

TOWN OF HAMDEN
Fair Rent Ordinance

50C HAMDEN - BOARDS AND COMMISSIONS § 33.71

Rent Commission for the purpose of controlling and eliminating excessive rental charges on residential property within the town. This subchapter is enacted in recognition of the compelling need to control and eliminate excessive rental charges in the town. (Ord. 187, passed 11-5-79)

§ 33.71 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"COMMISSION." The Fair Rent Commission of the town.

"HOUSING ACCOMMODATION." Any building or structure containing living quarters occupied, or intended for occupancy as a place of residence, including any land or building appurtenant thereto, and mobile homes and mobile home park lots, except the following.

(1) A hospital, convent, monastery, asylum, public institution, college or school dormitory, or any institution operated exclusively for charitable or educational purposes.

(2) Any housing accommodations owned and operated by the United States, the State of Connecticut, the Town of Hamden, the Housing Authority of the Town of Hamden, or by any agency or political subdivision of the above.

(3) Accommodations rented on a seasonal basis.

"LANDLORD." The owner, lessor, or sub-lessor of any housing accommodation, including a person who manages a housing accommodation owned by someone else and including any person leasing or subleasing any housing accommodation under any order of a state or federal court.

"PERSON." Any individual, partnership, corporation, association, or other business entity, or other association or group, which provides housing accommodations as defined herein.

"RENTAL AGREEMENT." All agreements, whether written or oral or both, embodying the terms and conditions concerning the use and occupancy of a housing accommodation.

"RENTAL CHARGES." Any consideration, monetary or otherwise, including any bonus, benefit, or gratuity, demanded or received, for the use or occupancy of any housing accommodation.

"SEASONAL BASIS." Housing accommodations rented for a period or periods aggregating not more than 120 days in any one calendar year.

"TENANT." A natural person who leases or rents or in any other legal way occupies any housing accommodation as a residence for himself or herself or his or her immediate family. (Ord. 187, passed 11-5-79)

§ 33.72 MEMBERSHIP.

(A) The Commission shall consist of five members, all of whom shall be residents of the town, and shall be composed of one landlord member, one tenant member, and three citizen members. Not more than three of the members shall be registered members of the same political party. All of the members shall be appointed or reappointed by the mayor and subject to the approval of the legislative council. Citizen member means a resident of the town who is neither a tenant or a landlord.

(B) In addition, the mayor shall appoint two residents to serve as alternates, who shall be one landlord and one tenant, subject to approval of the legislative council. Either of the alternates shall act in the place of a regular member who is either absent or disqualified from serving or when otherwise required by the Commission in the exercise of its duties. The term of office of the alternates shall be for a period of three years, or until their successors have been chosen and qualified. Not more than one of the alternate members shall be registered members of the same political party.

(C) Any regular or alternate member of the Commission who fails to maintain the status (either landlord, tenant, or citizen) that he or she had upon appointment shall cease to be a member of the Commission. The mayor, subject to the approval of the legislative council, may remove any regular or alternate member of the Commission for good cause, including the failure to attend three consecutive meetings of the Commission. (Ord. 187, passed 11-5-79; Am. Ord. 320, passed 10-7-91)

§ 33.73 TERMS OF OFFICE.

The initial members of the Commission shall be appointed for terms which shall commence as of the date of their appointment and end on the dates set forth below.

<u>TERM</u>	<u>Members</u>
Ending July 1, 1980	1
Ending July 1, 1981	2
Ending July 1, 1982	2

All such appointments thereafter shall be for a term of three years. (Ord. 187, passed 11-5-79)

§ 33.74 POWERS.

The Commission shall have the following powers, consistent with budgetary limitations imposed by the legislative council.

(A) To make such studies and investigations either in conjunction with complaints or own its own initiative and to conduct hearings into rentals charged for housing accommodations within the town as it deems appropriate to carry out the duties and responsibilities delegated hereunder, and subject to the terms, limitations, and conditions set forth herein.

(B) To receive complaints, inquiries, and other communications concerning alleged excessive rental charges in housing accommodations within the town.

(C) To conduct hearings on complaints or requests for investigations submitted to it by any person aggrieved by a violation of this subchapter, subject to the terms, limitations, and conditions as set forth herein.

(D) To 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.

(E) To order a reduction of any excessive rent to an amount which is fair and equitable, and to make such other orders as are authorized herein*

(F) To promulgate regulations governing the handling of complaints and the procedure to be followed at hearings. Said regulations shall prescribe the manner and place for the filing of complaints and shall define the effective date of complaints.

(G) To carry out the provisions of section 47a-20 and subsection (b) of section 47a-23c of the Connecticut General Statutes and to exercise all other powers now or hereafter granted to Commissions by the Connecticut General Statutes.

(H) To issue all orders authorized by this subchapter.
(Ord. 187, passed 11-5-79; Am. Ord. 320, passed 10-7-91)

§ 33.75 ORGANIZATION; PROCEDURES.

(A) At its initial meeting, the Commission shall elect from its own membership, officers as it deems appropriate. In any event, it shall elect a chairperson, who shall preside over its meetings and a vice-chairperson who shall preside in the absence of the chairperson.

(B) A quorum for any meeting shall consist of at least three members of the Commission or their alternates. The Commission shall not order any rent reduction or make any determination that a rent is too excessive as to be harsh and unconscionable, except on the concurring vote of a majority of the members present at the hearing.

(C) The Commission shall conduct regular meetings, open to the public, to transact whatever business is properly before the Commission. The Commission shall determine the time, dates, and places of the meetings, and shall announce the same in advance of the meetings.

(D) The Commission may employ a director and/or clerk to keep its records, to handle its correspondence, to supervise and direct the administration of this subchapter, and generally to perform such other functions as may be assigned by the Commission. (Ord. 187, passed 11-5-79; Am. Ord. 320, passed 10-7-91)

§ 33.76 BY-LAWS.

The Commission shall be empowered to enact such by-laws and regulations as are necessary for the conduct of its business, provided no by-law or regulation shall be in conflict with any provision of this subchapter as set forth herein. Provided further, however, no by-laws or regulations shall become effective unless published in advance. (Ord. 187, passed 11-5-79)

§ 33.77 HEARINGS ON A COMPLAINT.

(A) Upon receipt of a complaint that a rental is excessive to the point of being harsh and unconscionable, the Commission shall review the complaint and determine whether the complaint presents a matter within its jurisdiction. The Commission may refer any complaint to the appropriate town, state, or federal agency. However, if the complaint is within the jurisdiction of the Commission, the Commission shall concurrently exercise its powers under this subchapter

(B) If the complaint is considered by the Commission, the Commission shall, to the extent practicable encourage the parties to the complaint to reach a mutually satisfactory resolution to the complaint.

(C) A hearing on the complaint shall be scheduled if the Commission determines, after review of the complaint, that the parties are unlikely to resolve the complaint informally. Written notice of the date, time, and place of the hearing shall be given by mailing a notice thereof, by certified return-receipt-requested mail, postage prepaid, and by regular first class mail, to the landlord and the tenant, at least seven days prior to the hearing. The persons entitled to receive the notice as set forth herein are hereinafter designated as the parties to the complaint.

(D) At the hearing, each party shall have the right to offer such testimony, exhibits, and witnesses as the party deems necessary or appropriate.

(E) The testimony of all persons shall be under oath, and any member of the Commission is hereby authorized to administer the oath to a witness.

(F) The Commission shall have the power to subpoena any person to appear before the Commission, and shall have the power to compel the production of any books or documents relating to any matter before the Commission.

(G) Any party shall have the right to be represented by any person duly authorized by the party at any hearing. In addition, any party shall have the right, either himself or herself, or through his or her representative, to cross-examine any witnesses produced at the hearing and to examine all documents offered in evidence.

(H) The Commission shall have the right to request the assistance of any department of the town government, including any available records, information, or expert witnesses which the department may have in its employ.

(I) The Commission is empowered to hire or retain any expert real estate appraisers or other competent experts to advise it.

(J) In the event that there is insufficient time to complete a hearing, the Commission shall have the power to adjourn the hearing to another time and date. The Commission may impose costs upon any party found to have caused an adjournment without good cause.

(K) After the completion of the public hearing and the receipt of all evidence, testimony and exhibits to be submitted by the parties to it, the Commission shall make such orders as are authorized herein.

(L) Hearings shall be tape recorded, and copies of the tape shall be made available to the parties upon request. " Upon request by any party, the Commission may cause the tape to be transcribed at the expense of the requesting party. In the event of an appeal to the superior court, the Commission shall cause the tape to be transcribed and shall certify the transcript to the court as part of the record.

(Ord. 187, passed 11-5-79; Am. Ord. 202, passed 4-6-81; Am. Ord. 320, passed 10-7-91)

§ 33.78 ORDERS OF THE COMMISSION.

Subsequent to the hearing the Commission shall have the power to do the following.

(A) Order a reduction for any housing accommodation, where the rental charge is so excessive as to be harsh and unconscionable, to an amount which is fair and equitable, subject to the standards set forth in this subchapter. The Commission shall direct that any order of rent reduction be retroactive to the date of the filing of the complaint. Any order of the Commission shall remain in effect for one year unless the Commission orders a different time or, upon its own notion or the request of any party, grants a further hearing and enters a new order.

(B) Refer the matter to the appropriate town agency or the law enforcement authorities for enforcement of the appropriate municipal ordinance, Connecticut General Statute or state regulation, if the Commission determines that the housing accommodation in question fails to comply with any municipal ordinance or Connecticut General Statute or state regulation relating to health and safety.

(C) Dismiss the complaint.

(D) Continue, review, terminate, or suspend all of its orders and decision.

(E) Continue the complaint for final disposition if it finds that the complaint involves a matter which can be corrected or adjusted between the parties and it finds that such a continuance would be appropriate under the circumstances.

(F) Order payments of the rent in escrow to the Commission with the option to order temporary reduction or suspension of the rent until the landlord has corrected the situation.

(G) Order the posting of a sufficient performance bond by the landlord until such time as the landlord has corrected any health and safety violations which the appropriate authorities have investigated and have certified to the Commission as existing code violations relating to health and safety.

(H) Enter cease and desist orders to carry out the provisions of section 47a-20 and subsection (b) of section 47a-23c of the Connecticut General Statutes.

(I) Request the town attorney to institute, and the town attorney may then institute, an action in the appropriate court for a temporary or final injunction, restraining violation of or directing compliance with any order made pursuant to this subchapter. Such direction to the town attorney shall be written by the chairperson of the Commission or by his or her designee.

Any order of the Commission shall include an advisement to the parties of their right to appeal to the Superior Court. (Ord. 187, passed 11-5-79; Am. Ord. 202, passed 4-6-81; Am Ord. 320, passed 10-7-91) Penalty, see § 33.99(B)

§ 33.79 EXCESSIVE CHARGE STANDARDS.

In determining whether a rental charge is so excessive, with due regard to all the circumstances, as to be harsh and unconscionable, the Commission shall consider any of the following circumstances as are applicable to the type of accommodation.

(A) The rents charged for the same number of rooms in other housing accommodations in the same and in other comparable areas of the municipality.

(B) The sanitary conditions existing in the housing accommodations in question.

(C) The number of bathtubs or showers, flush water closets, kitchen sinks, and lavatory basins available to the occupants thereof.

(D) Services, furniture, furnishings, and equipment supplied therein.

(E) The size and number of bedrooms contained therein.

(F) Repairs necessary to make such accommodations reasonably livable for the occupants accommodated therein.

(G) The amount of taxes and overhead expenses thereof.

(H) Whether the accommodations are in compliance with the ordinances of the municipality and the General Statutes relating to health and safety.

(I) The income of the complainant and the availability of accommodations.

(J) The availability of utilities.

(K) Damages done to the premises by the tenant, caused by other than ordinary wear and tear.

(L) The amount and frequency of increases in rental charges.

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

In addition, the Commission may consider the following factors:

(N) Increases or decreases in the services provided or in the amount of dwelling space.

(O) Substantial deterioration of the housing accommodations.

(P) The length of time that violations of municipal ordinances or state laws have been permitted to exist and the responsiveness of the landlord to complaints by enforcement agencies.

(Q) Increases or decreases in operating costs and the amortized cost of capital improvements.

(R) The rate of return of the landlord's investment.

(S) Retaliation by the landlord against the tenant for complaining to the landlord, the Commission, or to any other governmental agency.

(T) Damages caused by individuals on the premises with the tenant's permission.

(U) An increase in the number of occupants of the premises.

(V) Such other factors as the Commission believes are relevant to a determination as to whether a rental charge is so excessive, with due regard to all the circumstances, as to be harsh and unconscionable.

(Ord. 187, passed 11-5-79; Am. Ord. 202, passed 4-6-81; Am. Ord. 320, passed 10-7-91)

§ 33.80 RENT REDUCTION NOT RETROACTIVE.

The Commission shall not have the authority to make any order of rent reduction retroactive prior to the effective date of the complaint. Any order of rent reduction shall become effective upon the filing of the complaint. Pending a determination by the Commission, the tenant shall continue to pay the last agreed upon rent to the landlord unless, pursuant to this subchapter, the Commission orders that the rent be paid into escrow.

(Ord. 187, passed 11-5-79; Am. Ord. 202, passed 4-6-81; An. Ord. 320, passed 10-7-91} Penalty, see S 33.99(B)

§ 33.81 ESCROW ACCOUNT.

The Commission shall establish an escrow savings account with a local bank or financial institution into which it shall deposit all rents or other funds paid to it within five business days of receipt. The funds shall be held in the escrow savings account until such time as the order of the Commission is complied with; or until the Commission acts on the complaint, or makes other appropriate order; or until a further order is made by a court of competent jurisdiction. However, the commission may provide for the payment of the landlord's mortgage, taxes, and insurance and the cost of heat, water, electricity, and other essential utilities when the expenses become due and payable. In addition, at its discretion, the Commission may order payment of the full balance to the landlord in cases of unusual hardship. Any interest earned may be used as above provided and, upon payment of the balance to the landlord, the interest shall be remitted to the landlord. Any funds or interest unclaimed by the landlord for more than 90 days after their release by the Commission shall become the property of the town. (Ord. 187, passed 11-5-79; Am. Ord. 320, passed 10-7-91)

§ 33.82 COMMISSION'S DECISION.

The Commission shall render its decision on any complaint filed with it by a tenant no later than 60 days after the date of the filing of the complaint. However, the time limit for deciding any complaint may be extended by the Commission in any case involving unusual hardship or administrative difficulties. (Ord. 187, passed 11-5-79)

§ 33.83 COMPLAINTS REGARDING RETALIATORY EVICTIONS.

(A) It shall be retaliatory action for a landlord to refuse to renew the lease or other rental agreement of any tenant, to bring an action or proceeding against the tenant to recover possession of the dwelling unit, to demand an increase in rent from the tenant, to decrease the services to which the tenant has previously been entitled, or to verbally, physically or sexually harass the tenant because the tenant has filed a complaint with the Commission or has engaged in other protected activity as set forth in section 47a-20 of the Connecticut General Statutes.

(B) Any tenant who claims that his or her landlord has engaged in retaliatory action may file a notice of said claim with the Commission.

(C) It shall be an affirmative defense against a claim of retaliatory action when the landlord seeks to recover possession of the dwelling unit if:

(1) The tenant is using the dwelling for an illegal purpose.

(2) There is non-payment of rent by the tenant.

(3) The landlord in good faith seeks to recover the dwelling unit for immediate use as his or her own abode.

(4) The conditions complained of were caused by the willful actions of the tenant or another person in the tenant's household or a person on the premises with the tenant's consent.

(5) The landlord seeks to recover possession of the dwelling unit on the basis of a notice to terminate a periodic tenancy previous to the tenant's complaint.

(D) It shall be an affirmative defense against a claim of retaliatory action when the landlord seeks an increase in rent if:

(1) The conditions complained of were caused by the lack of due care by the tenant or another person of his or her household or a person on the premises with his or her consent; or

(2) The landlord has become liable for a substantial increase in property taxes, or a substantial increase in other maintenance or operating costs not associated with his or her compliance with the complaint, not less than four months prior to the demand for an increase in rent, and the increase in rent does not exceed the prorated portion of the net increase in taxes or costs.

(E) Upon receipt of notice of a claim of retaliatory action, the Commission shall inform the landlord and shall investigate the claim. Within 15 days, the Commission shall convene a hearing after due notice to the tenant and the landlord for the purpose of determining whether the landlord has engaged in retaliatory action.

(F) Pending determination by the Commission, the Commission may order that the landlord maintain no action or proceeding against the tenant to recover possession of the dwelling unit, the landlord restore those services decreased by him or her to which the tenant was entitled, or the tenant continue to pay the rent required prior to the retaliatory action complained of.

(G) If, after a hearing, the Commission finds that the landlord has engaged in retaliatory action, it shall order the landlord to cease and desist from such actions. This cease and desist order may include the following provisions:

(1) That the landlord maintain no action against the tenant to recover possession of the dwelling unit.

(2) That the landlord not increase the rent.

(3) That the rent be decreased or that it be increased in an amount the Commission determines fair and equitable.

(4) That the landlord restore the services to which the tenant was entitled.

(5) That the landlord cease and desist all verbal, physical or sexual harassment of the tenant.

(Ord. 320, passed 10-7-91)

§ 33.84 CONTINUATION OF PROCEEDINGS.

All proceedings shall continue regardless of the fact that a tenant may quit the housing accommodation in question. However, the Commission may consider the

complaint abandoned if the tenant, after receiving notice of a hearing, fails without good cause to appear at the hearing. No sale, assignment, or transfer of the housing accommodation in question shall be cause for discontinuing any pending proceeding, nor shall it affect the rights, duties, and obligations of the Commission or the parties thereto.

(Ord. 187, passed 11-5-79 f An. Ord. 320, passed 10-7-91)

§ 33.85 NOTICE.

All notices with regard to any complaint shall be served by certified mail, return receipt requested, postage prepaid, and by regular first class mail, upon the landlord and the tenant. If all notices to a party are returned without having been delivered, the Commission may arrange for service by a deputy sheriff, constable of the town, or indifferent person in the same manner as is provided in the Connecticut General Statutes for service of process in an ordinary civil action.

(Ord. 187, passed 11-5-79; An. Ord. 320, passed 10-7-91)

§ 33.86 ENFORCEMENT.

The Commission is empowered to bring a civil action to any court of competent jurisdiction 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, or to seek damages incurred as a result of the violation of any order of the Commission made pursuant to this subchapter.

(Ord. 187, passed 11-5-79) Penalty, see § 33.99(B)

§ 33.87 APPEAL.

Any person aggrieved by any order of the Commission may appeal to the Housing Session of the Superior Court for the Judicial District of New Haven, within 30 days after service of notice of the order of the Commission as provided herein. As provided by the Connecticut General Statutes, the appeal shall be considered as a privileged matter with respect to assignment for trial. (Ord. 187, passed 11-5-79; An. Ord. 320. passed 10-7-91)

§ 33.88 OTHER REMEDIES.

Except as provided in § 33.87 above, the provisions of this subchapter shall not affect or limit the right of the landlord to institute a summary process action as provided by the Connecticut General Statutes, nor shall this subchapter affect the right of the landlord, tenant, mortgagee, or encumbrancer of record to institute any action authorized by law.

(Ord. 187, passed 11-5-79; An. Ord. 320, passed 10-7-91)

END

OLR RESEARCH REPORT
(Courtesy of the State of Connecticut Office of Legislative Research)

July 12, 2000

2000-R-0691

FAIR RENT COMMISSIONS: DUTIES AND OBLIGATIONS

By: John Moran, Research Analyst

You asked for an explanation of the duties and obligations of municipal fair rent commissions authorized under CGS § 7-148b.

SUMMARY

Fair rent commissions, which are created by act of a municipal legislative body, can receive and investigate rent complaints, issue subpoenas, hold hearings, and order landlords to reduce rents for specific reasons. When a commission finds the housing in question fails to comply with any local or state health or safety requirement, it may suspend rent payments until the housing is in compliance. A commission may also order a landlord to cease any retaliatory action against a tenant who complains to it. A commission must hold a hearing before taking any action.

A fair rent commission's purpose is to "control and eliminate excessive rental charges."

The law also states that anyone who violates a commission order or subpoena is subject to a fine of between \$25 and \$100.

COMMISSION POWERS (§ 7-148b)

In order to control excessive rental charges, state statute authorize municipal commissions to (1) to conduct studies and investigations, (2) hold hearings, (3) receive rent complaints (except on units rented on a seasonal basis), (4) require people to appear at hearings under oath, (5) issue subpoenas, and (6) issue orders regarding rent increases. A commission can alter or terminate any of its decisions. Under this statute "seasonal basis" means housing rented for not more than 120 days a calendar year.

Commissions are also authorized to carry out the provisions of a landlord tenant statute (§ 47a-20) regarding prohibited retaliatory actions by landlords. This section prohibits retaliation for a tenant making a good faith (1) effort to bring the dwelling in compliance with state and local laws and regulations, including filing a complaint; (2) request for reasonable repairs; and (3) effort to require the landlord to meet his legal responsibilities. Retaliation is also prohibited following the notice of a municipal health or safety violation or if the tenant organizes or joins a tenants union. Commissions can also carry out a subsection of the eviction statute (§ 47a-23c (b)).

CONSIDERATIONS IN DETERMINING EXCESSIVE RENT (§7-148c)

Commissions must consider a number of factors when determining whether a rental charge is excessive to the point of being "harsh and unconscionable." The factors include: (1) rents for

comparable units; (2) amount and frequency of rent increases; (3) sanitary conditions; (4) number of bathtubs or showers, toilets, and sinks; (5) services, furniture, and furnishings; (6) bedroom size and number; (7) repairs necessary to make the accommodations livable; [8) amount of taxes and overhead expenses, including debt service; (9) compliance with state and local health and safety laws and regulations; (10) renter's income and housing availability; (11) utility availability; (12) tenant damage to the premises, other than ordinary wear; and (13) the degree to which income from the rent increase will be reinvested in property improvements.

ORDERS BY COMMISSIONS (§ 7-148d)

After holding a hearing on a complaint, a commission can determine that a rent increase is excessive and order "rent be limited to such an amount as it determines to be fair and equitable." This appears to mean the commission can set the rent at the rate it believes is fair.

If the housing in question fails to meet local or state health and safety requirements, then the commission can order the suspension of rent payments until the unit meets standards. During the time the rent is not paid to the landlord, it is paid to the commission to hold in escrow and is subject to any provisions adopted by the municipality.

If the commission determines, after holding a hearing, that a landlord has retaliated in any way against a tenant who has complained to it, the commission can order the landlord to cease the retaliation.

PENALTIES AND VIOLATIONS (§ 7-148f)

An order of rent reduction or suspension is violated when a landlord accepts, receives, or demands an amount in excess of the order while it is in effect and no appeal is pending. Refusing to obey a commission order, subpoena, or decision is also a violation.

Violators will be fined at least \$25 but not more than \$100. If the offense continues for more than five days, it constitutes a new offense for each additional day beyond five.

APPEAL

Any landlord under any order by a commission may appeal to the Superior Court for the judicial district where the rental property is located.