

ORDINANCE NO. 07-23

DATE: June 21, 2023

ORDINANCE

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN:

That Chapter 14, Article XXIV be added to the Middletown Code of Ordinances as follows:

**Chapter 14:
Boards, Committees and Commissions**

**Article XXIV:
Fair Rent Commission**

Section 14-73. Creation of Fair Rent Commission

- A. Pursuant to 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 City of Middletown 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 electors of the City of Middletown. To the extent practicable, Commission members shall be representative of all socio-economic, age, racial, and gender-identifying segments of the City and shall be representative from different neighborhoods within the City.
- C. The appointment of Commission members must comply with the minority representation statute under state law. The members and alternates shall be appointed by the Mayor and confirmed by the Common Council. A quorum shall consist of four (4) members or seated alternates. Members of the commission shall serve without compensation.
- D. Members of the Commission shall be appointed for staggered terms of four (4) years. The original members of the Commission will be appointed as follows: three will serve four-year terms; three will serve three-year terms; and one will serve two-year terms. The alternates will be appointed as follow: one will serve a four-year term; one will serve a three-year term, and one will serve a two-year term. Future vacancies will be appointed in a manner that maintains the staggered term expiration dates. New Commission members appointed to fill unexpired terms will serve the remainder of the term. New Commission members appointed at the start of a new term after the original membership terms expire or Commission members being reappointed after this initial service will be appointed to four-year terms.

- E. The Commission shall elect a Chair and Vice-Chair at its first meeting. The Chair shall preside over all meeting and hearings with advice from staff and the Chair shall approve all agendas. The Vice-Chair shall preside over all meetings and hearings in the Chair's absence. The Commission, through its staff, shall keep records and post agendas as required under the Freedom of Information Act, Conn. Gen. Stat. 1-200, *et seq.* Members of the public shall be provided an opportunity to speak during any meeting or hearing on items that appear on the agenda with a limit of five minutes per person.

Section 14-74. Powers of the Commission

- A. The Commission shall have 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 City of Middletown 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 14-78 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) Work with the Finance Department to establish and maintain 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 14-77 herein. Said account shall be managed in accordance with the City's financial policies; 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.
- (12) Adopt rules and regulations for conducting hearings and business within its jurisdiction and shall keep a record of all proceedings.

Section 14-75. 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, toilets, 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 City of Middletown 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 14-76. 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. The Commission may, but is not required to, mandate that the tenant put the difference between their former rent and proposed rent in to an account pending the hearing on the complaint.
- 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 staff to the Commission may, to the extent practicable, encourage the parties to the complaint to reach a mutually satisfactory resolution through informal mediation. Staff to the Commission may serve as informal mediator. 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 14-77. 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 14-75, 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 14-78. 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 mediation 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 14-79. 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 14-80. 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.

Submitted by: Councilwoman Meghan Carta

Approved by: General Counsel Commission at its meeting held on June 21, 2023

**Status: APPROVED, AS AMENDED
by Common Council, City of Middletown
at its meeting held on: JULY 3, 2023**

K: review/ordinance/ Fair Rent Comm ORD 07-23 – 3 July 2023