligible to file a complaint with the Southington Fair Rent Commission, a petitioner must be a resident of Southington, Connecticut at the time the complaint is filed.

(b) Upon the filing of a complaint, the Commission shall promptly notify all parties in writing of the receipt of the complaint. Such notice shall also inform the parties that the landlord is prohibited

from retaliating against the tenant due to the filing of the complaint. It shall also inform the parties that, until a decision on the complaint is made by the Commission, the tenant's liability shall be for the amount of the last rent prior to the increase complained of or, if there is no such increase, the last agreed-upon rent, and that an eviction based upon non-payment of rent cannot be initiated against a tenant who continues to pay the last agreed-upon rent during the pendency of the fair rent commission proceeding. For purposes of this ordinance, "last agreed-upon rent" means the most recent agreed rental amount in a lease or rent agreement, or, the most recent lease or rent amount which has been paid to the landlord by the tenant, in accordance with the lease, rental agreement or mutual agreement between the parties.

(c) If a complaint alleges housing conditions that violate a housing, health, building or other code or statute, the Commission shall notify the appropriate municipal office or agency, which may then concurrently exercise its own powers. In addition, the Commission may request that the appropriate municipal official or agency promptly investigate and provide a report to the Commission.

(d) If two or more complaints are filed against the same landlord by tenants occupying different rental units in the same building, complex, or mobile home park that appear to raise the same or similar issues, the Commission may consolidate such claims for hearing.

(e) Prior to a hearing being held, reasonable attempts shall be made through mediation, to the extent practicable, to resolve said complaint. Town staff, designated by the Town Manager within 3 business days of receipt of a complaint, shall contact the parties and schedule mediation meeting(s) to attempt a mutually agreeable resolution to the complaint. Any agreement to resolve the complaint shall be in writing and signed by the parties.

(f) A hearing on the complaint shall be scheduled no later than thirty (30) days after the filing of the complaint, unless impracticable. Written notice of the date, time, and place of the hearing shall be given to the parties to the complaint at least ten (10) days prior to the hearing by first class and certified mail and, if practicable, by electronic mail.

(g) All parties to a hearing shall have the right to be represented, to cross-examine witnesses, to examine documents introduced into evidence, and to call witnesses and introduce evidence. The testimony taken at a hearing shall be made under oath. Hearings shall be recorded.

(h) In the event that there is insufficient time to complete a hearing or for other cause, the Commission shall have the power to adjourn the hearing to another time and date.

(i) No sale, assignment, transfer of the housing accommodation in question or attempt to evict the tenant shall be cause for discontinuing any pending proceeding nor shall it affect the rights, duties and obligations of the Commission or the parties.

(j) Complainants shall bear the burden of proof in demonstrating that a rent charge or rent increase is so excessive, with due regard to all the circumstances, as to be harsh and unconscionable. The burden of production shall be on the party who has the information (ex. complainant and/or respondent). The Town of Southington and the Town's Fair Rent Commission shall not be responsible for the cost of any information for a Complainant or Respondent.

Section 5. Rent Reduction Order and Repairs

(a) The Commission shall render its decision at the same meeting at which the hearing on the complaint is completed or within thirty (30) days following such date, unless impracticable. In accordance with the state Freedom of Information Act, both the hearing itself and the deliberation by the Commission shall be open to observation by the public. Until a decision on the complaint is made by the Commission, the tenant's liability shall be for the amount of the last rent prior to the increase complained of or, if there is no such increase, the last agreed-upon rent.

(b) Decisions of the Commission shall be by a majority vote at a meeting where a quorum is present and subject to the provisions of section 1b of this ordinance.

(c) If the Commission determines after a hearing that the rental charge or proposed increase in the rental charge for any housing accommodation is so excessive, based on the standards and criteria set forth in Section 3, as to be harsh and unconscionable, it may order that the rent be limited to such an amount as it determines to be fair and equitable, effective the month in which the tenant filed the complaint. A Commission's orders may include, but are not limited to, a reduction in a rental charge or proposed rent increase; a delay in an increased rental charge until specified conditions, such as compliance with municipal code enforcement orders, have been satisfied; or a phase-in of an increase in a rental charge, not to exceed a fair and equitable rent, in stages over a period of time. Commission orders shall be effective for up to one (1) year from the date of issuance, unless the Commission otherwise orders.

(d) If the Commission determines after a hearing that a housing accommodation fails to comply with any municipal ordinance or state statute or regulation relating to health and safety, the Commission may order the suspension or reduction of further payment of rent by the tenant until such time as the landlord makes the necessary changes, repairs or installations so as to bring the housing accommodation into compliance with such laws, statutes, or regulations. If the Commission's order constitutes a complete suspension of all rent, the rent during such period shall be paid to the Commission to be held in escrow subject to such ordinances or provisions as may be adopted by the town, city or borough. Upon the landlord's full compliance with such ordinance, statute or regulation for which payments were made into such escrow, the Commission shall determine after hearing such distribution of the escrowed funds as it deems appropriate.

(e) If the Commission makes a determination that a complaint does not meet the standard of harsh and unconscionable, nothing in this ordinance shall affect the respective tenant's obligations to his/her/its landlord.

Section 6. Retaliation

(a) No landlord shall engage in any retaliatory actions as set forth in C.G.S. § 47a-20 or § 21-80a or as determined by the Commission as set forth in C.G.S. 7-148d(b).

(b) In the initial notice scheduling a hearing or conciliation on a complaint, and in its notice of decision, the Commission shall include notice, in plain language, to landlords and tenants that

retaliatory actions against tenants are prohibited.

(c) Any tenant who claims that the action of his or her landlord constitutes retaliatory action may file a notice of such claim with the Commission. If the Commission determines, after a hearing, which hearing shall be expedited, that a landlord has retaliated in any manner against a tenant because the tenant has complained to the Commission, the Commission may order the landlord to cease and desist from such conduct and order the landlord to withdraw or remediate such conduct as has already occurred.

(d) For the purposes of C.G.S. § 47a-20, the Commission must make a finding of whether an application has been submitted in good faith or not in good faith.

Section 7. Judicial Enforcement

(a) Any party to a Commission decision may bring a civil action to any court of competent jurisdiction or take any other action allowed by law in such court to enforce any order of the Commission made pursuant to this ordinance, or to enjoin a violation or threatened violation of any order of the Commission.

(b) Any person who violates any order of rent reduction or rent suspension by demanding, accepting or receiving an amount in excess thereof while such order remains in effect and no appeal pursuant to § 7-148e is pending, or who violates any other provision of this chapter or C.G.S. § 47a-20 or 21-80a, or who refuses to obey any subpoena, order or decision of the Commission pursuant thereto, shall be fined not less than \$25 nor more than \$100 for each offense. If such offense continues for more than five days, it shall constitute a new offense for each day it continues to exist thereafter.

Section 8. Appeals

Any person or party aggrieved by any order or decision of the Commission may appeal to the Superior Court within thirty (30) days of the issuance of the written notice of the decision to the parties. Such notice shall include notice of the right to appeal, the court to which an appeal may be taken, and the time in which an appeal must be filed. Unless otherwise directed by the Commission or the court, the filing of an appeal shall not stay any order issued by the Commission.