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Title:	AN ORDINANCE FURTHER AMENDING TITLE 19, CHAPTER 2, RENT CONTROL REGULATIONS, RENT CONTROL BOARD, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY INCORPORATING THE USE OF THE CONSUMER PRICE INDEX-URBAN (CPI-U) AND CERTAIN TAXPAYER TENANTS AND LANDLORDS AMENDMENTS.				

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AN ORDINANCE FURTHER AMENDING TITLE 19, CHAPTER 2, RENT CONTROL REGULATIONS, RENT CONTROL BOARD, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY INCORPORATING THE USE OF THE CONSUMER PRICE INDEX-URBAN (CPI-U) AND CERTAIN TAXPAYER TENANTS AND LANDLORDS AMENDMENTS.

WHEREAS, the Municipal Council adopted Ordinance, 6PSF-d, May 20, 2014, which amended and supplemented Title 19, Chapter 2, Rent Control Regulations, Rent Control Board to include provisions relating to major new improvements and other amendments; and

WHEREAS, the Municipal Council further adopted Resolution 7R9-h(AS) dated August 6, 2014, which clarified the intent of the amendments previously adopted, inclusive of utilizing the Consumer Price Index-Urban (CPI-U), as provided by the United States Department of Labor, Bureau of Labor Statistics, for the City of Newark, located within the New York-Northern New Jersey-Long Island, NY-NJ-CT-PA consolidated area; and

WHEREAS, it was also the intent of the Municipal Council in adopting Ordinance 6PSF-d on May 20, 2014 to use the percentage increase in the CPI, even though the words "percentage increase" were left out, as the purpose was to limit the maximum percentage increase for rent increases; and the 12 month period used for the calculation, previously just identified as the "previous 12 months" was always intended to be the 12 month period closest to the date of the proposed rent increase that is administratively possible to use, given the lag in publication time of the Bureau of Labor Statistics and the requirement in state law that landlords give tenants at least one calendar month notice of a rent increase, and that period starts 15 months prior to the rent increase and ends 3 months prior to the rent increase as set forth in this amending Ordinance; and

WHEREAS, certain taxpayer tenants and landlords have requested amendments to the

aforementioned ordinance; and

WHEREAS, the Municipal Council further adopted a resolution on August 6, 2014, which clarified the intent of the amendments previously adopted with regard to the Consumer Price Index; and

WHEREAS, the Municipal Council is desirous of amending certain provisions of the Revised General Ordinances of the City of Newark, New Jersey, 2000, more specifically, Title 19, Chapter 2, Rent Control Regulations, Rent Control Board, at the request of taxpayer tenants and landlords.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

SECTION 1. Title 19, Chapter 2, Rent Control Regulations, Rent Control Board, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, are hereby amended and supplemented as follows:

Editor's Note: Additions are shown as **underlined and bold**. Deletions are strikethroughs.

CHAPTER 2 RENT CONTROL REGULATIONS; RENT CONTROL BOARD.

19:2-2. DEFINITIONS.

As used in this chapter:

Consumer Price Index (CPI) shall mean the Consumer Price Index for All Urban Consumers (CPI-U), as published by the United States Department of Labor's Bureau of Labor Statistics for the New York - Northern New Jersey - Long Island, NY-NJ-CT-PA consolidated area.

Habitable Room shall mean a residential room or space, having an area exceeding 59 square feet in which the ordinary functions of domestic life are carried on, and which includes bedrooms, living rooms, studies, recreation rooms, kitchens, dining rooms, and other similar spaces, but does not include closets, halls, stairs, laundry rooms, or bathrooms. (See N.J.A.C. 5:10-2.2).

Housing space shall mean any room or rooms, or suite or apartment thereof, whether furnished or unfurnished, which is occupied, or intended, arranged or designed to be occupied, for sleeping or dwelling purposes by one or more persons, including but not limited to the owner thereof, or any of his servants, agents or employees, and shall include all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy thereof.

Housing space shall mean that portion of a dwelling rented or offered for rent for living and dwelling purposes to one (1) individual or family unit, together with all privileges, services, furnishings, furniture, equipment, facilities, improvements and common areas connected with the use or occupancy of such portion of the property.

Major new improvement shall mean a physical addition or change to the dwelling, which provides all tenants in the dwelling with something not previously provided that improves the quality of life in the dwelling. **A Major New Improvement is of a nature and extent that it benefits the tenants' enjoyment thereof with a degree of permanency.** A repair or replacement of an existing physical element, such as a roof, is not a major new improvement, whether that element was necessary for habitability or provided an amenity not required for habitability. Such a repair or a replacement is considered a maintenance expense. (A physical addition or change, which does provide something new that benefits the tenants, but is required by law to meet minimum standards of health, safety, security or habitability), **is also not a major new improvement.** A major new improvement must be something new that benefits the tenants, and is not required by law. **If an existing physical element is replaced by another one which also provides a new benefit or benefits to the tenants (such as replacing a roof with a roof garden accessible to the tenants), the portion of the change which provides the additional benefit, and only that portion, will be considered a Major New Improvement.** A major new improvement for the purpose of this Chapter is not in any way related to the term 'Capital Improvement' or 'Capital Expenditure' as used in IRS regulations, even if the IRS would categorize such improvements in these ways. **Month to month tenant** shall mean a tenant for a term of one (1) month whose tenancy shall automatically be extended for each succeeding month, unless terminated as provided by statute.

Substantial Compliance shall mean that the housing space and dwelling are free from the major health, safety and fire hazards as well as in compliance with heat and hot water and sanitary requirements. Compliance is to be determined with the aid of appropriate city and state regulatory agencies based upon current code inspection reports which shall not be more than six (6) months old at the time of the initial hearing for all applications requesting any type of increase or surcharge.

Substantial compliance shall mean that the dwelling is in compliance with all applicable Federal, State and Newark health, safety, building, and property maintenance codes, statutes, regulations and ordinances, including, but not limited to the Regulations for Construction and Maintenance of Hotels and Multiple Dwellings promulgated by the State Department of Community Affairs (N.J.A.C. 5:10-1 et seq.). Substantial compliance means that the dwelling and each housing space are free from all heat, hot water, water, air conditioning, elevator, and all health, safety and fire violations, as well as ninety (90%) percent qualitatively free of all other violations. If a rent increase or surcharge is challenged by a tenant on the basis of lack of substantial compliance, the burden is on the landlord to prove that the building is in substantial compliance. Substantial compliance also includes full compliance with the Landlord Identity Disclosure Act (N.J.S.A. 46:8-27 et seq.). Nothing in this section impairs the right of a tenant to seek and receive an appropriate rent reduction for diminishment of services.

19:2-3. RENT INCREASES.

19:2-3.1. Determination of Rents.

The establishment of rents between a landlord and tenant in all housing spaces shall hereafter be determined by the provisions of this Chapter. At the expiration of a lease or at the termination of

the lease of a periodic tenant, no landlord may request or receive an increase greater than the **percentage increase in the Consumer Price Index (CPI) for the previous twelve (12) months for the period starting 15 months prior to the month of the proposed rent increase and ending 3 months prior to the month of the proposed rent increase.** for the New Jersey area, as established by the Federal Bureau of Labor Statistics'. In no case shall **The allowable rent increase for buildings with eight (8) units or fewer shall not be neither less than 1% nor exceed 4%. The allowable rent increase for buildings with more than eight (8) units shall not exceed 4%.** The allowable annual increase will not be permitted, if the dwelling is not in substantial compliance and/or if the landlord has not met the registration requirements as specified in this Subsection (19:2-9.8).(R.O. 1966 C.S. § 15:9B-3; Ord. 6 S+FC, 4-16-86, § 1; Ord. 6 PSF-D, 5-20-14)

19:2-3.3. Parking Fees.

The landlord shall report and register all on-site parking fees with the Rent Control Department **Board.** Parking fees should be specifically included as being covered under all provisions of the rent control ordinance **and parking fees shall be increased no more than \$2.00 annually.** (Ord. 6 PSF-D, 5-20-14)

19:2-3.4. Substantial Compliance and Registration Compliance for Any Rent Increase.

No annual rent increase, **substantially rehabilitated vacant unit increase**, major new improvement surcharge, tax surcharge, or hardship increase is allowed, if the dwelling is not in substantial compliance and/or has not met registration requirements as specified in Subsection 19:2-9.8. (Ord. 6 PSF-D, 5-20-14) **or is not in compliance with the Landlord Identity Disclosure Act (N.J.S.A. 46:8-27 et seq.).**

19:2-5. TAX SURCHARGE.

19:2-5.4. Appeals.

Any party dissatisfied with the ruling of the Rent Control Board on a Tax Surcharge Application may appeal the matter to the Municipal Council. (Ord. 6 PSF-D, 5-20-14).

Any party dissatisfied with the ruling of the Rent Control Board on a Tax Surcharge Application may appeal the matter to the Superior Court of New Jersey Essex County Vicinage within the time established by State law.

19:2-7. MAJOR NEW IMPROVEMENTS; ADDITIONAL RENT.

19:2-7.4. Appeals.

Either landlord or tenant may appeal the findings or order of the Rent Control Board regarding a major new improvement application to the Municipal Council by filing a notice of appeal with the City Clerk. The appeal shall be based upon the record of the Rent Control Board below, and no additional testimony shall be taken. (Ord. 6 PSF-D, 5-20-14).

the Superior Court of New Jersey Essex County Vicinage within the time established by State law.

19:2-8. LANDLORD HARDSHIPS.

19:2-8.1. Appeal for Increase.

In the event a landlord claims an inability to obtain a fair rate of return because of the application of

the rent increase limitation set forth herein, or because of extraordinary expenses with respect to the operation, repair and maintenance of the rental units, the landlord may appeal to the Board for a hardship rent increase.

In no case will a hardship appeal increase be granted if the dwelling is not in substantial compliance and/or has not met the registration requirements as specified in this Chapter.

(R.O. 1966 C.S. § 15:9B-8; Ord. 6 S+FC, 4-16-86 § 5; Ord. 6 S+FD, 12-18-91 § 1; Ord. 6 PSF-D, 5-20-14)

19:2-8.2. Code Violations.

a. *Inspection; Abatement.* The procedure outlined in Section 19:2-13 shall be followed. Within thirty (30) days after a hardship appeal has been filed, supported by all the information, which the Board may require for a determination, the Board may request that the property be inspected by the Division of Inspections and Enforcement for code violations. The inspection reports shall be made and filed with the Board within thirty (30) days thereafter.

In the event the inspection reveals the property dwelling is not in substantial compliance with Newark codes, the Board shall may deny the increase. - In the event the inspection reveals the dwelling is in substantial compliance, but there are code violations, the Board may deny the increase or conditionally grant the increase subject to the landlord abating the violations within a reasonable time. However, in no event shall this period of time exceed ninety (90) days.

19:2-15. APPEAL JUDICIAL REVIEW.

A landlord or tenant aggrieved by any action, regulation or determination of the Board may appeal in a court of appropriate jurisdiction; or following the appeal to Municipal Council regarding a major new improvement or a tax surcharge application. Either landlord or tenant may appeal the findings or order of the Rent Control Board regarding a major new improvement application to the Municipal Council by filing a notice of appeal with the City Clerk. The appeal shall be based upon the record of the Rent Control Board below, and no additional testimony shall be taken.

A landlord or tenant aggrieved by any action, regulation or determination of the Board may appeal the findings or order of the Rent Control Board to the Superior Court of New Jersey Essex County Vicinage within the time established by state law.

19:2-18. NEW CONSTRUCTION, VACANT PROPERTIES, SUBSTANTIAL REHABILITATION AND SUBSTANTIALLY REHABILITATED VACANT UNITS.

19:2-18.3. Substantial Rehabilitation.

Dwellings which are substantially reconstructed or rehabilitated shall not be restricted in regard to the initial rent charged if the Rent Control Board has made the following determinations:

c. The Board shall determine that a Certificate of Occupancy has been issued by the City of Newark certifying that the building has been rehabilitated in accordance with the plan submitted to the Construction Official by the applicant and certifying that the substantially rehabilitated building conforms to the zoning ordinances of the City of Newark, the Uniform Construction Code of the City of Newark and the State of New Jersey, as well as all applicable housing codes and health codes of the City of Newark and State of New Jersey.

The Board's determination shall take into account an inspection conducted by a representative from the Department of Neighborhood and Recreational Services Engineering after the date of the

application.

The plan referred to herein shall include a description of the property improvements, a cost estimate and a construction completion schedule.

19:2-18.4. Substantially Rehabilitated Vacant Apartment Units.

- a. *Maximum Rent Increase.* Apartment units which become vacant and in which the landlord spends a total amount of money equal to or in excess of five thousand (\$5,000.00) dollars multiplied by the number of rooms in the apartment for the purpose of rehabilitating the apartment unit may have their rent increased up to a maximum of twenty (20%) percent of the prior actual rent charged for each apartment. **Any landlord that rehabilitates a vacant apartment unit by spending a total amount equal to seven (7) months of actual annual rent per unit will be entitled to a maximum of twenty percent (20%) increase in the actual monthly rent; and any landlord that rehabilitates a vacant apartment unit spending a total amount equal to five (5) months of actual annual rent per unit will be entitled to a maximum of ten percent (10%) increase in the actual monthly rent.**
- b. *Application for Increase.* The application for an increase shall be supported by an affidavit describing the **renovations performed in each room and the amount expended for each renovation. The affidavit must state** that such **renovations and** expenses are reasonable, necessary and complete for the purpose of rehabilitating the **housing space, and documentation shall be submitted for each expense listed.** Expenses described in this application shall not be used to support any other application before the Board.
- c. *Notice of **Renovations**; Application Posted.* **All landlords seeking to increase their rents must post in a conspicuous location their intent to make such renovations to a vacant apartment unit at least forty five (45) days prior to the start date of such renovations. Upon completion of the renovations, a notice of any application for a rent increase under this Section shall be posted in a conspicuous location in the apartment building by the landlord within forty eight (48) hours from the date the application was filed.** A notice of any application for a rent increase under this section shall be posted in a conspicuous place in the apartment building by the landlord on the date of the application.
- d. *Objections Heard.* The determination to grant such increase shall be made by the Administrator **Board**, unless an objection is filed by the prior tenant. If an objection is duly filed by the prior tenant, the application shall be set down for a hearing before the Board.
- e. *Calculation of Credit.* In calculating the total amount spent on rehabilitation, credit may be given to the landlord for labor provided by him/her. The amounts credited for labor may equal up to one hundred (100%) percent of the actual cost of materials for painting and plastering, and up to fifty (50%) percent of the cost of materials and equipment for all other types of rehabilitation work.
- e.. f. *Inspection; Abatement of Violations.* An inspection by the Division of Inspections and Enforcement in the Department of Neighborhood and Recreational Services **Engineering** of the City of Newark shall be completed prior to granting an application **increase for a vacant apartment unit. If the required inspection has not been completed within thirty (30) days of filing an application for an increase, the landlord shall be permitted to execute a lease with a new tenant for the increased amount. However, all inspections must be completed within 6 months from the date of initial filing. After completion of the required inspection, if the unit is found not to be in substantial compliance in accordance with Subsection 19:2-3.4 of this Ordinance,**

including but not limited to the absence and/or inadequacy of required smoke and fire alarm devices, such determination shall invalidate the increase. The difference between the prior actual rent collected for that unit and the increased rent collected under this Section must be refunded to the tenant until such time as the application for an increase has been granted. All code violations must be abated prior to granting the increase and all applicable fines and penalties shall be assessed as permitted by law Any code violations found to exist, including the absence and/or inadequacy of required smoke and fire alarm devices, shall be abated prior to granting the application.

f. Unlawful Entry; Penalty. Any landlord, who shall gain access to an apartment by forcibly evicting a tenant contrary to the provisions of N.J.S.A. 2A:18-61.1 et seq. for the purpose of vacating and rehabilitating the apartment shall be guilty of an unlawful entry and detainer, as defined in N.J.S.A. 2A:39-2, and may be subject to treble damages pursuant to N.J.S.A. 2A:39-8. (R.O. 1966 C.S. § 15:9B-17; Ord. 6 PSF-D, 5-20-14)

e. g. Number of Increases Limited. The landlord may be granted only one (1) increase under this section for the same apartment unit in any twelve (12) month period.

h. The provisions in this Section may be reviewed for its effectiveness every three (3) years.

19:2-18.5. City Auction Manual Required Notice.

In all auction manuals prepared for use by the **Department of Economic Housing and Development**, Office of Property Management there shall be included the following notice:

19:2-23. APPLICATION AND INSPECTION FEES.

The following fees shall be charged for rent control applications and inspections, which shall be payable by the applicant upon presentation of the application:

- a. Major new improvement applications
(19:2-7).....**\$100.00** ~~\$25.00~~
- b. Hardship applications
(19:2-8)..... ~~\$5.00~~ **\$50.00**(Per apartment)
Maximum..... \$1,000.00
- c. Late registration fee for any building ~~not registered at least ninety (90) days prior to any application for increase (fee to be waived, if building was registered within ninety (90) days after landlord accepted title to premises)~~ **unit not registered by April 30 of each year** \$100.00
- d. Inspections..... ~~\$5.00~~ **\$50.00**(Per room)
Maximum..... \$100.00
- e. Rent rebate applications (19:2-4);
prevailing party to be reimbursed for
fee by unsuccessful party..... \$15.00
- f. Rent decrease for decrease in services

(19:2-12); prevailing party to be
reimbursed for fee by unsuccessful
party..... \$15.00

g. New construction, vacant properties,
substantial rehabilitation, and
substantially rehabilitated vacant units
(19:2-18) applications..... ~~\$25.00~~ **\$100.00**

h. Tax or utilities surcharge applications
(19:2-5, 19:2-17)..... ~~\$15.00~~ **\$50.00**
(R.O. 1966 C.S. § 15:9B-22; Ord. 6 PSF-D, 5-20-14)

Section 2. If any provision of this ordinance or application thereof to any person(s) or circumstances is judged invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the ordinance that can be given effect without the invalidated provision or application and to this end the provisions of this ordinance are declared severable.

Section 3. This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

This ordinance further amends Title 19, Chapter 2, Rent Control Regulations. Rent Control Board, by incorporating the use of the Consumer Price Index-Urban (CPI-U) and certain taxpayer tenants and landlords amendments.