

OFFICE OF  
THE TOWN COUNCIL

# TOWN OF EAST HARTFORD

(860) 291-7207

740 Main Street  
East Hartford, Connecticut 06108

WWW.EASTHARTFORDCT.GOV

COMMUNITY CULTURAL CENTER ROOM 111

ORDINANCE COMMITTEE

March 27, 2023

TO: Co Councillors Sebrina Wilson and John Morrison

FROM: Rich Kehoe, Chair

RE: Monday March 27, 2023 6:00 p.m.  
**Community Cultural Center Room 111**

## A G E N D A

1. CALL TO ORDER
2. APPROVAL OF MINUTES
  - A. November 30, 2022
3. OPPORTUNITY FOR RESIDENTS TO SPEAK
4. OLD BUSINESS
5. NEW BUSINESS
  - A. Reserve Fund Requirements
  - B. Fair Rent Commission
6. ADJOURNMENT

cc: Mayor Walsh  
Town Council

## TOWN COUNCIL MAJORITY OFFICE

### ORDINANCE COMMITTEE

November 30, 2022

PRESENT Rich Kehoe, Chair; Councillors Sebrina Wilson and John Morrison

ALSO Mary Mourey, Registrar of Voters  
PRESENT Stephen Watkins, Registrar of Voters  
Veronica Rosario, Deputy Registrar of Voters

#### CALL TO ORDER

Chair Kehoe called the meeting to order at 5:35 p.m.

#### APPROVAL OF MINUTES

May 31, 2022

MOTION By Sebrina Wilson  
seconded by John Morrison  
to **approve** the May 31, 2022 meeting minutes.

Motion carried 3/0

#### OPPORTUNITY FOR RESIDENTS TO SPEAK

No resident came forward to speak.

#### NEW BUSINESS

##### Salaries of Elected Officials

The chair presented the November 30, 2022 draft of the Salaries of Elected Officials ordinance.

With regard to the Registrars and Deputy Registrars of Voters, the draft would accelerate recent changes to the salaries of registrars by increasing the salary by \$2,000 for the next two years so the salary rises from \$28,000 to \$32,000. The proposal would increase the deputy registrar salary by \$1,000 per year. The increase continues to recognize the rising responsibilities of the registrars and ensuring that we can attract qualified registrars and deputy registrars to continue the great work of the current personnel. The committee also review salaries of registrars in similar sized towns and town in the Greater Hartford area which indicated that the current salaries are near the median of the towns.

The registrars concurred and explained the outcome of the most recent election. The Secretary of the State audited two districts and found everything was accurate and in order.

With regard to the mayor's salary, the chair explained that historically the Town Council has increased the salary by the cost of living for the two years since the last increase. The

COLA for 2021 was 4.7% and 8.6% in 2022. The mayor's current salary is similar to a basket of mayor's salaries in similar towns. The committee agreed to adopt a formula used by the council in the past when the inflation rate was significantly higher than normal where the increase would reflect 50% of the COLA increase.

MOTION        By Sebrina Wilson  
                     seconded by John Morrison

to send the November 30, 2022 draft with changes in the mayor's salary to reflect an increase of 50% of COLA for each year to the town council for the purpose of setting a public hearing.

Motion carried 3/0

#### Process for Naming Town Buildings

The committee reviewed the November 30, 2022 draft of the Naming of Town Facilities Ordinance which covers all town and board of education facilities. The process would have the mayor make a recommendation to the Town Council for its review. If the facility is under the control of the Board of Education, the Mayor shall recommend a name to the Board of Education which if it concurs would forward such recommendation to the Town Council.

The process, facilities definition and criteria for naming all were derived from a review a compendium of municipal ordinances compiled by the Connecticut Conference of Municipalities.

The committee decided that if the facility is under the control of the Board of Education, then the Board of Education will make the initial recommendation and send it to the Town Council for review.

With those changes, the committee will forward the draft to the Mayor, Board of Education and Town Council members for their input and then make any necessary changes at its next meeting.

#### ADJOURNMENT

MOTION        By Sebrina Wilson  
                     seconded by John Morrison  
                     to **adjourn** (6:22 p.m.)

Motion carried 3/0.

cc:        Mayor Walsh

DATE: March 16, 2023

TO: Town Council

FROM: Richard F. Kehoe, Chair

RE: REFERRAL: Ordinance Committee re: Review of Reserve Fund  
Requirements

The Town Council adopted a number of ordinances to establish reserve funds for long term obligations including pensions for town employees, health insurance for active and retired town employees, workers compensation claims and general liability claims. These ordinances also establish funding standards to ensure that future town councils and mayors adhere to conservative fiscal principles. See East Hartford Town Ordinances sections 10-34 through 10-44; 10-51 through 10-52.

As you know, Finance Director Melissa McCaw indicated that the rating agencies would prefer to have municipal governments maintain a reserve fund of 15%. There is a clear general trend in that direction. Our ordinance sets a maximum fund balance of 10% of the town budget appropriation, or roughly \$20 million. Any amount in excess of 10% is transferred to the OPEB trust fund (retiree health benefits). The reason for that automatic transfer was the OPEB trust fund is a relative new construct and therefore a reserve would need to be built up over time.

The Ordinance Committee should review the current recommendation from the rating agencies in conjunction with an assessment of our current funding of all reserve funds and make recommendations for any fiscally prudent changes.

C: M. McCaw, Finance Director  
Mayor Michael P. Walsh

**ARTICLE 7. AN ORDINANCE CREATING MUNICIPAL RESERVE FUNDS**

***Sec. 10-34. Creation.***

In accordance with the provisions of Chapter 108 of the General Statutes, two reserve funds are hereby established for capital and nonrecurring expenditures. The Treasurer shall establish the accounts, one for the Town's general funds, and one for funds under the jurisdiction of the Board of Education.

***Sec. 10-35. Procurement of Funds.***

The Board of Education is hereby authorized to put budget surpluses available at the end of any fiscal year into the Board account. General Fund cash surpluses available at the end of any fiscal year shall be put into the Town's account, unless provisions are made to utilize a surplus in the forthcoming fiscal year. Upon approval by Council, other funds may be transferred into or appropriated for the Town account, subject to the limitations set forth in Sections 7-361 and 7-367 of the General Statutes.

***Sec. 10-36. Investment of Fund.***

The Treasurer may, from time to time, invest in securities which are legal investments for savings banks, such portion of such funds as in his or her opinion is advisable; provided not less than fifty percent of the total amount invested shall be invested in the stock or bonds or interest-bearing notes or obligations of the United States, or those to which the faith of the United States is pledged to provide the payment of the principal and interest, including the bonds of the District of Columbia. In making investments of reserve funds, the Treasurer shall give preference to financial institutions located within the town, unless such preference would result in materially lower investment rates. Notwithstanding the above, no funds shall be invested in any businesses which conduct business in South Africa until and unless the Council declares that apartheid has ended. Before investing any funds contained in the Board of Education account, the Treasurer shall consult with the Board to insure that such funds have the liquidity desired by the Board.

***Sec. 10-37. Report of Treasurer.***

The Treasurer shall annually submit a complete and detailed report of the condition of such fund to the Finance Director, Mayor, Council, and Board of Education, and such report shall be made a part of the Annual Report of the Town.

***Sec. 10-38. Use of Funds.***

Upon the recommendation of the Finance Director and the Mayor, and approval by the legislative body, any part of such funds may be used for capital and nonrecurring

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Sec. 10-41. Creation.

Sec. 10-42. Income and  
Expenses of Funds.

expenditures, but such use shall be restricted to the financing of all or part of the planning, construction, reconstruction or acquisition of any specific capital improvement or the acquisition of any specific item of equipment. All funds contained in the Board of Education's account shall be reserved for capital and nonrecurring expenditures for educational purposes determined by the Board. Upon request of the Board, and certification that funds are to be used for such educational purposes, the Finance Director and the Mayor shall recommend, and the Council shall approve, release of such funds, up to the amount then included in the Board account. Upon the approval of any such expenditure, an appropriation shall be set up, plainly designated for the project or acquisition for which it has been authorized, and such unexpended appropriation may be continued until such project or acquisition is completed. Any unexpended portion of such appropriation remaining after such completion shall revert to the reserve account from which the appropriation was taken.

***Sec. 10-39. Appropriation When Reserve Fund Insufficient.***

If, in the opinion of the Mayor and Finance Director, such reserve funds are insufficient to meet the cost of any capital or nonrecurring expenditure which they deem immediately necessary, they may, with the approval of the Council, authorize that an appropriation be made therefore, provided the total of such fund and the sum anticipated from a tax collected for the purposes authorized in Section 10-38 above, in the year following the date when such authorization is made is estimated by the Mayor and Finance Director to be sufficient to meet such expenditures. This process shall also apply to projects commenced by the Board of Education from funds in its reserve account; provided that in requesting such additional funding, the Board shall include the appropriation in its forthcoming budget. This ordinance shall not be interpreted as a limitation on the Town's bonding authority if, in lieu of an additional appropriation as described herein, the Town desires to supplement its reserve funds by issuing bonds.

If, in the opinion of the Mayor and Finance Director, such reserve funds are insufficient to meet the cost of any capital or nonrecurring expenditure which they deem immediately necessary, they may, with the approval of the Council, authorize that an appropriation be made therefore, provided the total of such fund and the sum anticipated from a tax collected for the purposes authorized in Section 10-38 above, in the year following the date when such authorization is made is estimated by the Mayor and Finance Director to be sufficient to meet such expenditures. This process shall also apply to projects commenced by the Board of Education from funds in its reserve account; provided that in requesting such additional funding, the Board shall include the appropriation in its forthcoming budget. This ordinance shall not be interpreted as a limitation on the Town's bonding authority if, in lieu of an additional appropriation as described herein, the Town desires to supplement its reserve funds by issuing bonds.

***Sec. 10-40. Termination of Appropriation.***

If any authorized appropriation is set up pursuant to the provisions of Section 10-38 above,

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and through unforeseen circumstances the completion of the project or acquisition for which such appropriation has been designated is impossible of attainment, upon recommendation of the Finance Director and the Mayor, and upon approval of the Council, such appropriation shall terminate and no longer be in effect.

Voted: 6/2/87  
Published: 6/12/87  
Effective: 7/3/87

**ARTICLE 8 AN ORDINANCE CREATING RESERVE FUNDS FOR  
VARIOUS SELF-INSURED PROGRAMS.**

**Sec. 10-41. Creation.**

(a) The following reserve funds are hereby established:

1. A reserve fund for self-insured workers' compensation benefits and heart and hypertension benefits in accordance with Connecticut General Statutes as same may be amended from time to time.
2. A reserve fund for self-insured employee health benefits.
3. A reserve fund for self-insured general and automobile liability.

(b) The purpose of the establishment of said reserve funds -is to provide protection against expenses which, in the aggregate during any fiscal year, could significantly affect the budget.

(c) These reserve funds shall be adequately funded in accordance with the provisions of sections 10-41 through 10-52, inclusive because the town's fiscal stability is dependent on setting aside funds annually to meet the long term obligations for employee pensions, workers compensation liabilities, health benefits and legal liabilities of the town.

Effective: 10-16-18

**Sec. 10-42. Income and Expenses of Funds.**

- (a) Income to said funds shall include: in the reserve fund for self-insured workers' compensation and heart and hypertension benefits, the amount budgeted by the Town Council and the Board of Education for each fiscal year for such workers' compensation and heart and hypertension benefits reserve funds; in the reserve fund for self-insured employee health benefits, the amount budgeted by the Town Council and the Board of Education for each fiscal year for such employee health benefits reserve fund, subject to transfers to or from budget accounts for alternative health plans; in the reserve fund for general liability and automobile liability, the amount budgeted by the Town Council and the Board of Education for each fiscal year for such general and automobile liability reserve fund; and, in each

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Expenses of Funds.Sec. 10-42. Income and  
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fund, investment return accrued with respect to retained reserves, retrospective and experience-rated premium refunds and other recoveries as may from time to time be received in conjunction with each of these programs. The amount budgeted for each reserve fund set forth in this subsection shall be in an amount at least equal to the amount calculated pursuant to subsection (d).

- (b) Expenses of each fund shall include those expenses necessary for the maintenance and administration of that fund, including, but not limited to, insurance premiums, actuary/consulting legal fees and cost control programs. Fund expenses shall not include compensation of any Town employee or other general office-related expenses unless approved by the Town Council.
- (c) The Town Council, upon recommendation of the mayor, may approve a transfer of any portion of a surplus of one of said funds to another of said funds. Such transfer shall be approved only after the Town Council has received the recommendations from the person contracted by the Town to provide actuarial services for the reserve funds for the annual appropriation to each reserve fund and the reserve funds affected by such transfer will receive sufficient funding to maintain minimum reserves as recommended by the person contracted by the Town to provide actuarial services for the reserve funds. The provisions of this subsection shall not apply to the Self-Insured Employee Health Benefits Reserve Fund.
- (d) The reserve funds set forth in subsection (a) shall be budgeted in an amount at least equal to the following:
  - 1. The workers' compensation reserve fund shall be funded in an amount at least equal to fifty percent of the five year operating expense average, as shown on the Town's most recent year-end audited statement. Operating expense shall include claims other than heart and hypertension, premiums and expenses. Beginning in fiscal year 2020, heart and hypertension claims shall be funded in an amount at least equal to ten percent of the heart and hypertension accepted claims as calculated by the Town's external Workers' Compensation Trust Administrator. The percentage funding level shall increase at a rate of two percentage points annually, for each successive fiscal year. Notwithstanding the foregoing, the Town Council may elect to forego budgeting for that component of the cost of the reserve for heart and hypertension accepted claims that is categorized as long-term liability, for the upcoming budget year, provided: (i) the tax rate adopted by the Town Council increases by a percentage greater than the Consumer Price Index for Urban consumers for the preceding full calendar year; (ii) the Town Council votes to forego the payment by a two-third vote; and (iii) the vote and explanation is noted in the budget adoption motions and contains the following language: "The adopted budget does not adequately set aside funds for future liabilities which could result in significantly higher funding requirements in future budget years".



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Sec. 10-43. Appropriation  
and Maintenance of Funds.

Sec. 10-45. Golf Course  
Improvement Fund.

2. The self-insured employee health benefits reserve fund shall be funded in an amount at least equal to two months of the most recent two year operating expense average, as shown on the Town's most recent year end audited statements, where operating expense shall include claims, premiums and expenses.

3. The automobile and general liability reserve fund shall be funded in an amount at least equal to the Town's then current self-insured retention.

Effective: 10-16-18

***Sec. 10-43. Appropriation and Maintenance of Funds.***

(a) Sixty days before the end of the fiscal year or on the date the Mayor shall present to the Council a budget whichever date is earlier, the Director of Finance, in consultation with the Risk Manager, shall recommend to the Town Council the amount of appropriation necessary to keep each fund actuarially sound, which appropriation shall be in an amount at least equal to the amount calculated pursuant to section 10-42 (d) above. Said funds shall be subject to normal budgetary procedures and appropriation action provided that due consideration be given to the recommendations of the Director of Finance and any actuary/consultant hired by the Town to review the fund. Effective: 10-16-18

(b) The Director of Finance shall maintain each fund in accordance with generally accepted accounting principles and shall include complete financial statements for each fund in the Town's annual financial report. Effective: 10-16-18

(c) The Director of Finance shall provide the Town Council with (1) a quarterly report on the expenses paid from the reserve funds established pursuant to section 10-41; and (2) a report of any actuarial, consulting or legal expense from such reserve fund in excess of ten thousand dollars within fourteen days of such expense. As used in this section, 'expense' means any request for payment from the town for an actuarial, consulting or legal service regardless of how such request is paid by the town.

[Section 10-43 (c) effective 09-19-02]

***Sec. 10-44. Transfer Between Funds Prohibited; Transfers from Funds to General Fund Prohibited; Funding From General Fund.***

(a) Transfers between the reserve funds established by Section 10-41 is prohibited. Transfers from such funds to the General Fund is also prohibited.

(b) In an emergency, either of said funds may be funded through the General Fund pursuant to the procedures set forth in Section 6.8(e) and (f) of the Town Charter.

Voted: 01-05-93  
Published: 01-15-93  
Effective: 02-05-93

***Sec. 10-45. Golf Course Improvement Fund.***

(a) All revenues from the golf course fees established by the Town Council shall

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Section 10-49. Annual  
Report of Forfeiture Funds.

Section 10-51. Pension and  
Retiree Benefit Board.

shall be received by the town within five years from the date on which such  
property taxes were due.

Subsections (b), (c) and (d) Effective: 11-03-08

***Section 10-49. Annual Report of Forfeiture Funds.***

On or before October 1, 2005 and annually thereafter, the Mayor shall file with the Town Council a report consisting of the amount of funds received by the town from federal or state agencies representing forfeiture assets, including but not limited to assets received from the State of Connecticut pursuant to section 54-36i of the Connecticut General Statutes. Such report shall include the annual certification provided to the United States Department of Justice for the use of federal forfeiture funds. Such report shall be placed on the next Town Council agenda meeting under communications.

Voted: 09-06-05  
Published: 09-13-05  
Effective: 10-04-05

***Section 10-50. Budget Review Committee for Large Town  
Projects.***

- (a) The mayor shall appoint a budget review committee for each large construction project. The budget review committee shall consist of the mayor, finance director, public works director and such other individuals as the mayor shall designate. The budget review committee shall approve all change orders.
- (b) The department head for each department that shall utilize the town building that is the subject of the large construction project shall review the architectural and engineering drawings for such project and provide input on how the project will affect the operations of such department.
- (c) As used in this section, "large construction project" shall mean any project concerning the construction or reconstruction of a town building that exceeds two million dollars.

Effective: 11-29-06

***Section 10-51. Pension and Retiree Benefit Board.***

- (a) There is established a Pension and Retiree Benefit Board consisting of five members as follows: (1) the town treasurer serving a term concurrent with the term as treasurer; (2) a Town Councilor appointed by the chair of the Town Council serving a term concurrent with the term as Councilor; and (3) three electors of the town, one of whom shall be a member of the town's retirement system serving a term of five years unless serving the remainder of another member's term.
- (b) The Pension and Retiree Benefit Board shall supervise and maintain the town pension

**CHAPTER 10. Finance  
and Taxation**Section 10-52. Retiree  
Benefit Trust Fund.Section 10-52. Retiree  
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fund in accordance with rules and regulations contained in agreements between the town employees and the town of East Hartford regarding pension benefits. The Board shall have such other powers and duties as provided to the Retirement Board in such contracts. The Board shall ensure the pension funds are prudently invested for long-term, safe growth of invested funds. The Board shall also supervise and maintain the Retiree Benefit Fund established pursuant to section 10-52 of the town ordinances.

(effective 06-03-08)

***Section 10-52. Retiree Benefit Trust Fund.***

(a) There is established a Retiree Benefit Trust Fund. The purpose of the fund is to provide funds to meet long-term obligations of the town of East Hartford regarding health benefits provided to retired town employees in accordance with provisions for such benefits contained in any agreement between town employees and the town of East Hartford.

(b) Income to such fund shall include any amounts appropriated to such fund by the town council or as provided in this subsection and any return on investments of such funds. If, at the close of any fiscal year, the undesignated reserve fund for the town exceeds ten percent of the total budget appropriation for such fiscal year, the budget surplus in such fiscal year, as verified by the town auditors, shall be appropriated to the Retiree Benefit Trust Fund.  
(Effective 01-31-17)

(c) Expenses of such fund shall include those expenses necessary for the maintenance and administration of the fund, including but not limited to actuary and consulting fees. Fund expenses shall not include compensation of any town employee or other general office-related expenses unless approved by the Town Council.

(Effective 06-03-08)

(d) Beginning in fiscal year 2020, the budget contribution to the Retiree Benefit Trust Fund shall be equal to or greater than the five-year average of the paid claims issued from the Retiree Benefit Trust Fund. The budget contribution shall include amounts from the Town and Board of Education including their annual budget contribution, employee contributions, retiree and spouse premium shares, and any investment income which includes interest and dividends. Additionally, included in the budget contribution shall be an additional amount equal to or greater than .10% of the unfunded actuarial accrued liability for other post-employment benefits as calculated by the external actuaries and displayed in the most recent valuation. The funding level shall increase by .10 percentage points annually, for each successive fiscal year. Notwithstanding the foregoing, the Town Council may elect to forego budgeting for the unfunded actuarial liability for other post-employment benefits for the upcoming budget year, provided: (i) the tax rate adopted by the Council increases by a percentage greater than the Consumer Price Index for Urban consumers for the last full calendar year; (ii) the Town Council votes to forego the payment by a two thirds vote; and (iii) the vote and explanation is noted in the budget adoption motions and contains the following language: "The adopted budget does not adequately set aside funds for future liabilities which could result in significantly higher funding requirements in future budget years".

# Toolkit:

## Fair Rent Commissions in Connecticut

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Developed in collaboration with:



# Introduction to Toolkit: Fair Rent Commissions in Connecticut

August 15, 2022

During the past year, residential rents have dramatically increased across the state. For more than 50 years, Connecticut towns have been authorized by state law to create fair rent commissions to address these very issues. Twenty-four towns already have such ordinances, many of them in place for decades. Such commissions are empowered to stop or delay an unconscionable rent increase and also to limit rent to a fair level when there are health or safety violations. Fair rent commissions have been proven to be an important municipal tool to prevent unreasonable rent increases and to buttress housing code enforcement.

In 2022, the Connecticut legislature passed Public Act 22-30, which requires each town with a population greater than 25,000 to adopt a fair rent commission ordinance in accordance with the Fair Rent Commission Act (C.G.S. 7-148b through 7-148f). While covered towns must adopt an ordinance by July 1, 2023, towns are free to act sooner, since existing law already encourages such commissions. The current spate of rent increases, many by out-of-state investors, illustrates the desirability of acting without delay. This toolkit was developed as a resource for those towns looking for guidance and best practices for adopting a fair rent commission ordinance. We anticipate this toolkit will be reviewed and updated periodically to provide the most up-to-date guidance regarding fair rent commissions in Connecticut.

The authors of this toolkit are available for consultation and technical assistance in the drafting, adoption, and implementation of your town's fair rent commission ordinance. Please feel free to reach out with questions regarding these matters.

This toolkit was developed by HOMEConnecticut<sup>1</sup>, with input provided by the Connecticut Conference of Municipalities. The following members of the Drafting Committee are available for consultation:

- Raphael Podolsky, *Connecticut Legal Services*, [rpodolsky@ctlegal.org](mailto:rpodolsky@ctlegal.org)
- Sarah White, *Connecticut Fair Housing Center*, [swhite@ctfairhousing.org](mailto:swhite@ctfairhousing.org)
- Melissa Marichal Zayas, *Connecticut Fair Housing Center*, [mmarichal@ctfairhousing.org](mailto:mmarichal@ctfairhousing.org)

If you have questions about the toolkit, please reach out to Kayleigh Pratt at [Kayleigh@pschousing.org](mailto:Kayleigh@pschousing.org).

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<sup>1</sup> HOMEConnecticut, which is a campaign of the Partnership for Strong Communities, works to address Connecticut's affordable housing shortage with the goal to **ensure that all Connecticut residents have access to a range of affordable housing choices in all communities in the state.**

# **Fair Rent Commission Act**



# Fair Rent Commission Act

## P.A. 22-30

Last updated: 08.10.22

### **FAIR RENT COMMISSION ACT** **As amended through October 1, 2022** **(Subsection headings added by editor)**

#### **Sec. 7-148b. Creation of fair rent commission. Powers.**

(a) **Definitions.** For purposes of this section and sections 7-148c to 7-148f, inclusive, “seasonal basis” means housing accommodations rented for a period or periods aggregating not more than one hundred twenty days in any one calendar year and “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.

(b) **Powers.** Any town, city or borough may, and any town, city or borough with a population of twenty-five thousand or more, as determined by the most recent decennial census, shall, through its legislative body, adopt an ordinance that creates a fair rent commission. Any such commission shall make studies and investigations, conduct hearings and receive complaints relative to rental charges on housing accommodations, except those accommodations rented on a seasonal basis, within its jurisdiction, which term shall include mobile manufactured homes and mobile manufactured home park lots, in order to control and eliminate excessive rental charges on such accommodations, and to carry out the provisions of sections 7-148b to 7-148f, inclusive, section 47a-20 and subsection (b) of section 47a-23c. The commission, for such purposes, may 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. The commission may be empowered to retain legal counsel to advise it.

(c) **Report of adoption of ordinance.** Any town, city or borough required to create a fair rent commission pursuant to subsection (b) of this section shall adopt an ordinance creating such commission on or before July 1, 2023. Not later than thirty days after the adoption of such ordinance, the chief executive officer of such town, city or borough shall (1) notify the Commissioner of Housing that such commission has been created, and (2) transmit a copy of the ordinance adopted by the town, city or borough to the commissioner.

(d) **Joint fair rent commissions.** Any two or more towns, cities or boroughs not subject to the requirements of subsection (b) of this section may, through their legislative bodies, create a joint fair rent commission.

**Sec. 7-148c. Considerations in determining rental charge to be excessive.** 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, a fair rent commission shall consider such of the following circumstances as are applicable to the type of accommodation:

(1) **Rents of comparable dwelling units.** The rents charged for the same number of rooms in other housing accommodations in the same and in other areas of the municipality;

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

(3) **Plumbing facilities.** The number of bathtubs or showers, flush water closets, kitchen sinks and lavatory basins available to the occupants thereof;

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

(5) **Bedrooms.** The size and number of bedrooms contained therein;

(6) **Condition of the premises.** Repairs necessary to make such accommodations reasonably livable for the occupants accommodated therein;

(7) **Landlord's costs.** The amount of taxes and overhead expenses, including debt service, thereof;

(8) **Health and safety compliance.** Whether the accommodations are in compliance with the ordinances of the municipality and the general statutes relating to health and safety;

(9) **Income of tenant.** The income of the petitioner and the availability of accommodations;

(10) **Utilities.** The availability of utilities;

(11) **Tenant-caused damage.** Damages done to the premises by the tenant, caused by other than ordinary wear and tear;

(12) **Size and frequency of rent increase.** The amount and frequency of increases in rental charges;

(13) **Reinvestment in property.** Whether, and the extent to which, the income from an increase in rental charges has been or will be reinvested in improvements to the accommodations.

**Sec. 7-148d. Order for limitation on amount of rent. Suspension of rent payments. Cease and desist orders for retaliatory actions.**

(a) **Commission orders after hearing.** If a 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 7-148c, 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. If a commission determines, after a hearing, that the housing accommodation in question fails to comply with any municipal ordinance or state statute or regulation relating to health and safety, it may order the suspension 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 such ordinance, statute or regulation. The rent during said period shall be paid to the commission to be held in escrow subject to ordinances or provisions adopted by the town, city or borough.



(b) **Retaliation.** If the commission determines, after a hearing, 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.

**Sec. 7-148e. Appeal.** Any person aggrieved by any order of the commission may appeal to the superior court for the judicial district in which the town, city or borough is located. Any such appeal shall be considered a privileged matter with respect to the order of trial.

**Sec. 7-148f. Penalty for violations.** 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 section 7-148e is pending, or violates any other provision of sections 7-148b to 7-148e, inclusive, and section 47a-20, or who refuses to obey any subpoena, order or decision of a commission pursuant thereto, shall be fined not less than twenty-five dollars nor more than one hundred dollars 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.

# **Fair Rent Commission Model Ordinance**

# Fair Rent Commission Model Ordinance

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Last updated: 08.10.22

## Fair Rent Commission Model Ordinance

### 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 controlling and eliminating excessive rental charges for housing accommodations within the town, and to carry out the purposes, duties, responsibilities and all provisions of the above described sections and any other sections of the statutes, as they may be amended from time to time, pertaining to fair rent commissions.
- (b) The Commission shall consist of seven (7) members and three (3) alternates, all of whom shall be residents of the [Town/City of \_\_\_\_\_]. Of the seven (7) regular members, at least two (2) shall be landlords and two (2) shall be tenants. Among the alternate members, at least one (1) shall be a landlord and one (1) shall be a tenant.

The members and alternates shall be appointed by the [Town Council/Mayor]. A quorum shall consist of four (4) 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/city] 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 excessive 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 thereof;
- (8) Whether the accommodations are in compliance with the ordinances of the [town/city] and the General Statutes of the State of Connecticut relating to health and safety;
- (9) The income of the petitioner and the availability of accommodations;
- (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 to the accommodations.

Nothing in this section shall preclude the Commission from considering other relevant circumstances.

- (b) 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) 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.

- (b) 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.
- (c) 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.
- (d) The Commission or municipal staff may, to the extent practicable, encourage the parties to the complaint to reach a mutually satisfactory resolution through informal conciliation. Municipal staff may serve as informal conciliators. Any agreement to resolve the complaint shall be in writing and signed by the parties.
- (e) 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.
- (f) 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.
- (g) 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.
- (h) 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.

## **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) 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 at least one (1) year from the date of issuance, unless the Commission otherwise orders.

- (c) 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.

## **Section 6. Retaliation**

- (a) No landlord shall engage in retaliatory actions. Retaliatory actions by a landlord include but are not limited to the following:
  - (1) Engaging in any action prohibited by C.G.S. § 47a-20 or § 21-80a within six months after any event listed in such statutes, including but not limited to within six months after the tenant has filed a complaint with the Commission;
  - (2) Refusing to renew the lease or other rental agreement of any tenant; bringing or maintaining an action or proceeding against the tenant to recover possession of the dwelling unit; demanding an increase in rent from the tenant; decreasing the services to which the tenant has previously been entitled; or verbally, physically or sexually harassing a tenant because a tenant has filed a complaint with the fair rent commission;
  - (3) Engaging in any other action determined by the Commission, after a hearing, to constitute landlord retaliation 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.

## **Section 7. Appeals**

Any person 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.

## **Section 8. Failure to Comply with Commission Orders**

- (a) 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.
- (b) The Commission, in its own name or through the municipality, may bring a civil action to any court of competent jurisdiction or take any other action in such a court to enforce any order of the Commission made pursuant to this subchapter, or to enjoin a violation or threatened violation of any order of the Commission.



# **Annotations to Fair Rent Commission Model Ordinance**



# Annotations to Fair Rent Commission Model Ordinance

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Last updated: 08.10.22

The Fair Rent Commission Model Ordinance is intended to be a “best practices” guide for towns adopting their own ordinances. All fair rent commission ordinances must comply with the requirements of the Fair Rent Commission Act (C.G.S. §§ 7-148b through 7-148f), but that act leaves room for procedural variations among the towns. For example, it does not designate the number of members a fair rent commission is to have.

Based on our knowledge and experience with fair rent commission ordinances and practices, the Model Ordinance incorporates both statutory requirements and supplementary provisions we believe are beneficial for a fair rent commission carrying out its duties under the act. This Annotation explains why particular provisions are required or recommended. The Annotation follows the section numbers in the Model Ordinance and should be read in conjunction with that document.

## Section 1. Creation of Fair Rent Commission

- **Statute:** C.G.S. § 7-148b(b)
- **Subsection (a):** This subsection enacts the ordinance and broadly states the purpose of the commission. The phrase “to control and eliminate excessive rental charges” comes from C.G.S. § 7-148b(b). The definitions in C.G.S. § 7-148b(a) can be found in Section 2(a)(1) of the Model Ordinance. The statute leaves membership, terms, appointing authority, and similar matters to the municipality to determine. Those can be found in Subsection (b) of this section.
- **Subsection (b):**
  - **Number of members and alternates:** With one exception, all existing commissions have either five (12 commissions), seven (7 commissions), or nine (4 commissions) members. The Model is written for seven members and three alternates as the best size for a commission. It may be easier for a town to fill all slots in a smaller commission, but a seven-member commission makes it easier to deal with member absences. As is common, the Model requires that all commission members be residents of the municipality and that they serve without compensation.
  - **Landlord/tenant distribution:** The Model recommends that a seven-member commission include at least two landlords and two tenants and that alternates include at least one landlord and one tenant. The remaining members of the commission could be landlords, tenants, or others, meaning a person who is neither a landlord nor a tenant, i.e., a single-family homeowner who is not a landlord. For a five-member commission, a minimum of at least one landlord and one tenant is recommended.

The existing ordinances vary widely in how – or whether – membership among landlords, tenants, and others is explicitly balanced. The Model is intended to provide towns with flexibility but also to ensure that some members will bring their perspective as either a landlord or a tenant. The requirements for membership adopted by existing ordinances include:

- Equal number of landlords and tenants: This could be a specific number of each or simply a requirement that the number be equal. Since all commissions have an odd number of members, this approach effectively results in at least one member of the commission being neither a landlord nor a tenant.
- Minimum number of landlords and tenants: This approach assures that some minimum number of members will be either a landlord or a tenant. It does not require exact equality of membership between landlords and tenants and does not preclude all commission members being landlords, tenants, or others.
- No minimum: This alternative has no minimum requirements for either participation or balance, i.e., the members of the commission, without restriction, may be landlords, tenants, or others.
- One commission (New Haven) requires a minimum number of tenants with no minimum requirement for landlords.
  - Appointing authority: The appointing authority is ordinarily the Mayor or the municipality's legislative body. The Model expresses no preference as to this choice.
- Model Subsection (c) – Terms: The Model recommends four-year terms, with initial appointments staggered. The most common terms under existing ordinances are two, three, or four years. The Model recommends four-year terms for greater stability.

## Section 2. Powers of the Commission

- Statute: C.G.S. §§ 7-148b, 7-148c, and 7-148d
- Summary: The Model identifies eleven categories of powers based on the statute and various existing ordinances. The list is not exclusive, and commissions have other powers ancillary to their functions, similar to other municipal boards.
- Subpart (1) – Range of powers:
  - Commission jurisdiction: The Model Ordinance follows C.G.S. § 7-148b in excluding only what the statute calls “seasonal” rentals of 120 days or less. Based on the statutory definition, this exclusion is not really “seasonal” but rather “short-term,” i.e., units that are rented out for no more than 120 days per year. These are the only rentals that the Fair Rent Commission Act authorizes an ordinance to exclude from commission jurisdiction, and that is in fact the rule followed by most existing ordinances. Commission jurisdiction regarding C.G.S. §§ 47a-20 (retaliatory conduct) and 47a-23c (seniors and persons with disabilities in buildings and complexes with five or more units) is specifically referenced in C.G.S. § 7-148b(b). C.G.S. § 21-80a is the companion retaliation statute to § 47a-20 in mobile home parks. Mobile home parks are explicitly included in the Fair Rent Commission Act under C.G.S. § 7-148b.
  - Definitions: The definitions of “seasonal basis” and “rental charge” are taken from C.G.S. § 7-148b(a), which makes clear that a “rental charge” does not have to be a new or increased rental payment and that complaints can be based on a reduction in services or substandard conditions.
  - Subparts (2) through (11) – Explicit powers: This is a listing of powers commonly exercised by fair rent commissions.

## Section 3. Determination of Excessive Rent

- Statute: C.G.S. §§ 7-148c and 47a-23c

- Subsection (a) – Statutory factors: This subsection lists the statutory “circumstances” (i.e., factors or criteria) the commission must consider if they “are applicable to the type of accommodation.” The Model makes explicit that other applicable circumstances can be considered if relevant.
  - Interpretation of factors: The Model Ordinance recites the exact statutory language of the factors. Not all factors are necessarily of equal importance, and the significance of various factors depends on the individual case. The statute was written in 1969 and some factors may feel dated, but commissions commonly apply a common sense meaning. The factors are often interrelated, and it may be helpful to group them as follows:
    - Size and history of rent increases (Item #12);
    - Landlord operating costs (Item #7);
    - Condition of the premises, including whether it is substandard (Items #2, #6, #8, #11, and #13);
    - Comparable rents in the neighborhood and municipality (Item #1);
    - Facilities and services included in the rent (#3, #4, #5, and #10);
    - The tenant’s income and the availability of alternative housing (Item #9).
  - Relationship to C.G.S. § 7-148d: Under C.G.S. § 7-148d(a), these same factors are used by the commission to set a fair and equitable rent.
  - Relationship to commission decision-making: Section 5(b) of this Annotation identifies common commission decisions and orders that arise from the application of these factors.
- Subsection (b) – Complaints under § 47a-23c: This subsection makes explicit that these same 13 factors are applied in complaints originating under C.G.S. § 47a-23c, which protects elderly and disabled tenants in buildings with five or more units and allows their rents to be increased “only to the extent that such increase is fair and equitable, based on the criteria set forth in section 7-148c.” It also specifically authorizes such tenants to bring a complaint to their local fair rent commission.

#### **Section 4. Procedures and Hearing on Complaints**

- Subsection (a) – Immediate notice: The Model requires that the initial notice upon the filing of the complaint inform the parties that retaliation is prohibited. It also states that the tenant can continue to pay the last agreed-upon rent (or the last rent before a disputed rent increase) and that a landlord cannot initiate or maintain eviction proceedings against a tenant for non-payment of rent or lapse of time who continues to pay this rent while the complaint is pending. This is an important requirement that addresses the problem of landlords attempting to avoid commission jurisdiction or discourage tenant complaints by trying to evict tenants. The commission has the power to prevent retaliatory conduct, and notice is critical to deter retaliation. While the statute is silent as to what rent is to be paid, substantive law is clear that “rent” cannot be set unilaterally but only through an agreed-upon contract. The filing of the complaint inherently demonstrates the absence of agreement.
- Subsection (b) – Housing code violations: This subsection incorporates the common practice of commissions requesting code inspections and reports by the municipality’s relevant agency if the tenant’s complaint claims code-related violations or problems with conditions as a reason for objecting to the rental charge. The code agency will typically conduct an inspection; issue corrective orders to the landlord under the agency’s own authority, if appropriate; and notify

the commission of the result of the inspection, of any orders that have been issued, and of compliance with such orders if it occurs.

- Subsection (c) – Consolidation of complaints for hearing: This subsection incorporates the common practice of consolidating complaints for a hearing when multiple tenants in the same complex file complaints that appear to raise similar issues (e.g., the same rent increase demanded from many units or shared problems with conditions). The commission may continue to treat complaints individually even if the hearings are consolidated. This practice encourages a more efficient presentation of evidence to the commission and minimizes redundancy.
- Subsection (d) – Conciliation: This subsection incorporates the common practice of attempting to resolve complaints by the agreement of the parties prior to a hearing through informal conciliation. The Model makes explicit that conciliation is appropriate and encouraged, including through participation of municipal staff.
- Subsection (e) – Timing of hearings: This subsection requires that a hearing on the complaint be scheduled within 30 days of the filing of the complaint unless impracticable. This benefits both the tenant and the landlord by minimizing the pendency period. It also encourages the code agency to promptly carry out its inspection and produce at least an initial report, and for the parties to at least begin informal conciliation. Nothing precludes a hearing from being continued or rescheduled if sufficient information is not yet available. The Model also requires ten days' notice of the hearing, using both first-class and certified mail as well as email, if practicable. The use of multiple methods of notice increases the likelihood that the parties receive the notice.
- Subsection (f) – Hearing procedure: The procedures in this subsection are common practice among existing commissions. Hearings do not have the formality or rigidity of a court hearing, but it is important that they be orderly, that all parties are heard, and that an adequate record is retained.
- Subsection (g) – Continuances: The ability to continue the hearing is necessary when information is incomplete or more time is needed for a decision.
- Subsection (h) – Transfer of the property: The Model makes explicit that a landlord cannot avoid commission jurisdiction by transferring title. The commission's decision concerning the complainant will apply to the new owner. The landlord also cannot avoid commission jurisdiction by attempting to evict the tenant. The filing of an eviction action does not deprive the commission of jurisdiction or prevent the commission from asserting jurisdiction.

## **Section 5. Rent Reduction Order and Repairs**

- Statute: C.G.S. § 7-148d(a)
- Subsection (a) – Determination that rent is excessive
  - Time to render decision: This section clarifies that a commission can, but is not required to, render its decision at the same commission meeting as the hearing. Commissions commonly do this if the hearing provides all information needed to decide. The memories of commission members are fresh, and all members who have heard the evidence are present. The commission otherwise has 30 days to decide. The time is measured from the date of the completion of the hearing. If the commission is waiting for additional information, it should continue the hearing, and the 30 days will not begin to run until the continued hearing is completed.

- Open meetings: The state Freedom of Information Act (C.G.S. § 1-200 et seq.) applies to municipal agencies. Both the hearing portion of the meeting and the commission's deliberations must be open to the public.
- Rent liability: The Model limits tenant liability to the last rent prior to the increase complained of or, if the excessive rental charge is not an increase, to the last agreed-upon rent. Holding the tenant liable for a larger amount that was not agreed upon creates a difficult situation for the tenant and discourages complaints. If the tenant loses, the tenant will be liable for the increase going forward. If the tenant wins, the decision is effective retroactive to the month in which the tenant filed the complaint.
- Subsection (b) – Reduction of rent orders
  - Effective date of rent reduction order: Upon a finding of harsh and unconscionable rent, the statute directs the commission to set a rent that is fair and equitable. The Model makes the order retroactive to the month in which the tenant filed the complaint.
  - Common decisions and orders: To help commissioners understand the kind of orders that can be issued other than a denial of the complaint, the Model identifies some of the most common ones as examples: a reduction in the rental charge, a delay of a rental increase pending correction of defective conditions, or a phase-in of a rental increase. Note that under the statute (and therefore under the Model ordinance), the commission's jurisdiction is not limited to rent increases but rather to any "rental charge." There are at least two types of situations in which the commission may find a rental charge unconscionable, even though it is not a rental increase. One is a reduction in services, such as when a service previously paid by the landlord (e.g., electricity) is transferred to the tenant. The second is when the landlord's failure to repair defective conditions or adequately maintain the property devalues the rental so as to make the existing rental unconscionable. Other situations may arise as well.
  - Duration of commission orders: The Model adopts the best practice of specifying a duration for commission orders, which the commission can modify in particular cases. The Model recommends one year, which is the most commonly set duration. This means that a rent reduction will last for one year. Nothing precludes the landlord from seeking a modification sooner, but, after one year, the landlord need not return to the commission to propose a rent increase. A tenant who objects to an increase would have to file a new complaint with the commission.
  - Written decisions: Although a commission decision may initially be made orally on motion, it should always be reduced to a written decision, with at least a brief statement of the reasons.
- Subsection (c) – Correction of code violations and escrow payments
  - Suspension or reduction of rent payments: If the commission finds after hearing that the property fails to comply with state or local health and safety codes, statutes, or regulations, it can reduce or suspend the rent until the landlord complies. Such an order can be part of an interim or a final decision. A commission order can be based on an order of a code enforcement agency, but a code enforcement agency order is not required. A commission order can also be based on evidence it receives at its own hearing.
  - Escrowing of payments: The Fair Rent Commission Act, and therefore the Model Ordinance, requires the escrow of rent payments to the municipality only in limited circumstances. Escrow payments are required only if the commission orders the suspension of any further payment of rent. Escrow is not required if the rent is reduced rather than suspended while the landlord brings the property into compliance with

codes. If the rent is reduced, the amount should be what the commission determines is fair and equitable. In practice, most commissions have been reluctant to assume responsibility for the receipt and management of escrow payments and are more likely to reduce rather than suspend rent. A rent reduction avoids the statute's escrow requirement, however, since escrow is only required if the obligation to pay the landlord is also suspended. If escrowing is not ordered, the tenant pays the amount ordered to the landlord rather than to the commission.

- Payout of escrowed payments: If payments are escrowed, the commission should order the distribution of the escrowed funds once the landlord fully brings the property into compliance with codes as ordered by the commission. Escrowed funds can be released to the landlord, the tenant, or divided between them as the commission determines is equitable in light of the circumstances.

## Section 6. Retaliation

- Statute: C.G.S. §§ 7-148b(b), 7-148d(b), 7-148f, 47a-20, and 21-80a
- Subsection (a) – Retaliatory actions: The Fair Rent Commission Act explicitly gives the commission authority to act on complaints of retaliation because of the filing of a complaint to the commission or under C.G.S. § 47a-20. C.G.S. § 21-80a is the equivalent of § 47a-20 for residents in mobile home parks, which are covered by the Fair Rent Commission Act pursuant to C.G.S. § 7-148b(b). The Model ordinance spells out retaliation in more detail:
  - Engaging in any action prohibited by C.G.S. §§ 47a-20 or 21-80a: These statutes do not require retaliatory motive but instead bar certain actions for six months after the occurrence of one of five trigger events:
    - A good faith attempt by the tenant to remedy any condition violating health or safety codes or violation of any other state statute, explicitly including the filing of a complaint with a fair rent commission;
    - The filing by a municipal agency or official of any notice, complaint, or order regarding a violation;
    - A good faith request by the tenant to the landlord to make repairs;
    - A good faith institution by the tenant of a Housing Code Enforcement Act action under C.G.S. § 47a-14h; or
    - The tenant's organizing or joining a tenants' union.
 Under the wording of C.G.S. §§ 47a-20 and 21-80a, these statutes apply to any good faith complaint to a fair rent commission, and it is not necessary for the complaint to be related to code violations.
  - Refusing to renew the lease, bringing an eviction, raising the rent, reducing services, or harassing the tenant because the tenant filed a complaint with the commission.
  - Engaging in any other action determined by the commission, after a hearing, to violate C.G.S. § 7-148d.
- Subsection (b) – Notice concerning retaliation: The Model Ordinance requires both the notice of a hearing or conciliation and the notice of the decision to include the prohibition against retaliation.
- Subsection (c) – Commission jurisdiction: The Model Ordinance explicitly authorizes the tenant to notify the commission of retaliation and to request relief. The tenant does not need to initiate a new proceeding but can raise the issue during the complaint process or, as part of the case, after the commission's order on the original fair rent complaint has been issued. The

commission can also act to prevent retaliation, even if the tenant has not prevailed in the action before the commission. A cease-and-desist order issued by the commission can include the landlord's withdrawing or remediating the challenged retaliatory conduct.

## **Section 7. Appeals**

- Statute: C.G.S. § 7-148e
- Time for appeal: The statute authorizes appeals to the Superior Court but does not impose a time limit on taking an appeal, leaving unclear what the time limit is. The Model Ordinance provides a limit of 30 days, measured from the date of the written notice. While many commission decisions will initially be made orally at the hearing, the parties will not necessarily be present, nor will the reasons for the decision be stated. Parties cannot be expected to take an appeal without a formal notice. The Model requires that the notice of decision also include information about the right to appeal.
- Rental liability during an appeal: The issuance of a decision by the commission, as a practical matter, changes the presumption as to what amount of rent the tenant should be paying during further proceedings. The Model Ordinance incorporates the rule that the commission's decision is effective during an appeal, unless the commission itself or the court to which the decision has appealed issues a contrary order.

## **Section 8. Failure to Comply with Commission Orders**

- Statute: C.G.S. § 7-148f
- Subsection (a) – Criminal penalties: This subsection is taken directly from C.G.S. § 7-148f. For consistency with C.G.S. § 47a-20, C.G.S. § 21-80a is added.
- Subsection (b) – Civil remedies: This subsection makes clear that the commission, in its own name or through the municipality, can seek to enforce its orders civilly.



# **Fair Rent Commission Factsheet**



# Fair Rent Commission Factsheet

Last updated: 08.10.22

## What is a Fair Rent Commission (FRC)?

It is a municipal board with the primary power to restrict rental charges in residential housing that are “so excessive as to be harsh and unconscionable.” It holds hearings and makes decisions in response to tenant complaints in the same way as other municipal boards.

## What does P.A. 22-30 do?

It requires each town with a population greater than 25,000 to adopt a fair rent commission ordinance in accordance with the Fair Rent Commission Act (C.G.S. 7-148b through 7-148f).

## What standards does a FRC apply?

C.G.S. 7-148c lists 13 standards that must be considered if applicable. The most important are size of the rent increase, the landlord’s operating costs, the condition of the premises, and the rents for comparable housing in the town.

## What are the most common FRC decisions?

- A rent increase is reduced or denied.
- The landlord is required to phase in a rent increase.
- A rent increase is delayed until the landlord has complied with health and safety requirements or has made necessary repairs.
- The tenant’s claim is denied.

## Are complaints worked out without a hearing?

They often are. In addition, many FRC decisions are themselves compromises. When rent complaints are driven by the landlord’s failure to maintain the property, the commission will often reinforce the town’s code enforcement agencies by preventing a rent increase while awaiting compliance with code orders. When a fair rent complaint is generated by poor housing conditions, commissions will often request a code agency to make an inspection.

## How expensive is a commission to the town?

Most towns that have fair rent commissions currently use existing staff to support a commission.

## Why can’t tenants just go to court?

With certain exceptions, Connecticut tenants have no right to challenge a rent increase except in a town with a fair rent commission. In the absence of a fair rent commission, a tenant who refuses to accept an increase can either move or risk eviction by refusing to pay the higher rent. Connecticut courts have no general authority to decide whether a rent increase is unconscionable or unfair.

## Is this rent control?

No, it is completely different. It does not restrict rents generally and landlords remain free to charge whatever they want. It is triggered only by a tenant complaint and only by a showing by the tenant that the rental charge is “so excessive as to be harsh and unconscionable.”

## How Many Towns Already Have Such Ordinances?

The FRC Act was adopted as an enabling act in 1969. FRC ordinances exist in 24 towns, of which 18 have populations greater than 25,000. FRC towns include:

**Large cities (4):** Hartford, New Haven, Stamford, Bridgeport

**Mid-size cities (6):** Norwalk, Danbury, New Britain, Manchester, Groton, Enfield

**Suburbs (11):** West Hartford, Hamden, Glastonbury, Newington, West Haven, Windsor, Wethersfield, Farmington, Simsbury, Rocky Hill, Bloomfield

**Smaller towns (3):** Colchester, Clinton, Westbrook

# **Fair Rent Commission FAQs**

# Fair Rent Commission FAQs

Last updated: 08.10.22

## What is a fair rent commission?

A fair rent commission is a municipal board with the primary power to prevent rental charges in residential housing that are “so excessive, with due regard to all the circumstances, as to be harsh and unconscionable,” Connecticut General Statutes (C.G.S.) 7-148c. It holds hearings and makes decisions in response to tenant complaints in the same way as other municipal boards. Under C.G.S. 7-148b through 7-148f, Connecticut law has, since 1969, authorized towns to adopt such boards by ordinance. P.A. 22-30 requires that every town with a population of 25,000 or more as of the last decennial census create such a commission.

## How many towns presently have fair rent commission ordinances?

Twenty-four Connecticut towns already have fair rent commission ordinances, most going back at least 30 years. Eighteen of those towns have populations above 25,000 (six towns with commissions have fewer than 25,000 people). Twenty-seven towns with a population above 25,000 do not presently have an ordinance and are therefore directly affected by P.A. 22-30.

## Which towns have fair rent commission ordinances?

Large cities (4):	Hartford, New Haven, Stamford, Bridgeport
Mid-size cities (6):	Norwalk, Danbury, New Britain, Manchester, Groton, Enfield
Suburbs (11):	West Hartford, Hamden, Glastonbury, Newington, West Haven, Windsor, Wethersfield, Farmington, Simsbury, Rocky Hill, Bloomfield
Smaller towns (3):	Colchester, Clinton, Westbrook

## Which additional towns are required to create a fair rent commission under P.A. 22-30?

Waterbury	114,403	Wallingford	44,396	Branford	28,273
Greenwich	63,518	Southington	43,501	New Milford	28,115
Fairfield	61,512	Shelton	40,869	East Haven	27,923
Meriden	60,850	Norwich	40,125	New London	27,367
Bristol	60,833	Trumbull	36,827	Newtown	27,173
Stratford	52,355	Torrington	35,515	Westport	27,141
Milford	52,044	Naugatuck	31,519	So. Windsor	26,918
East Hartford	51,045	Vernon	30,215	Mansfield	25,892
Middletown	47,717	Cheshire	28,733	Ridgefield	25,033

## To what extent do these 45 towns cover Connecticut’s residential renters?

The 45 covered towns (about 27% of the state’s 169 towns) have about 80% of all residential rental units in Connecticut.

## By when must towns adopt their ordinances?

P.A. 22-30 requires that covered towns have their ordinances in place no later than July 1, 2023. There is, however, no need for towns to wait until 2023 to adopt an ordinance, since existing law has

long authorized towns to do so. P.A. 22-30 requires towns to notify the Commissioner of Housing within 30 days of adoption of its ordinance and provide the Commissioner with a copy of the ordinance.

### **Why can't tenants just go to court if they object to a rent increase?**

Courts in Connecticut have no general power to adjudicate the fairness of rents or rent increases. With certain limited exceptions, tenants have a right to challenge the fairness of a rent increase only in a town that has a fair rent commission. In towns without fair rent commissions, the tenant can accept the rent increase or move. Tenants who refuse to pay the increase will face eviction.

### **What about tenants protected by "just cause eviction"?**

In theory, elderly and disabled tenants who live in apartment buildings of five or more units are allowed to take a rent dispute to court. In practice, however, this almost never happens, because initiating a judicial proceeding is not practical for tenants, and especially not for tenants who are elderly or disabled. It is expensive and would be very difficult to do without an attorney. It is also not realistic for such tenants – many of whom are long-term renters with little capacity to move – to risk their tenancy by refusing to pay a rent increase and gambling that they can win an eviction. The risk of loss is extremely high. If the court doesn't agree with the tenant, the tenant is evicted. At that point, it is too late to save the tenancy by agreeing to pay the rent increase. Just the filing of a summary process action may also negatively impact the tenant's record, hindering their ability to secure future housing or credit.

### **How expensive are fair rent commissions?**

Fair rent commissioners, like commissioners of most other local boards, are not paid. In most locations, towns use existing staff to provide whatever support for fair rent commissions is needed. While particularly large towns might consider adding an employee if large numbers of complaints are received, it is anticipated that medium-sized towns would not.

### **What are the necessary elements of a fair rent commission ordinance?**

The primary necessity is that the ordinance should adopt the state Fair Rent Commission Act. Some towns do this by reference to the state statute (C.G.S. 7-148b through 7-148f). Some do it by copying the text of the state statute into the ordinance. Other than that, the only necessary elements are to identify (1) who appoints the members and (2) the number and terms of the commissioners.

### **How detailed are most ordinances?**

The degree of detail varies widely. The practical difference is in how much is left to the commission to decide and how much is to be controlled by the ordinance. There appear to be two types of ordinances:

- **Minimum ordinance:** The ordinance contains only the necessary elements referred to above, i.e., adoption of the state statute by cross-reference or by copying the language of the state statute into the ordinance, identification of the appointing authority, and establish the number and terms of commission members.
- **Detailed ordinance:** The ordinance includes a more comprehensive framework for their fair rent commission. Such ordinances may include complaint-filing and hearing procedures, time deadlines, staffing (if any), appeal procedures, and other matters.

### **How large are fair rent commissions?**

Existing fair rent commissions vary from 3 to 9 members. Most have either 5 or 7.

### **Who names the members of the commission?**

The appointing authority is usually the municipal executive, particularly in the larger towns (sometimes with confirmation by the legislative body required) or the legislative body.

### **Do commission ordinances balance landlords and tenants?**

The Fair Rent Commission Act leaves it to each town to decide on how to balance a fair rent commission. About half of the existing ordinances are silent on the question of balancing, leaving the matter to the appointing authority as to the balance of landlords, tenants, and neither (i.e., a homeowner who is not a landlord). Any mixture is acceptable. The other half of the ordinances require some degree of balance, usually in one of two ways:

- **An equal number of landlords and tenants:** This number might or might not be specified in the ordinance. Since all existing commissions have an odd number of members, this approach means that at least one member will have to be neither a landlord nor a tenant.
- **A minimum number of landlords and tenants:** Some ordinances include a specific number. For example, a five-member commission could be required to have at least two landlords and two tenants. In that case, the fifth member could be a landlord, a tenant, or a non-landlord homeowner.

Unless the ordinance requires a specific or a minimum number of landlords and tenants, it is possible for a commission to be made up entirely of non-landlord homeowners.

### **Are commission members required to have special expertise?**

No. The background of members is left to the municipal appointing authority. It is expected that it will be possible to obtain member training if it is desired.

### **Is there a required political party distribution?**

Yes, fair rent commissions are government agencies subject to the Minority Party Representation statute (C.G.S. 9-167a), which limits the maximum number of members of a board who can be registered in the same political party.

### **Are fair rent commissions advisory only?**

No, they have the power to make binding decisions, in the same manner that other municipal boards can make binding decisions. Most fair rent commissions, however, encourage conciliation of disputes, and most fair rent complaints are resolved without the need for a formal hearing. The very existence of a fair rent commission often generates a bargaining process that results in agreements between the landlord and the tenant.

### **What is the legal standard that fair rent commissions apply?**

Under C.G.S. 7-148c, a rental charge must be “**so excessive, with due regard to all the circumstances, as to be harsh and unconscionable.**” That statute also requires the commission to consider 13 “circumstances” “as are applicable.” Under C.G.S. 47a-23c, a rental increase involving a tenant who resides in a building with five or more units and who is either sixty-two years of age or older or disabled must be “fair and equitable.”

### **What are those standards?**

Fair rent commissions do not treat all 13 numbered circumstances as equally important. The literal wording of some of the circumstances, as originally written in 1969, may at times seem a bit

dated. **In practice, the primary circumstances are usually the size of the rent increase, the landlord's costs, and the condition of the premises.** The 13 circumstances can be grouped into these six categories. The numbers in the parentheses are the numbers they are given in the statute.

- Size and history of rent increases
  - The amount and frequency of increases in rental charges (#12).
- Landlord operating costs
  - The amount of taxes and overhead expenses (#7).
- Condition of the premises, including whether the premises are substandard:
  - Whether the accommodations are in compliance with the ordinances of the municipality and general statutes relating to health and safety (#8);
  - The sanitary conditions existing in the housing accommodations in question (#2);
  - Repairs necessary to make such accommodations reasonably livable for the occupants accommodated therein (#6);
  - Whether, and the extent to which, the income from an increase in rental charges has been or will be reinvested in improvements to the accommodations (#13);
  - Damages done to the premises by the tenant, caused by other than ordinary wear and tear (#11).
- Comparable rents in the neighborhood and municipality:
  - The rents charged for the same number of rooms in other housing accommodations in the same and in other areas of the municipality (#1).
- Facilities and services included in the rent
  - The size and number of bedrooms contained therein (#5);
  - The availability of utilities (#10);
  - The numbers of bathtubs or showers, flush water closets, kitchen sinks and lavatory basins available to the occupants thereof (#3);
  - Services, furniture, furnishings and equipment supplied therein (#4).
- Income of the tenant and the availability of places to which the tenant can move
  - The income of the petitioner and the availability of accommodations (#9).

**Can a commission consider other circumstances?**

Yes. The statute does not preclude consideration of other circumstances if they are relevant to the statutory standard of harsh and unconscionable.

**Can a town make up its own standard?**

No. The statutory standard is mandatory.

**Is there a formula for weighing the factors?**

No, it is within the discretion and judgment of the commission.

**How are these circumstances proven to the commission?**

It is usually up to the parties to provide the commission with evidence upon which it can base a decision. If, however, a tenant objects to a rental charge based on the condition of the premises, it is common for a commission to request that a town health or safety inspector (e.g., a housing, building, or fire code official) inspect the premises in the same manner as if a complaint had been made with the agency by the tenant.

**If the commission finds that rental charges are harsh and unconscionable, what can it do?**

It can limit the rent to an amount that is “fair and equitable.” In setting that amount, C.G.S. 7-148d requires that the same 13 circumstances be applied.

**What commission orders are most common?**

Commissions have considerable discretion to fashion a result that is fair and equitable. For example, a commission can:

- Reduce the rent increase or rental charge to an amount that is fair and equitable.
- Phase in a rent increase over time.
- Condition a rent increase or lower a rental charge until the landlord complies with housing code orders or other property maintenance standards. In this way, when health and safety issues are raised, commissions can buttress health and safety code enforcement.

A commission can also deny relief to the tenant (i.e., by holding that the rental charge is not harsh and unconscionable).

**Can a complaint be filed about charges other than the monthly rent?**

Yes. C.G.S. 7-148b(a) explicitly provides that “rental charge” includes “any fee or charge in addition to rent.”

**Can a tenant file a complaint when there is no rent increase?**

Yes. The requirement for fair rent commission jurisdiction is that the rental “charge” must be “so excessive” as to be “harsh and unconscionable.” There are at least two types of circumstances where this may apply in the absence of a rent increase. One is when the services provided by the landlord have been reduced. For example, the landlord could provide that utilities once paid by the landlord will in the future be switched to the tenant with no adjustment of the rent. This is functionally a rent increase. The other is that the building has been allowed to deteriorate because of lack of landlord maintenance to the point that the rent has become significantly out of balance with what the tenant is receiving.

**Who bears the burden of proof?**

The tenant bears the burden of proof that the rental charge is harsh and unconscionable. On other issues, it will depend on who has access to the information.

**Can’t a tenant go to the housing court to resolve a fair rent complaint?**

No. Courts can enforce rights, but, with narrow exceptions (see just cause eviction below), the right to challenge rent increases exists only for tenants in towns with fair rent commissions.

**Can the parties be represented by attorneys?**

They can be, but often they are not. As with other administrative agencies, a certain amount of structure and formality is required at hearings, but hearings are ordinarily much less formal than court hearings. Testimony, however, is under oath.

**Can the commission group cases complaining about the same rent increase?**

Yes. For purposes of the hearing, if multiple dwelling units in the same building or complex complain about the same rent increase, the commission can group them for hearing. It will, however, have to decide each case individually.



**What rent do tenants pay while the complaint is pending?**

The Fair Rent Commission Act is silent on this question, and different commissions have different practices. We believe that the only proper answer is that the tenant should pay the last agreed-upon rent or the amount of the last rent prior to the increase complained of.

**The Fair Rent Commission Act speaks of rent being paid into escrow. Do most tenants pay rent to the commission in escrow?**

No. Rent escrows are rare. The Fair Rent Commission Act mandates the use of a municipal escrow account only if the commission suspends the payment of all rent while waiting for the landlord to comply with orders to make repairs required by the code agency. The tenant instead would continue to pay the landlord either the last agreed-upon rent, the last rent before a disputed rent increase, or some other interim rent set by the commission.

**Are the commission hearings public?**

Yes, commissions are municipal agencies and are subject to the state Freedom of Information Act. Both the hearing itself and the commission deliberation are open to the public to observe. Members of the public cannot speak, however, unless they are called as witnesses.

**When does a commission make its decision?**

It depends, and different commissions may have different practices. Once the hearing is completed, commissions often move directly into the decision portion of the meeting so as to be able to decide the case the same day. Sometimes, however, a decision may have to wait for a subsequent event (e.g., a housing code inspection), if it was not arranged before the hearing.

**Who gets to testify at a fair rent commission hearing?**

Each commission sets its own procedures. Fair rent commission hearings are usually run like other administrative hearings. They are less formal than court hearings but must still be orderly and structured. The parties can each testify and can call witnesses. Anyone testifying can be questioned by commission members or by the parties themselves (or by their representative, if they have one). The tenant (who is the complainant) and the tenants' witnesses usually go first, after which the landlord and the landlord's witnesses would usually testify. Testimony is ordinarily under oath. The commission can also hear testimony from other witnesses with relevant information (such as a municipal housing code inspector who has inspected the property), even if not called by a party. Members of the public do not have a right to testify at their own initiative.

**Are expert witnesses required?**

No. The parties, or other individual witnesses, can testify as to matters within their own knowledge. For example, the tenant or the landlord can testify as to the condition of the premises, the history of past rent increases, or other rents in the neighborhood. If testimony is in conflict, it is up to commission members to decide whom to believe. On some objective matters, however, evidence may be needed. For example, a landlord who claims to be losing money without a large rent increase may be expected to present documentary evidence of income and expenditures.

**Do fair rent commissions need an appraiser?**

No. Commissions deal with rentals, not home purchases. More important, if comparative rents are an issue, it is up to the parties to bring such comparables to the attention of the commission.

**Do the parties have to testify?**

As a practical matter, the tenant must testify or otherwise provide evidence, since the tenant must show that the rental charge is harsh and unconscionable. The commission's decision must be based on the evidence before it. If the landlord does not appear at the hearing or otherwise provide testimony, the commission must make its decision based on what the tenant or other witnesses provide.

**Does evidence have to be documented in writing?**

Not necessarily. The testimony of the parties themselves is evidence.

**What if a party refuses to produce written evidence of something important, like the property's revenue and costs, or the tenant's income?**

To some extent, it depends on the relevance of the evidence. For example, if a landlord claims that a rent increase is necessary to cover increased costs but refuses to provide the commission with a breakout of income and expenditures, the commission could assume that the increase is not necessary to cover costs. It would, however, still need to consider other factors affecting the fairness of the increase. Similarly, if a tenant claims to have insufficient income to pay a rent increase but refuses to disclose income, the commission could assume that the tenant could afford the increase but would still have to consider other reasons why the increase might be unconscionable. The commission also has the power to subpoena information if it chooses to do so.

**Should commission hearings be recorded?**

Yes. There is no need for a stenographer or a transcript, but a recording can be necessary if a decision is appealed to the courts.

**Can the parties appeal?**

Yes, either party can appeal to the courts. In more than 50 years of fair rent commissions, however, only a small number of appeals have ever been taken.

**Can a fair rent commission protect a tenant against retaliation?**

Yes. C.G.S. 7-148d(b) explicitly authorizes the issuance by the commissioner of a cease and desist order to prevent retaliation. C.G.S. 7-148f explicitly authorizes fines for violating orders of a commission.

**Can a landlord proceed with an eviction against a tenant who has filed a complaint with a commission?**

A commission can issue a cease and desist order to stop retaliatory behavior by a landlord. If, however, the landlord disobeys such an order, only a court can stop further proceedings in the court. If properly presented, it is expected that a court would do so.

**Can new tenants get a rent reduction by claiming that the rent is too high?**

No. Fair rent commissions apply only to tenants, not applicants. A person must already be living in the dwelling unit to be able to complain about an unconscionable rent. In practice, fair rent commissions provide a mechanism that can protect existing tenants. In that sense, they have the capacity to help "stabilize" the rent for tenants who are already in place.

**How do fair rent commissions differ from rent control?**

They are entirely different. Fair rent commissions respond to cases from individual renters and apply an equitable unconscionability standard to address particularly unfair situations. Rent control, in

contrast, regulates the rents in the entire housing market. Rent control systems usually authorize an annual inflation adjustment (e.g., 3%) by which landlords can raise the rent without need for approval, but they require a showing of justification and permission for rent increases above that level. The market impact of rent control is quite substantial. Fair rent commissions do not have the same impact on the housing market.

**How is a fair rent commission different from a housing authority?**

A housing authority manages or builds government-owned public housing. A fair rent commission is a local board that responds to complaints from renters about excessive rental charges.

**What is the connection between fair rent commissions and housing code enforcement?**

For some towns, the impact of a fair rent commission on code enforcement is at least as important as addressing the fairness of rent increases. It is not unusual for a fair rent commission to delay a proposed rent increase, or even lower an existing rent, until the landlord brings the apartment into compliance with the enforcement orders issued by the town's housing or health code agency. In this way, fair rent commissions often support municipal code enforcement and avoid the need for the town to go to court to enforce code orders.

**Are any types of housing excluded from fair rent commissions?**

The only exclusion explicitly permitted by the Fair Rent Commission Act is for "seasonal" rentals, which are defined as short-term rentals cumulating less than 120 days per year. However, there are some other arrangements that may be excluded by other laws. For example, arrangements that are not subject to the Landlord-Tenant Act under C.G.S. 47a-2 are ordinarily not covered (e.g., nursing homes or transient occupancy in a hotel or motel).

**Can towns choose to exclude additional categories of rentals?**

No. Exclusions are limited to those contained in the Fair Rent Commission statute itself unless preempted by other laws.

**Are college dormitories covered?**

No. They are excluded from the Landlord-Tenant Act by C.G.S. 47a-2(a)(1). Student-occupied apartments, however, are covered.

**Are mobile home parks covered by fair rent commissions?**

Yes, they are explicitly covered by C.G.S. 7-148b(b). In mobile home parks, most residents own their home but rent the lot. They are therefore renters and are covered by all of the landlord-tenant laws, including the Fair Rent Commission Act. In fact, residents of mobile home parks have often been the driving force behind the creation of fair rent commissions in smaller towns. That was the case in Westbrook, Colchester, and Clinton.

**Can two or more towns create a regional fair rent commission?**

Yes. This is explicitly permitted by C.G.S. 7-148b(d).

**Connecticut Acts of the 2022 Regular Session (2022)**

**HB 5205, P.A. 22-30**

***AN ACT CONCERNING FAIR RENT COMMISSIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 7-148b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2022*):

(a) For purposes of this section and sections 7-148c to 7-148f, inclusive, "seasonal basis" means housing accommodations rented for a period or periods aggregating not more than one hundred twenty days in any one calendar year and "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.

(b) [Except as provided in subsection (c) of this section, any] Any town, city or borough may, and any town, city or borough with a population of twenty-five thousand or more, as determined by the most recent decennial census, shall, through its legislative body, [create] adopt an ordinance that creates a fair rent commission. [to] Any such commission shall make studies and investigations, conduct hearings and receive complaints relative to rental charges on housing accommodations, except those accommodations rented on a seasonal basis, within its jurisdiction, which term shall include mobile manufactured homes and mobile manufactured home park lots, in order to control and eliminate excessive rental charges on such accommodations, and to carry out the provisions of sections 7-148b to 7-148f, inclusive, section 47a-20 and subsection (b) of section 47a-23c. The commission, for such purposes, may 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. The commission may be empowered to retain legal counsel to advise it.

(c) Any town, city or borough [in which the number of renter-occupied dwelling units is greater than five thousand, as determined by the most recent decennial census, and which does not have a fair rent commission on October 1, 1989, shall, on or before June 1, 1990, conduct a public hearing or public hearings and decide by majority vote of its legislative body whether to create a fair rent commission as provided in subsection (a) of this section. Any such town, city or borough which fails to act pursuant to the requirements of this subsection shall, not later than June 1, 1991, create such fair rent commission] required to create a fair rent commission pursuant to subsection (b) of this section shall adopt an ordinance creating such

commission on or before July 1, 2023. Not later than thirty days after the adoption of such ordinance, the chief executive officer of such town, city or borough shall (1) notify the Commissioner of Housing that such commission has been created, and (2) transmit a copy of the ordinance adopted by the town, city or borough to the commissioner.

(d) Any two or more towns, cities or boroughs not subject to the requirements of subsection [(c)] (b) of this section may, through their legislative bodies, create a joint fair rent commission.

Approved May 17, 2022