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# Rent Control in New Jersey

What is it? Where is it?  
How does it work?

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The views expressed here do not necessarily reflect the views of the Foundation.*



## **New Jersey State of Affordable Rental Housing**

The New Jersey State of Affordable Rental Housing (NJSOARH) project is exploring the landscape of affordable rental housing in New Jersey. The project has two main areas of focus. The team is assembling information about existing government supported affordable rental housing and exploring the processes that shape housing insecurity.

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## Executive Summary

Housing is a critical social determinant of health, and rent control is one piece of a complex web of governmental assistance and regulation that seeks to preserve housing security for households and communities while ensuring a return on investment for landlords. Rent control's protections work in conjunction with a set of other tenancy protections including rules on eviction, habitability, applicant screening, and fair housing.

In this report, we trace the history of rent control in New Jersey and describe it today, and we offer a set of ideas for the future. The following items emerged as the key aspects of New Jersey's rent control system:

### **Municipalities largely govern rent control in New Jersey**

Since the 1970s, municipalities have governed rent control in New Jersey. This decentralized system produces regulatory variation.

- Rent control protects tenants in some municipalities and in some housing units, especially those in larger properties in some parts of northern and central New Jersey.
- Most of the 117 municipalities with rent control are located in Essex, Hudson, Bergen, and Middlesex Counties.
- Rent control is less prevalent among suburban and rural communities, particularly in the South and West.

### **Rent control covers a subset of units in municipalities that have adopted it**

Where rent control is present, it regulates a subset of units depending on the interplay of state and local rules and housing stock characteristics.

- The State of New Jersey exempts many units built in the last thirty years.
- Most units that receive federal or state housing assistance are also exempt as rent increases are limited by other rules.
- Many municipalities exempt additional units, such as units in smaller properties.

### **Municipalities regulate rent in a few ways**

- Some municipalities set a fixed percentage annual allowable increase, while others set increases in relation to a regional Consumer Price Index (CPI).
- Municipalities may allow other rent increases and decreases related to capital improvements, rehabilitation, insufficient return on investment, substandard housing conditions, and changes in taxes and service fees.

### **Some municipalities allow vacancy decontrol**

Some municipalities allow vacancy decontrol, which allows rents on regulated units to increase beyond the allowable increase upon vacancy.

- In many municipalities, units are covered upon the next tenancy.
- In some municipalities, rents can increase to market rates upon vacancy, but a few municipalities limit the increase.
- In about a dozen municipalities, vacancy decontrol is permanent, which means that rent control no longer applies for new tenants.

### **Ideas for the future**

The report concludes with a set of ideas for the future. These include:

- Increasing access to information about rent control for tenants, tenant associations, and landlords. This could include making it easier to know which units rent control covers.
- Reconsidering which units are exempt from rent regulation. Market conditions may have changed since exemptions were created.
- Exploring how rent control is implemented, which this report does not cover.

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# Introduction

## Introduction

In New Jersey, rent control, also known as rent leveling or rent stabilization, is one piece of a complex housing regulatory system. It mediates between the expenses and financial expectations of landlords and the need for affordable housing. Tenants need affordable, secure, and high-quality housing which, as a social determinant of health, is essential to individual and household well-being. Landlords of all types require sufficient revenue to cover the cost of mortgage and property tax payments, capital improvements, and maintenance. For-profit landlords are guaranteed a fair rate of return on their investment.

New Jersey's system of moderate rent control limits some rent increases with the objective of improving access to and retention of affordable rental housing while securing a fair return for landlords.<sup>1</sup> Municipalities govern rent control in New Jersey; although the state also sets some rules. As a result, as of 2022, New Jersey had approximately 117 different sets of rent control rules, which are shaped in part by local political, economic, and social context. With more than 500 municipalities, New Jersey also has many municipalities that have opted not to regulate rents. Though this decentralized system makes it challenging to grasp what rent control is and how

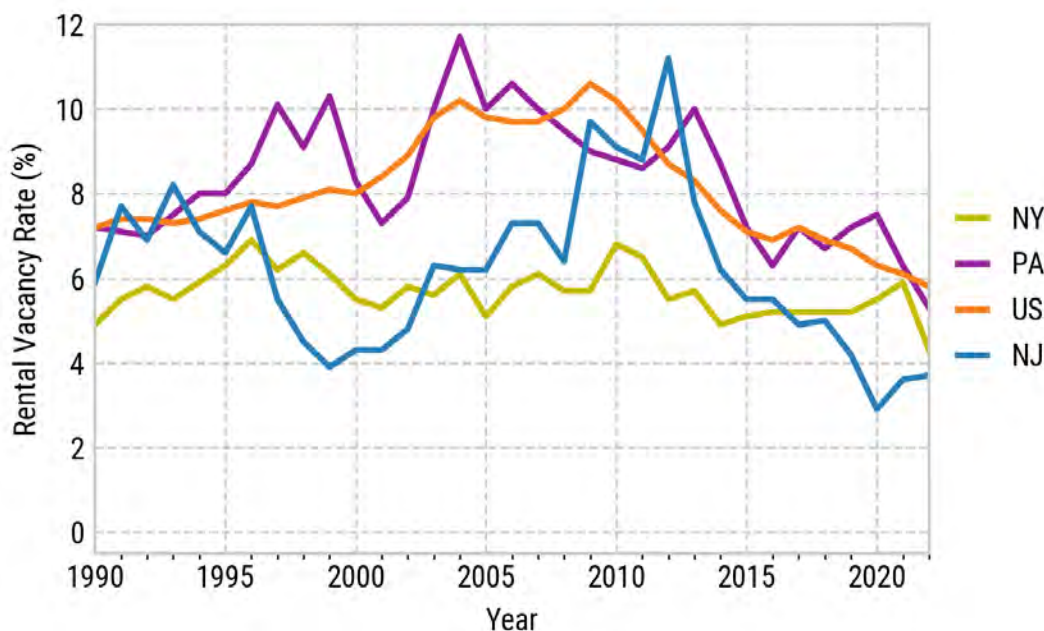
it works, it enables municipalities to adopt and modify the rules as politics, preferences, and conditions change.

## Tight Rental Markets and Increasing Rental Costs

Rent control has re-emerged as a leading policy issue given rising rents, tight housing markets, inflation, stagnant wages, and increasing concern about the relationship between housing and health - challenges amplified during the pandemic. A recent analysis by the National Low Income Housing Coalition estimates that New Jersey is short nearly 300,000 rental units affordable for households with incomes at or below 50% of Area Median Income (NLIHC, 2021). New Jersey's rental vacancy rate reached a 30-year low of 3% in 2020, below the value for the US overall (6%) and the neighboring states of New York and Pennsylvania (Figure 1). It has rebounded only slightly since the depths of the pandemic.

In New Jersey's more densely populated counties, the typical rent for units with the same set of features has increased since 2019. Most counties exhibited increases of \$500 or more a month for the average unit during this period, representing large percentage increases (Zillow, 2023). In higher-cost counties like Hudson, the typical rent asked was 20% higher in January 2023 compared to 2019. Rents in Essex and Camden counties rose 30% and 40% higher, respectively. Even rural Warren County, in Northwest NJ, experienced a 42% increase in rents

Figure 1. Annual vacancy rate, 1990-2022



Source: U.S. Census Bureau, Current Population Survey/Housing Vacancy Survey 2022

Notes: The rental vacancy rate is the percentage of renter housing that is vacant for rent. A low vacancy rate is an indicator of a tight rental market, which may be accompanied by increasing rental costs.

<sup>1</sup> New Jersey's rent control policies are often described as "moderate" because they include a variety of pathways for landlords to apply for increases in the face of economic hardship and if rents do not produce a fair rate of return (Gilderbloom and Markham, 1996).



asked. In short, few, if any, places in New Jersey have been immune from the trend of rapidly escalating rents.

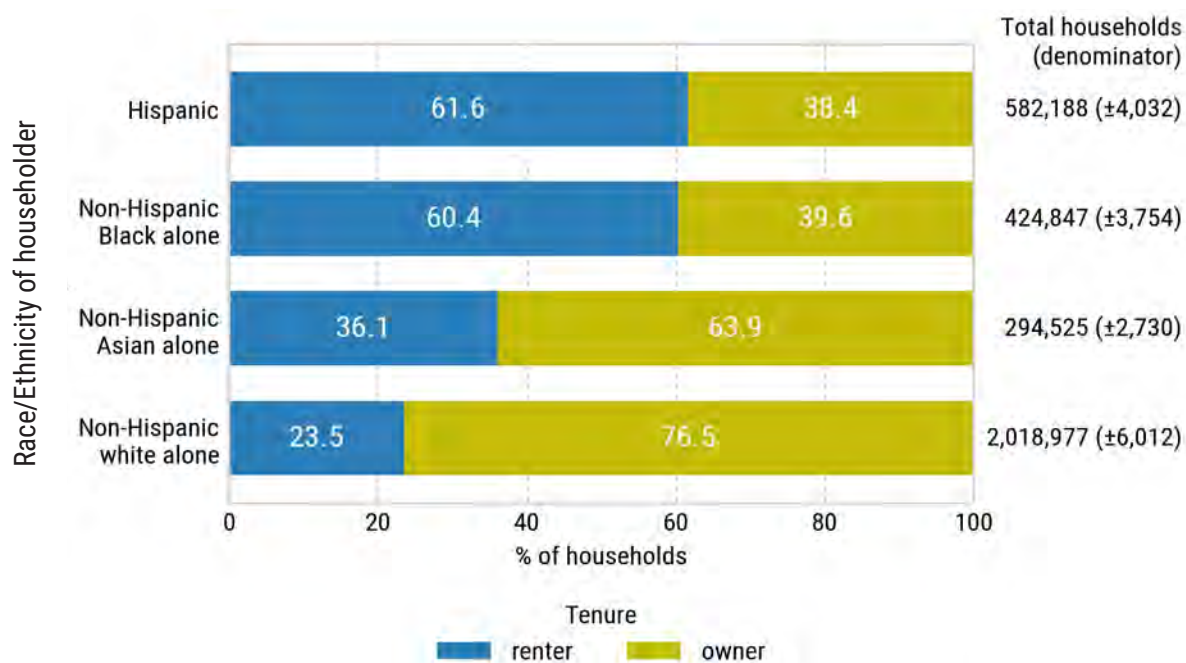
Nearly a third of recently surveyed New Jersey renters said that the cost of housing is a “very serious problem” (Eagleton Institute, 2021). Some low-income renter households face hard choices about paying rent or other household necessities like healthcare, medicine, food, childcare, car payments, auto repair, and utility bills. Some households cut back on these expenses or rely on the emergency food system, for example, to help save money for rent. Some share housing to make ends meet, which may contribute to overcrowded living conditions. And some households are unhoused (NJSOARH Interviews, 2022). These experiences create a suite of challenges related to human health.

Households with federal Housing Choice Vouchers (HCVs) are finding it more challenging than usual to locate an apartment. HCVs typically pay the difference between 30% of a renter household’s income for a unit with rent at or below a certain payment standard. Voucher holders looking for rentals sometimes struggle to find landlords who will accept vouchers. Finding units with rents that meet voucher rent requirements further increases the challenge of finding a unit (Make the Road New Jersey, 2022). HUD payment standards have not

kept up with rapid market changes. Additionally, some tenants currently renting with a voucher might not continue to receive rental assistance or will need to find a new place to rent if rents rise above program limits.

People of color, especially Black and Latinx households, disproportionately experience the extreme consequences of these housing affordability tensions. A century of exclusionary processes have contributed to a situation in which Black and Latinx households are more likely to be renters (Wilder, 2001; Fox Gotham, 2000; Rothstein, 2017). In New Jersey, roughly 60% of Latinx and non-Latinx Black households are renters, while fewer than 25% of non-Latinx white households are renters (See Figure 2). Further, Black and Latinx households are more likely to be renters paying an unaffordable share of their income for housing costs (when looking at all households, not just renters). More than 30% of all Black and Latinx households are renters paying at least 30% of their income for housing costs compared to roughly 10% of white households. Similarly, Black and Latinx households are more than three times as likely to be renters paying at least 50% of income toward housing costs compared to white households.

**Figure 2. Tenure by race/ethnicity, New Jersey, 2017-2021**



Source: ACS PUMS 2017-2021

In addition to addressing immediate housing concerns, rent control - and the housing regulatory system of which it is a part - addresses a nearly century-long shortage of affordable rental housing. This shortage has many causes, including the effects of exclusionary zoning, which limits the ability to build more affordable housing in some communities, challenges accessing credit, and that most rental housing is provided in the private market, where there is little ability or desire to produce rental housing affordable to lower-income households without subsidies. We turn next to a brief discussion of our research approach.

### Methodological Approach

Our objective was to understand the state of rent control in New Jersey. To do this, we read about the history of rent control in New Jersey and state rules related to rent control and tenancy protections. We conducted 112 interviews with New Jersey housing practitioners and community leaders about housing insecurity. And we read all of the municipal rent control ordinances in 2022.

We first identified municipalities with active rent control ordinances. We started with the New Jersey Department of Community Affairs' 2009 municipal rent control survey, which identified which municipalities had rent control at that time (NJDCA, 2009). To identify which municipalities repealed or added rent control in the intervening years, we searched news coverage, relied on more than one hundred interviews conducted in 2022, and read municipal rent control ordinances. Online platforms like *eCode360* and *Municode* and, in a few cases, municipal websites enabled us to access ordinances. We recorded information from the ordinances about which units they cover or exempt, allowable rent increases, whether they allow vacancy decontrol, and whether vacancy decontrol is permanent. Just as we finished, the New Jersey Department of Community Affairs (2023) released its 2022 rent control survey, which enabled us to double check much of our work.

### Rent Control in New Jersey

Through this process, we identified 117 municipalities with rent control (out of 564 total municipalities in New Jersey). Rent control is present in many of the state's denser municipalities. As a result, about two thirds of the state's renter households (66%), or roughly 806,000 renter households, live in municipalities with rent control (Table

1).<sup>2</sup> However, not all of these renter households live in rent-regulated housing because rent control only covers a subset of rental units. State rules exempt many units built in the last thirty years, and some municipalities exempt units in smaller buildings. Many units with governmental assistance are also exempt, although they remain covered by their own rent rules.

For units rent control covers,

- municipalities set maximum allowable annual rent increases;
- many allow rent increases for things like capital improvements and decreases related to unit condition;
- many municipalities allow temporary vacancy decontrol which allows rents to increase, in some cases to market rate upon vacancy, and
- a few municipalities allow permanent vacancy decontrol, which removes units from regulation upon vacancy.

The remainder of this report provides a brief overview of the history of rent control in New Jersey. It then considers what rent control looks like today. And it concludes with a discussion of ideas for the future. It does not explore how rent control is implemented and enforced, which was beyond the scope of this research.



<sup>2</sup> Municipalities have since made changes to their ordinances. For example, Somerdale has since repealed its ordinance.



**Table 1. Municipalities with rent control ordinances in 2022. These ordinances only cover a share of all rental units rather than all rental units.**

County	All munis	All munis with rent control	Munis that only regulate mobile homes	Number of renters in munis with rent control	Share of renters in munis with rent control (%)	Number of renters in munis with permanent full or partial decontrol
Atlantic	23	5	2	16,292	46	1,524
Bergen	70	26	1	86,589	70	11,099
Burlington	40	1	1	109	0	0
Camden	36	8	0	34,723	50	5,968
Cape May	16	1	1	1,876	20	0
Cumberland	14	0	0	0	0	0
Essex	22	16	0	167,341	98	7,641
Gloucester	24	3	1	6,053	28	0
Hudson	12	8	0	173,734	90	16,394
Hunterdon	26	0	0	0	0	0
Mercer	12	5	0	40,896	80	9,642
Middlesex	25	12	0	88,527	82	5,162
Monmouth	53	10	3	21,954	36	3,060
Morris	39	2	0	7,810	15	2,173
Ocean	33	4	2	26,107	54	0
Passaic	16	6	0	73,706	87	15,909
Salem	15	1	1	506	7	0
Somerset	21	2	0	11,096	36	3,439
Sussex	24	2	2	1,067	12	0
Union	21	4	0	46,874	56	0
Warren	22	1	0	1,054	8	0
Total munis	564	117	14	806,314	66	82,011

Sources: Municipal rent control ordinances and ACS 2017-2021

# Creating New Jersey's Contemporary Rent Control System



## Creating New Jersey's Contemporary Rent Control System

New Jersey's contemporary rent control system has been formed through nearly a century of discussions, negotiations, organizing, and litigation often focused on questions related to which level of government, if any, should regulate rent. In this section we discuss this history with a focus on these pivotal time periods:

- The 1950s as federal war-era emergency rent rules were about to expire,
- The 1960s and 1970s in the midst of a housing crisis,
- The 1980s during a period of condo and coop conversion and concerns about taxes, and
- The 2020s during the COVID-19 pandemic and a period of high inflation.

Our discussion includes a set of municipal and state tenancy protections that affect how rent control works.

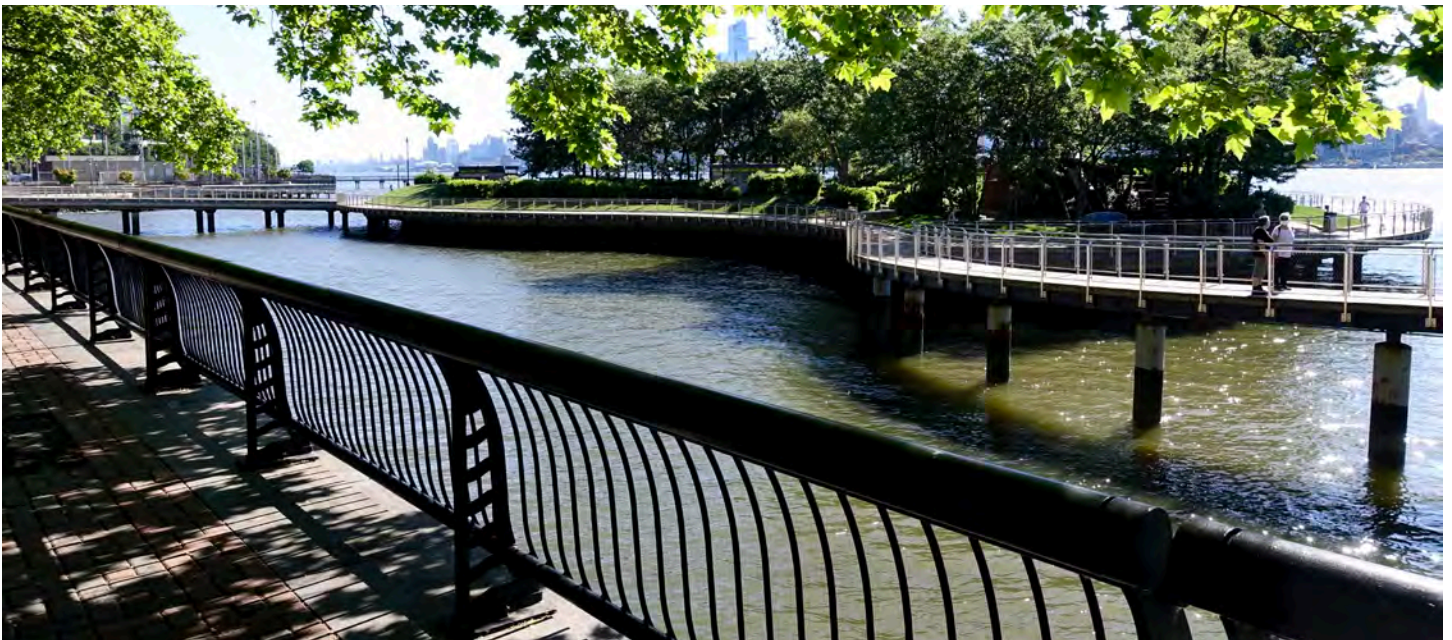
### The 1950s: Expiration of Federal World War II-era Temporary Rent Control

New Jersey implemented rent control as federal war-era rent control came to an end in 1953<sup>3</sup> (Baar and Keating, 1975). Initially, the state enabled localities to create rent control that aligned with state rules through 1954, later extended to 1956 ("Jersey Rent Rule").

Concerned about the end of state enabling legislation in 1956, 35 municipalities issued rent control ordinances and asked the state to create new enabling legislation ("Senate Passes Bill to Let...", 1957). New Jersey did allow these 35 municipalities to extend rent control if they followed the recently expired state rules.<sup>4</sup> However, Newark, arguing that it had the authority to regulate rent through its police powers, created a separate ordinance. State courts struck down that ordinance. They argued that rent control was outside of Newark's municipal home rule power because New Jersey had recently regulated rent, making rent control the purview of the state (*Wagner v Newark*, 1957; Baar, 1977). This ruling paused municipal rent control for about a decade.

### The 1960s and 1970s: Tenancy Protections and Tenant Organizing

New Jersey adopted some of the strongest tenant protections in the country in the 1970s as it responded to tight rental markets, rapidly accelerating rents, habitability concerns, and exclusionary practices. The New Jersey Tenant Organization pressed for many of these protections and became a leader in the national tenant movement in the process. They secured regulation to protect security deposits, prevent retaliatory eviction, and guarantee habitability. They also pressed for New Jersey's 1974 Anti-Eviction Act, which includes protections against "unconscionable" rent increases anywhere in the state, regardless of the presence of municipal rent control. It also instituted "good cause" eviction protections, pro-



<sup>3</sup> Morris County and around Fort Dix were deemed critical and federal rent control remained in place for a period.

<sup>4</sup> This included: "Atlantic City, Bayonne, Camden, Cliffside Park, Elizabeth, Ewing Township, Fair Lawn, Fairview, Fort Lee, Guttenberg, Hackensack, Hamilton township, Harrison, Highland Park, Hillside, Hoboken, Jersey City, Linden, Little Ferry, Newark, Nutley, North Arlington, North Bergen, Palisades Park, Passaic, Paterson, Perth Amboy, Rahway, Ridgefield, Roselle, Trenton, Union City, Weehawken, West New York, and Woodbridge" ("Jersey Set to Act on Rent Control Rules," 1957:82).

hibiting landlords from evicting tenants except under a limited set of circumstances, like non-payment of rent. Importantly, this law prohibits landlords from evicting tenants simply to take advantage of vacancy decontrol provisions which allow higher rent increases at the end of a tenancy. Together, this body of legislation provided tenants with a greater ability to challenge poor housing conditions and rising rents with some protections from losing their homes (“City Rent”, 1957; Kahn, 1994; Atlas, 2022; Baar, 1998; Conk, 2012).<sup>5</sup> Tenants and organizers also received support from attorneys at Legal Services and faculty and students at Rutgers Newark Law School, which students called “People’s Electric” (Conk, 2012:517).

## Municipal Second Generation Rent Control

Responding to soaring inflation, rent control debates took on renewed vigor in the 1970s. To address the affordability crisis, the federal government froze rents from the summer of 1971 through January 1973 (Baar and Keating, 1975). Tenant organizations in New Jersey renewed efforts to secure statewide rent control. However, proposed legislation stalled just as federal rent control ended. Meanwhile, more than 20 New Jersey municipalities adopted rent control ordinances to address rising rents (Cook, 1973).

As all of this was unfolding, the New Jersey state court clarified that municipal governments could regulate rents in April 1973 when it overturned the 1957 decision that struck down Newark’s rent control ordinance. The new decision maintained that rent control was a legitimate exercise of municipal police power. Within two years, more than 100 municipalities had rent control, and by 1977 about 120 did (Cook, 1973; *Inganamort v Borough of Fort Lee* 1973; “Police Powers”, 1974; Baar and Keating, 1975; Baar, 1977; NJ Rent-control Muddle, 1978; Kahn, 1994; Baar, 1998). Tenant groups supported rent control’s implementation by providing training for rent control boards and tenants (Cook, 1973). The Ronald B. Atlas Tenant Resource Center, for example, worked with 7,200 tenants, 10 tenant groups, and 200 building associations in a little more than a year (Rand, 1981:18).

A series of court decisions further shaped rent control in the state:

- *Hutton Park Gardens v West Orange* established that rent control was not dependent on a rental emergency declaration because rent control is within municipal police powers (Rodrick, 1972). Cities, courts decided, can create policies to respond to problems in the rental market as long as they enable a fair rate of return for landlords.
- *Brunetti v Borough of New Milford* established that “An ordinance did not have to provide for full CPI increases” (Baar, 1998:144).
- *Troy Hills Village v Township Council of Parsippany-Troy Hills* – decided that “An ordinance did not have to permit rent increases adequate to cover operating cost increases, since apartment owners may have been receiving excessive profits before the imposition of rent controls” (Baar, 1998: 144).

Furthermore, when some landlords argued that they were unable to secure a return on their investment, the courts clarified that landlords were justified in receiving a minimum rate of return. The courts did not adopt a formula or process to determine that

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<sup>5</sup> A process to determine what is unconscionable is outlined in: *Fromet Properties Inc v Buel et al* 294 N.J. Super 601 (App. Div. 1996)





rate. Without state guidance, municipalities have employed a variety of approaches to determine fair rate of return in their rent control ordinances<sup>6</sup> (Ambrosius et al, 2015; Sheldon, 1981). Municipalities also make it possible for landlords to capture increases for other reasons such as capital improvements.

Since this initial wave of 1970s municipal ordinances, municipalities have continued to modify, repeal, or adopt new ordinances, producing an increasingly varied regulatory landscape.



### **The 1980s: Conversions, Taxes, and Vacancy Decontrol**

Concerns about displacement and taxes dominated rent control discussions in the 1980s. Displacement concerns emerged as about 6% of the state's rental stock converted to condo or coop between 1980 and 1987 with higher shares in Bergen County. Some communities had so many conversions that they experienced a loss of apartment units. Tenant groups fought to protect tenants from displacement and to limit renters' exposure to conversion-related property tax increases (Baar, 1977; Courtney, 1987; Keating, 1998; Barr, 1998; Kahn, 1994).

Taxes also figured prominently in 1980s-era rent control discussions. One area of contention was whether tenants pay property taxes. Following court cases that established that tenants do pay property taxes when they pay rent, New Jersey required tenants to receive a share of savings when taxes were reduced through revaluation or reassessment (Krueckeberg, 1999). Some towns added provisions to their rent control ordinances that required landlords to pass tax deductions to tenants (Kahn, 1994).

Another tax-related discussion involved an argument that rent control would depress apartment building property values, shifting tax burden to other tax payers

<sup>6</sup> A critical area for future research is examining the formulas and processes municipalities adopt to determine a fair rate of return.

including homeowners (Barr, 1998; Freeman and McEntyre, 1980; Pransky, 1980). Some municipalities responded to this argument by adding vacancy decontrol provisions to their rent control ordinances. Vacancy decontrol allows rents to increase at the time of vacancy. Some municipalities allow rents to increase to market rents while others cap increases. In many communities, vacancy decontrol is temporary and rents are restricted upon the next tenancy. Others permanently decontrol some or all units, moving once-covered units out of rent control as they become vacant. By the early 1990s, almost half of the 106 municipalities with rent control had adopted some form of vacancy decontrol (Ambrosius, Gilderbloom, Steele, Meares, and Keating, 2015; Haddon, 2011; Depalma, 1983).

### **State Preemption and New Construction**

The end of the 1980s saw one of the most significant changes to rent control since the re-institution of municipal rent control in the early 1970s. Arguing that rent controls were constraining multifamily construction, the state of New Jersey exempted units in newly constructed multiple dwellings (defined as four or more units) from rent control in 1987 for the length of amortization of the mortgage or thirty years after construction ends (Baar 1998; NJDCA “Newly Constructed...”, 2008).<sup>7</sup> It also exempted units that are owned or receive subsidies from the New Jersey Housing Mortgage Finance Agency, the US Department of Housing and Urban Development, and the New Jersey Public Housing and Development Authority. These agencies have separate rules governing allowable rent increases, which may or may not be as restrictive as municipal rent control (NJLS, 2020: 60; NJDCA Rent Increase Bulletin, 2008).

### **The 2010s and 2020s: Tight Rental Markets and the Pandemic**

In the last few years, the pandemic accelerated existing tensions in the rental market. Lost work, the eviction moratorium, and delayed government assistance resulted in lost or delayed income for both tenants and landlords. Rising inflation, soaring rents, and exceptionally tight rental markets reinforced these challenges. Landlords sought to catch up on missed rent payments from the pandemic and to accommodate rising costs due to inflation. Tenants, especially lower-wage workers in service industries, struggled to make up for lost wages and faced increasingly tight household budgets due to inflation. Meanwhile, corporate investors expanded their share of the rental housing market, creating new pressures (Troutt and Nelson, 2022; NJDCA, 2022).

In this context, many communities are rethinking rent control and other tenancy rules. Some are strengthening existing rent control rules. For example, tenant groups organized to lower allowable annual rent increases in Perth Amboy (*Perth Amboy Now*, 2022). Other municipalities are taking a different approach by limiting or repealing rent control. Even as some municipalities limit it, others are creating new rules. Asbury Park and Montclair adopted rent control ordinances in 2022.

Tenant groups are also working locally and across the state to strengthen tenancy protections. State-wide groups have sought to limit the use of background checks (Crist, 2022). And, some cities are developing new offices and programs to improve tenant outcomes. Newark created an Office of Tenant Legal Services and instituted a right to counsel law for tenants in 2018. Jersey City approved a tenant right to counsel law in summer 2023 (City of Newark, 2023; Troutt, 2019; Rosario, 2023).

Rent control is a product of more than a half century of negotiations in the more than one hundred New Jersey municipalities that have attempted to balance tenant and community needs with landlord and tax revenue interests in ways that work for their communities. We turn now to discuss how rent control works today.

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<sup>7</sup> Newark’s City Council recently limited rent increases on some newly constructed units (Cooper, 2023).



# Rent Control in New Jersey Today

## New Jersey Rent Control Today

To explain rent control in New Jersey today, we explore where the 117 municipalities that have rent control ordinances are located, which units ordinances regulate, how they regulate rent, and whether they allow temporary or permanent vacancy decontrol.

### The Geography of Rent Control

Most of the municipalities with rent control are located in Essex, Hudson, Bergen, and Middlesex Counties. These are the state's more densely populated northern counties with many rental units and often strong histories of tenant activism. The vast majority of renters – more than 90% of renters in Essex and Hudson counties and more than 80% in Passaic, Middlesex, and Mercer – live in municipalities with rent control. However, as we explain later, rent control does not cover all rental units, even in those municipalities with rent control.

In some suburban areas, including large parts of Morris and Somerset Counties and the more suburban parts of Union County, few municipalities have rent control. Many of the communities in these counties also have fewer rental units. Historically, exclusionary zoning and other land use processes made it more difficult to build rental units in some suburban communities.

Rent control is similarly less present in rural areas. It is absent in Hunterdon and Cumberland Counties, and fewer than 8% of renter-occupied units in Warren County are in municipalities with rent control. Some municipalities in the more rural counties of Burlington, Cape May, Salem, and Sussex have rent control that covers only mobile homes.

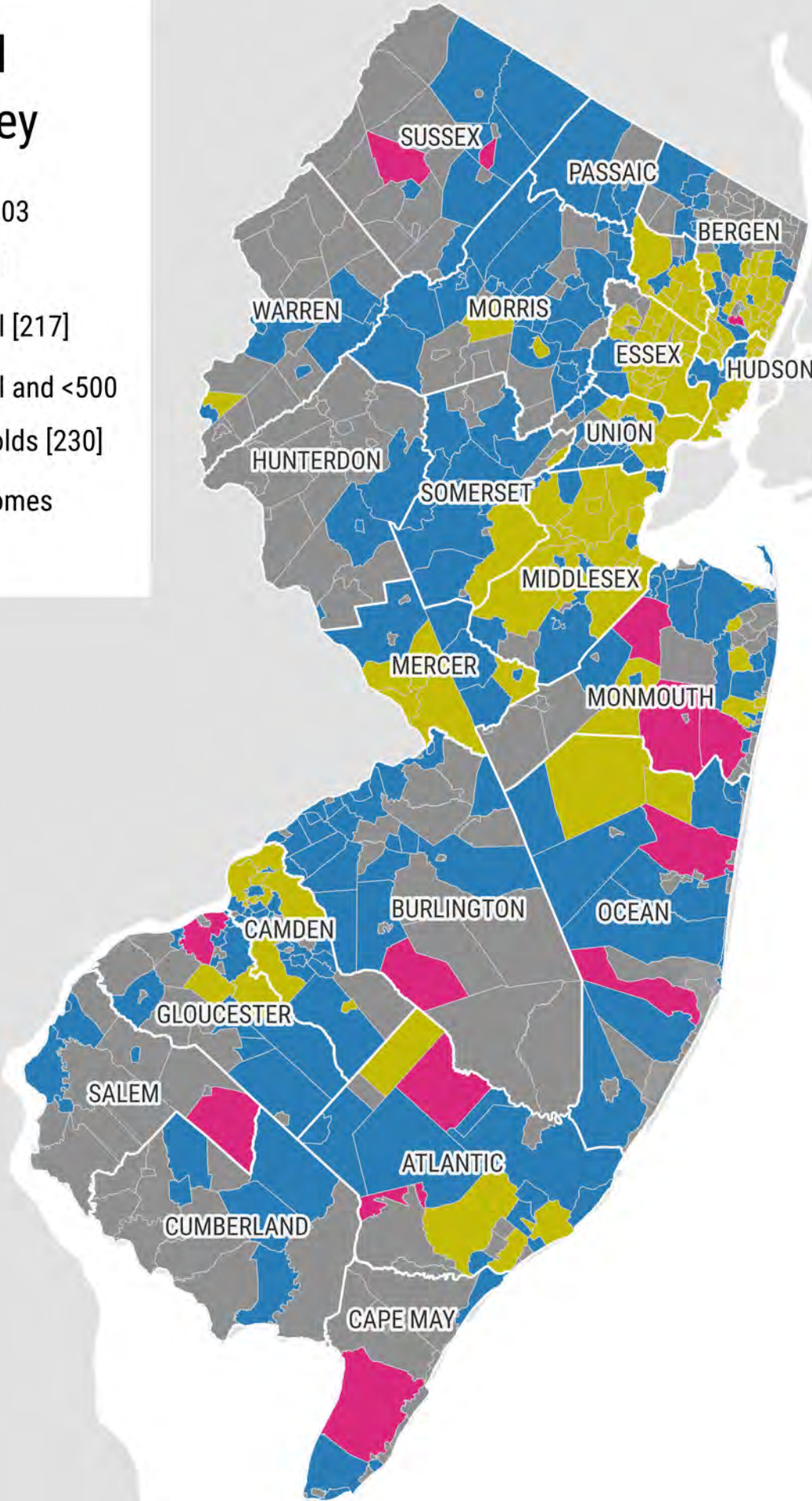
While most of the New Jersey municipalities without rent control are in suburban and rural areas with few renters, a subset contains a substantial number of renters. Fifty-three municipalities without rent control each have more than 2,000 renters. They account for about 207,000 of the state's 423,000 renters living in the 447 municipalities without rent control. In Union County, Plainfield, which does not have a rent control ordinance, has more than 8,000 renter households, many of whom are Black and Latinx. In South Jersey, where rent control is largely absent, there are municipalities without rent control that have substantial numbers of renters, also including many Black and Latinx renters. For example, Lindenwold accounts for 33% of Camden County's Black renters living in a community without rent control and 14% of all Black renters. Vineland, in Cumberland County (which is entirely without rent control), accounts for 40% of the county's renter households and more than half of the county's Latinx renters.

In summary, the largest cities in New Jersey and others in or near the urbanized northern core typically have rent control. Though rent control extends to municipalities covering the majority of the state's renters, there are important gaps in geographic coverage, particularly in some small and mid-sized municipalities in suburban and rural counties. Some of these municipalities account for a large share of the region's renters, particularly renters of color, like Vineland in Cumberland County. However, even in municipalities with rent control, not all renter households are covered by it. Next, we discuss exemptions to rent control.



# Rent Control in New Jersey

- Rent control [103 municipalities]
- No rent control [217]
- No rent control and <500 rental households [230]
- Only mobile homes covered [14]





## Regulated Units

Rent control ordinances cover only a subset of all rental units. For example, 14 municipalities with rent control only regulate mobile homes. Which units are covered in the remaining 103 municipalities with rent control depends on the interplay of federal, state, and municipal rules and the composition of the housing stock in each municipality. In most of these municipalities, determining which units are covered involves identifying which units are exempted from regulation. Three exemptions affect the largest number of units in most places:

1. state exemption for most recently built multifamily units;
2. state and municipal exemptions of units with governmental assistance, and
3. municipal exemption of units in smaller properties.<sup>8</sup>

Next, we discuss each exemption and how it intersects with the others to shape which units are regulated. We explain how difficult it is to estimate the number of units exempted in each category. This is why it is especially difficult to know how many units rent control covers, except perhaps in municipalities that regulate a narrow share of renter occupied units.

## Exemptions - Units in Recently Built Multifamily Properties

Since the late 1980s, the state of New Jersey has exempted rental units from municipal rent control in multifamily properties (four or more units) for the length of amortization of an initial mortgage or for 30 years after the “completion of construction,” whichever is less (NJDCA, 2008). This exempts a significant number of rental units, but it is hard to say exactly how many. American Community Survey data aggregate building age into groups making it impossible to tabulate with number of units in a structure to precisely identify units that would be exempted.<sup>9</sup>

General estimates are possible, however. Units continually age out of this exemption. It is useful to know how many units will emerge into rent control and where they are located to ensure that the rent control rules are applied to units as they qualify for rent control. By 2029, 58,347 ( $\pm 2,711$ ) of the units built in or after

1990 will be 30 years old or older (built between 1990 and 1999). The majority of these units are located in Northern New Jersey and along the Northeast Corridor rail line and New Jersey Turnpike (I-95) routes, particularly in Hudson, Essex, Bergen, and Middlesex counties. Rent control would cover some, but not all, of these units. Some units would be exempted for other reasons. We turn to a discussion of units exempted for these other reasons next.

## Exemptions - Units with Governmental Assistance

State and local rules exempt many units that receive government subsidies, though these units’ rents are regulated through other mechanisms. It is challenging to accurately estimate how many units this rule exempts for a few reasons. First, it is unclear where all of these assisted units are. While some federal housing data is available, it is not complete. And though some units with state assistance are known, not all are. Second, some units receive more than one form of subsidy. Federal administrative housing datasets identify units with subsidies, but do not necessarily note when the same unit receives more than one form of assistance. Some units appear in multiple datasets and therefore would be counted multiple times.<sup>10</sup> Understanding these limitations, our best estimates suggest that about 26,000 units with federal assistance were built before 1990 and would likely be exempt from municipal rent control rules. Our data also show that a large number of units built in the subsequent decades receive governmental assistance. Rents in both sets would be covered by federal rules, not municipal (Table 2).<sup>11</sup>

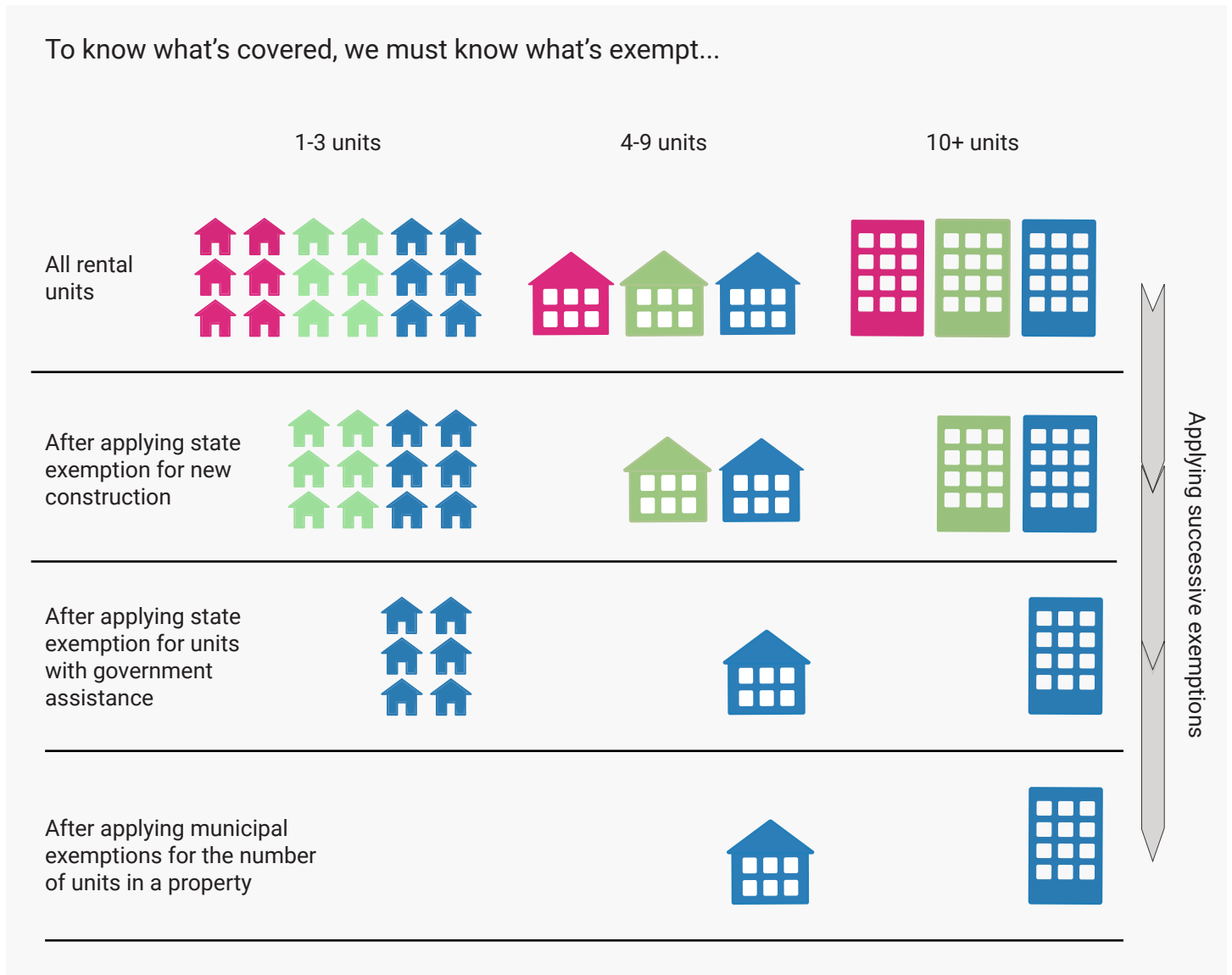
## Exemptions - Number of Units in Property

In addition to the exemptions discussed above, many municipalities exempt units based on the number of units in a property. A majority of municipalities exempt properties with fewer than three units. Some municipalities modify these rules if a unit is owner occupied. Municipalities might allow three- or four-unit properties to be exempt if an owner occupier is present. While some might advocate to include smaller unit properties in rent control, these protections may be limited because the state’s good cause eviction law does not apply to tenants living in owner-occupied properties with three or fewer units, which allows landlords to evict tenants at the conclusion of a lease agreement and charge a higher rent to future tenants (NJDCA “Grounds...”, 2008).

<sup>8</sup> Permanent vacancy decontrol, which we discuss later, also removes units from regulation.

<sup>9</sup> Our rough estimate suggests that the state rule exempts 172,614 ( $\pm 4,288$ ) renter-occupied housing units in structures with five or more units built after 1989. This estimate 1. excludes units in low-rise rental properties such as an apartment complexes with multiple structures, 2. excludes properties with four units, and 3) includes units that would still be exempted because of other state and local rules.

**Figure 3. Layering rent control exemptions to understand what units rent control covers**



**Key**

- <30 years old
- Select government assistance
- Units more than 30 years old without select government assistance

<sup>10</sup> To estimate the number of units this exemption effects, given these challenges, we used public housing and federal multifamily assistance data, such as Section 8, obtained from HUD websites and Low-Income Housing Tax Credit data obtained from the New Jersey Housing and Mortgage Finance Agency. To locate where these programs support more than one unit, we completed a set of processes. First, we corrected the geographic location of developments (based on property addresses) to put them on the tax parcel where they are actually located. Second, we identified where subsidies overlap in one parcel. Third, we checked the data on those parcels to ascertain whether there are different developments or multiple subsidies on the same development. This produced a count of units with one or more of these subsidies. Finally, we estimated how many units were placed in service in different time periods to integrate this information with the 30-year state exemption.

<sup>11</sup> This may not include public housing or other units that flowed through the federal RAD program and received project based vouchers.

Finally, the state and municipalities also exempt units from rent control for other reasons. Most municipalities exempt college dorms, hotels, and rooming and boarding houses. They often exempt rehabilitated units the first time they are rented, and some do so permanently. Some exempt units in properties where a share of the property is commercial, and some exempt seasonal units. Asbury Park, for example, exempts certified short-term rentals, which it regulates separately. A few municipalities exempt properties built in targeted redevelopment areas, such as Camden’s exemption for rental units built in the Downtown Camden district. Lakewood exempts rental properties in some buildings owned by nonprofit organizations. Rental units in condominiums or cooperatives may or may not be covered depending on the municipality.

This section described rules that determine which units are covered by rent control ordinances. While the state preempts municipalities from regulating newly constructed housing, municipalities have their own rules about which units they exempt and therefore which they cover. Another important source of variation beyond which units are covered is the way that municipalities regulate rent increases. We turn to that next.

**Table 2. Total and select federally assistance rental units by year placed in service**

Year built	Public Housing	LIHTC	Federally Assisted Multifamily*, **	Public Housing / LIHTC	Federally Assisted Multifamily*, ** / LIHTC	Unknown subsidy	Total
Before 1990	23,929	1,506	318	-	0	957	26,710
1990 to 1999	1,321	9,025	105	-	581	569	11,601
2000 to 2009	2,022	15,243	9	1,161	2,998	1,438	23,011
2010 to 2019	399	18,915	256	796	8715	1,943	31,144
2020 or after	-	2,932	-	-	832	338	4,142
Unknown year	-	-	39,577	-	-	2,943	42,620
Total Units	27,671	47,621	40,265	1,957	13,126	8,188	139,228

Sources: US HUD 2022a, 2022b; NJHMFA 2022

\*Multifamily federally assisted housing includes: 811 PRA Demo, Other S8 New, Other S8 Rehab, Pension Fund, PRAC 202/811, S8 FMHA, S8 Loan Management, S8 PreservS8 RAD RS/RAP Conv, S8 State Agency, Sec. 202.

\*\*Year built is not available for multifamily federally assisted housing.



## Rents

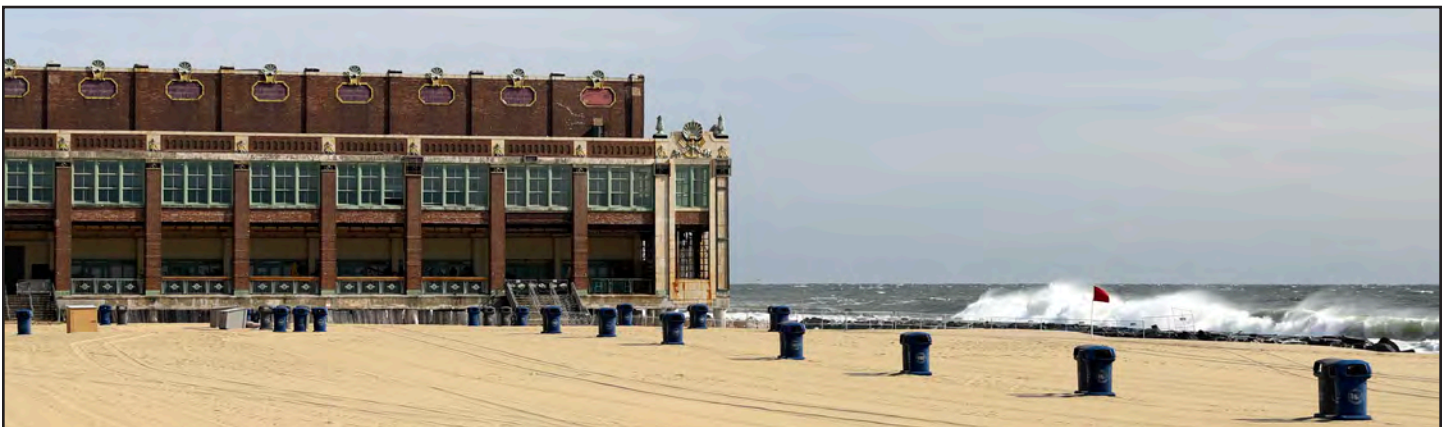
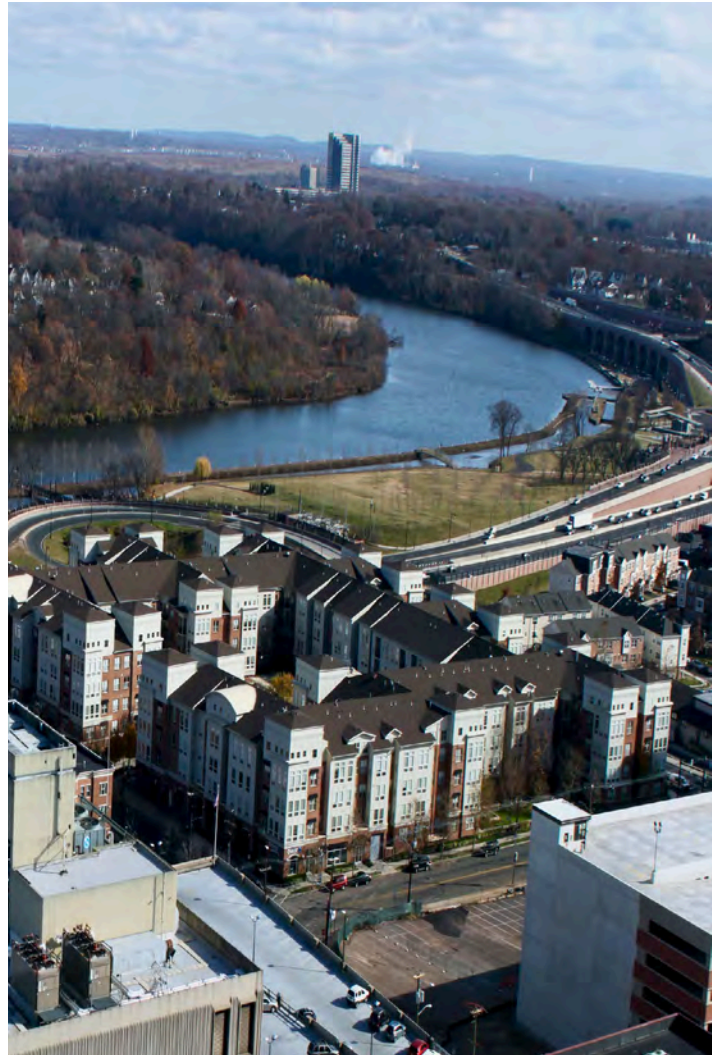
Regulating rents is the primary task of rent control regulation, and rent control ordinances go about this in three primary ways. They:

1. identify allowable annual increases;
2. outline other pathways for rent increases or decreases related to landlord hardship, fair rate of return, capital improvement, substantial rehabilitation, and changes in fees and taxes; and,
3. allow rents to rise through temporary or permanent vacancy decontrol.

In this section we discuss the mechanisms to increase rent in the 103 municipalities that regulate more than only mobile homes. We start with annual increases.

### Annual Rent Increases

To guide annual rent increases, usually for existing tenants, most municipalities identify a fixed percentage increase, or set the increase in relation to the federal Consumer Price Index (CPI) (Table 3). Many of the municipalities with rent control allow increases of between 4.0% and 5.9%. Nearly a quarter set rent increases relative to CPI. In both approaches, some municipalities allow smaller increases for tenants who pay for utilities and for households with protected tenant status, which includes some lower-income households with aging adults or people with disabilities (NJDCNJ Senior, 2008). A handful of municipalities use a formula to determine rent increases or apply different increases to different types of units. Municipalities often disallow annual rent increases if landlords have not followed ordinance rules or if units are in substandard condition.



### Other Pathways to Increase or Decrease Rent

Outside of annual increases, municipalities outline a set of pathways for other rent increases to address landlord hardship, fair rate of return, capital improvements, substantial rehabilitation, and changes in fees and taxes. Municipalities enable increases and decreases related to changes in taxes or municipal fees for services such as trash, sewer, and water. Some allow rent reductions for tenants living in substandard housing. Though these pathways to increase rent are critical, they were beyond the scope of this project to pursue more deeply.

A handful of municipalities employ other approaches to regulate rent as well. During the COVID-19 pandemic, municipalities including Jersey City, Montclair, Newark, and West New York temporarily froze rent increases (Fagan, 2021). Lakewood allows landlords to capture a larger than annual increase if a tenant receives HUD Section 8 rental assistance and the increase falls within the federal guidelines. If the next tenant does not receive a subsidy, the rent is reduced. Some municipalities also allow landlords to raise rents at the time of vacancy through vacancy decontrol. We discuss that next.



**Table 3. Annual rent increase approach except ordinances that only regulate mobile homes**

Annual Rent Increase Approach	Number of Rent Ordinances
2-3.9%	5
2-3.9% if some utilities provided	6
4-4.9%	11
4-4.9% if some utilities provided	1
5-5.9%	11
5-5.9% if some utilities provided	7
6% or more	4
CPI	27
CPI, no more than 2 or 3%	2
CPI, no more than 4 or 5%	18
CPI, no more than 6, 7, or 8% or more	5
Other Formula	5
Manufactured housing only	14





## Vacancy Decontrol

Nearly all (89) of the 103 municipal ordinances that regulate units other than mobile homes permit vacancy decontrol, which allows landlords to raise rents above the annually allowed increases when rental units become vacant (Figure 4). Although, some municipalities allow rents to increase to market, 36 municipalities limit how vacancy decontrol is used.

Some:

- Cap how much rents can increase, like New Brunswick and Linden.
- Allow vacancy decontrol for a subset of units. Washington Township in Gloucester County allows vacancy decontrol for mobile home units, and Jersey City only allows it if there are capital improvements.
- Limit how often landlords can use vacancy control. East Orange allows it once in a ten-year period.
- Restrict vacancy decontrol to units in good condition.
- Require landlords to certify that tenants were not harassed to leave to capture vacancy decontrol rent increases. However, the ability to increase rent upon vacancy, especially in periods

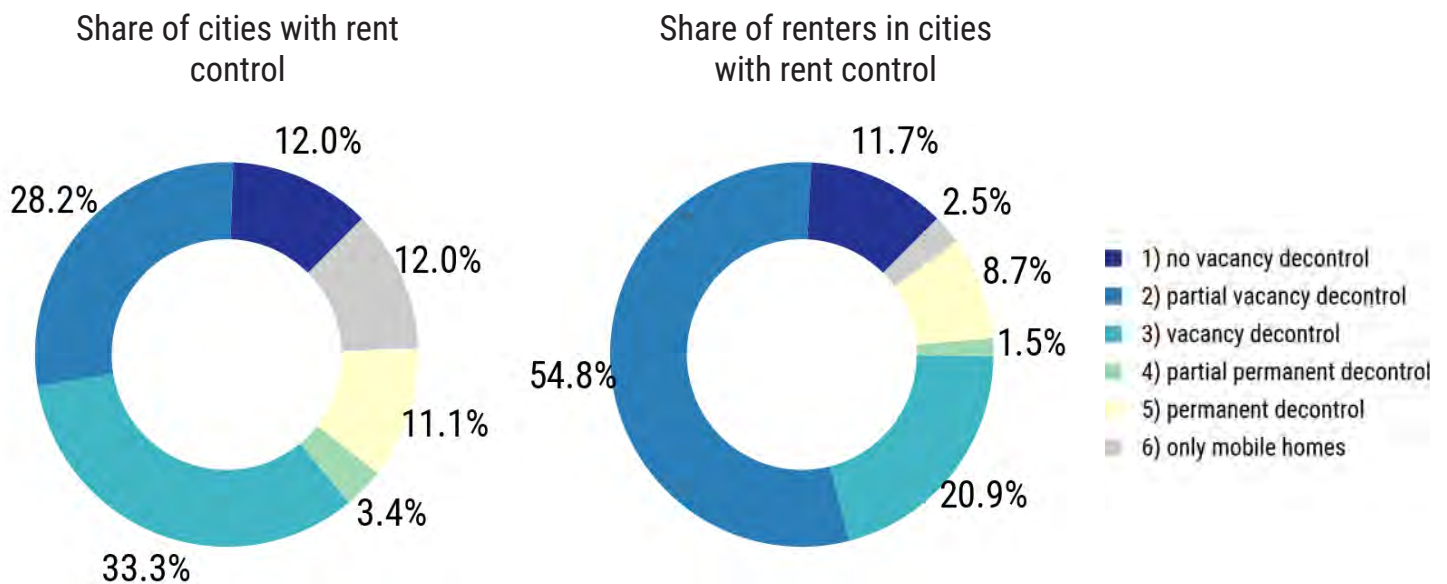
of appreciating rent, may create incentives to pressure tenants in subtle or overt ways, as research has found in other communities that allow vacancy decontrol (Plerhoples Stacy et al, 2021).

## Temporary and Permanent Vacancy Decontrol

Most municipalities allow temporary vacancy decontrol and recontrol rent upon the first tenancy after a vacancy. However, 17 municipalities partially or permanently decontrol units, meaning rental units are no longer covered by rent control upon the end of a lease. For example, Hammonton, Atlantic Highlands, Bayonne, and Cherry Hill permanently decontrol units as they become vacant, gradually reducing the number of units rent control covers. Some municipalities only decontrol a subset of units. North Plainfield permanently decontrols units in buildings with fewer than 11 units following vacancies and North Arlington decontrols units in three- and four-unit buildings.

This section discussed how rent control regulations vary across several parameters, particularly with regard to allowable rent increases, which are generally intended to balance the importance of preserving stable housing situations for lower-income renters and the profitability of housing for investors.

Figure 4. Vacancy decontrol types









# Discussion and Ideas For the Future

## Discussion

As affordable housing becomes harder to find, rent control is reemerging as a topic of interest in housing and social welfare policy circles. Though rent control sounds like a straightforward policy, in practice it takes a variety of forms, regulating different types of units in different types of ways. What rent control is and how it works differs across states and municipalities.

The objective of this report is to make New Jersey's largely decentralized rent control system visible. Rent control rules are not always available in accessible language, making it difficult to know the rules in a given municipality. Further, this information is only available municipality by municipality, making it difficult to view rent control statewide. We sought to bring this information together to reveal where rent control is present and how it works in the communities that have adopted it. High-quality information is necessary to inform ongoing policy discussions about rent control in NJ and beyond.

This report also highlights the municipal governance of rent control and the ability of local actors to shape how rent control works in their municipalities. As this report was being completed, for example, New Brunswick lowered its allowed rent increases, responding to local conditions. This recent change and others are not included in this report as the data was collected in 2022. The report also provides a brief review of how New Jersey's rent control system has changed since the repeal of federal World War II-era rent control. It highlights the challenges tenants and the state faced since and the decisions made to address those challenges.

Given that allowable rent increases are the primary actions regulated by these policies, it is appealing to want to estimate the effect of rent control on market rents. But because rent control only affects a subset of units and most municipalities allow vacancy decontrol, it is especially challenging to estimate how rent control shapes what tenants pay. Though rent regulation may keep rents low in some apartments, in other neighborhoods with weak markets or units with little demand, it may have less of an effect. However, it does seem clear that rent control, by limiting rent increases in covered units and, in turn, reducing the incidence of displacement through increased housing costs, can contribute to housing security for lower-income households. It en-

ables households to plan, avoid unexpectedly large rent increases, and balance their budgets. This is especially important given the historical racialized processes that have reduced access to homeownership and the fixed housing payments that usually come with it.

This exploration of rent control answers some questions while raising many others. This report has focused on rent control rules, but the rules may be very different from how rent control is implemented. Interviewees raised questions about whether tenants and landlords understand rent control rules, those rules are followed, and municipalities have the capacity to effectively implement and enforce them. These are critical areas for further research. We discuss other ideas for the future next.





## Ideas for the Future

A set of ideas for the future emerged as we read and analyzed rent control ordinances and talked with people about their concerns related to affordable housing and rent control.

### **Create a Series of State-or Non-profit Run One-stop-shops for Municipalities, Tenants, and Landlords**

A municipal rent control resource center could:

- provide technical guidance about rent control ordinances,
- offer training for rent control boards, municipal staff, and non-profit organizations,
- facilitate local government peer-to-peer networks,
- make it possible to easily identify units covered by rent control,
- create processes to easily register rental units and track rents and rental vacancies,
- support local governments to make accessible plain language rent control guides, and
- facilitate efforts to improve rental unit habitability.

A one-stop-shop for tenants with clear language about state and local rent control and other tenancy rules could help inform renters who are unfamiliar with rent control rules. To be most effective, this resource would be:

- regularly updated,
- accessible to a broad array of people, and
- include links to other important information for renters such as the state's *Truth in Renting* Guide.

A one-stop shop for landlords could offer resources for larger corporate landlords as well as smaller owner occupiers. Guidance could include landlord rights and responsibilities and resources to lower costs.

**Expand Information about Rental Units in NJ Covered by Rent Control** – Many municipalities with rent control require that landlords register rental units and rents with the municipality. Making this information more accessible would enable tenants to more easily identify which units rent control covers.

### **A Variety of Actors Including the State and Municipal Governments Could Support Tenant Associations** –

Many rent control ordinances are the product of tenant organizing and activism. Supporting the development or expansion of tenant organizations so that tenants have a voice in this regulatory process could shape more effective ordinances and implementation processes. Tenant organizations could also be enlisted to help get the word out about rent control rules and processes.

### **State and Local Governments Could Reconsider Which Units are Exempted** –

State and local governments exempt many units from rent control. It may be worth reconsidering which units are exempted and why. Some municipalities exempt units in smaller properties, but these properties may be owned by larger groups of investors which may change profit opportunities and the rationalities behind municipal actions (Troutt and Nelson, 2022). The state exempted most newly constructed multifamily units for thirty years in the 1980s out of concern that regulation would slow multifamily production. It may be worth exploring whether market logics have changed.

### **Researchers Could Explore How Rent Control is Implemented and Enforced** –

This project only explored some rental control details as they are written in ordinances. Future work could explore how these ordinances are implemented to identify more effective paths for the future.

### **The State Could Consider Rent Control When It Revises the Impediments to Fair Housing Choice** –

Rising housing costs are often cited as an impediment to fair housing choice. Rent control could address rising rental housing costs and possibly slow residential displacement depending how and where rent control rules are written and market conditions.

### **Governments, Non-profit Organizations and Others**

**Could Explore Other Forms of Ownership** – Rent control emerges from a need to make housing in the private market affordable to renters, especially those with lower incomes. But rent control is one of many mechanisms to achieve this. Other mechanisms include innovations related to non-profit or publicly owned housing, limited equity cooperatives, mutual housing, community land trusts, and financing strategies that produce a modest return and safe and secure homes.

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