



Legislation Text

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AN ORDINANCE 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 ADDING PROVISIONS RELATING TO MAJOR NEW IMPROVEMENTS AND CERTAIN OTHER AMENDMENTS.

Sponsors: Council Members Baraka/ James

WHEREAS, the Municipal Council is desirous of amending certain provisions of the Revised Ordinances of the City of Newark, more specifically, Title 19, Chapter 2, Rent Control Regulations, Rent Control Board, at the request of taxpayer tenants, and amends certain other provisions to conform to current state law and certain other amendments to clarify intent.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, COUNTY OF ESSEX, STATE OF NEW JERSEY, AS FOLLOWS:

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

19:2-1. STATEMENT OF POLICY.

- a. The Governing Body of the City of Newark does hereby declare that an emergency exists within the City of Newark with respect to the rental of housing space in dwellings by reason of the demands for increases in rent, which are hereby determined to be exorbitant, speculative and unwarranted; and
- b. This emergency has been created by housing demolitions, deterioration of a substantial portion of the existing housing stock, insufficient new housing construction, increased cost of construction and finance, and growing inflation. This has caused a substantial and increasing shortage of rental housing accommodations for families of low and moderate income and abnormally high rents; and
- c. Unless residential rents of tenants are regulated and controlled, such emergency and the further inflationary pressures resulting therefrom will produce serious threats to the public health, safety and general welfare of the citizens of the City of Newark; and

d. The fear of being evicted without just cause and being forced to seek housing in such a market discourages Newark tenants from complaining about exorbitant increases in rent and about the continued deterioration of housing, and this fear thus contributes to these harmful conditions; this warrants legislative action by the Governing Body; and

e. Under the police powers granted to the City of Newark and in order to protect the health, safety and welfare of the citizens of the City of Newark, it is necessary to regulate, control and stabilize rents and create a Rent Control Board for the City of Newark.

(R.O. 1966 C.S. § 15:9B-1)

19:2-2. DEFINITIONS.

As used in this Chapter:

Available for rent to tenants shall mean housing fit for habitation as defined by the statutes, codes and ordinances in effect in the State of New Jersey, County of Essex and City of Newark, and offered for rent, whether occupied or unoccupied.

Capital improvement shall mean any improvement which permanently enhances the value of the property, is not merely routine repair or maintenance, and is recognized by the Internal Revenue Service for allowances and depreciation for Federal income tax purposes.

Completion of Construction shall mean the issuance of a Certificate of Occupancy pursuant to the "State Uniform Construction Code Act" P.L. 1975, c.217 (N.J.S.A. 52:27D-133)

Constructed shall mean constructed, erected or converted, but excludes rehabilitation of premises rented previously for purposes without an intervening use for other purposes for a period of at least two (2) years prior to conversion. Mere vacancy shall not be considered an intervening use for the purpose of "newly constructed multiple dwelling."

Dwelling shall mean any building, structure, trailer or land used as a trailer park, rented or offered for rent to one (1) or more tenants, or family units. A dwelling shall also mean one (1) or more buildings, structures or trailers with a common owner and operated as a single complex, and which are situated on a common lot or on adjacent lots as described in the Tax Map of the Tax Assessor of the City of Newark.

Equity shall mean the actual investment in cash by the landlord in the purchase price of the property, as well as those payments that he/she has made to any lender that reduce the lender's claim against the property.

Exemptions shall mean dwellings to which this chapter shall not apply. Exempt dwellings include all public housing; owner-occupied one (1), two (2), three (3) or four (4) family housing space units; any motel or hotel space rented on a day-to-day basis to transients; and any dwelling, building or structure, or portion thereof, rented for commercial use. Also exempted are those units which have been rehabilitated by the Federal and State Rental Rehabilitation Programs as administered by the U.S. Department of Housing and Urban Development, the New Jersey Department of Community Affairs or the New Jersey Housing Mortgage Finance Agency and will be receiving Section 8 rent subsidies or Federal housing vouchers. In these units, rents will be allowed to be raised, but will not exceed the fair market rents as established by the United States Department of Housing and Urban Development. These units will be exempt only during the unit's tenure in the Section 8 subsidy or Rental Rehabilitation Program. **Also exempted are newly constructed multiple dwellings and**

vacant dwellings as set forth in this Ordinance at 19:2-18.1 and 18.2, respectively.

Fair rate of return shall mean a return of nine (9%) percent on the landlord's investment in the property, which investment shall be considered herein as the landlord's equity.

Housing services shall mean repairs, replacement and maintenance, painting, providing light, heat, hot and cold water, elevator service (where applicable), storm windows and screens, superintendent services and any other benefit, privilege or facility connected with the use or occupancy of any proportionate part of services provided to common facilities of the building in which the dwelling is contained.

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.

Housing space agreement shall mean an agreement, oral, written or implied, between a landlord and tenant for the use and occupancy of a housing space or housing services or both.

Landlord shall mean an owner, lessor, sublessor or any other person entitled to receive rent for the use and occupancy of any housing space, or an agent or successor of any of the foregoing.

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 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 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. A Major New Improvement for the purpose of this ordinance 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.

Multiple dwelling shall mean and include any building or structure and land appurtenant thereto containing three (3) or more apartments or rented or offered for rent to three (3) or more tenants or family units.

Notice shall mean written notice to a tenant or landlord, which is mailed to the tenant's residence or the landlord's residence or offices by regular mail, of any proceedings or determinations of the Board, unless another method of notice is specified in this Chapter.

Owner occupied shall mean any dwelling of four (4) units or less in at least one (1) unit of which the owner resides.

Periodic tenant shall mean a tenant for a period of less than one (1) year.

Period of Amortization shall mean the time during which the principal amount of the loan and interest thereon would be paid entirely through periodic payments, whether or not term of the mortgage loan is for shorter period concluding with a balloon payment.

Rent shall mean the consideration and shall include any bonus, benefits or gratuity demanded or received for or, in connection with, the use or occupancy of housing space or the transfer of a lease of such housing spaces, including, but not limited to monies demanded or paid for parking, pets, the use of furniture, subletting, security deposits and damage and cleaning deposits.

Repair shall mean to reconstruct a building to a sound condition or good state after decay, injury, dilapidation or partial destruction; to remedy, heal, make right, or to mend.

Sub-Standard multiple dwelling shall mean any multiple dwelling determined to be substandard by the Public Officer.

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 percent (90%) 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.

Tenant shall mean a tenant, subtenant, lessee, sublessee, or any other person entitled under the terms of a housing space agreement to the use or occupancy of any housing space.

(R.O. 1966 C.S. § 15:9B-2; Ord. 6 S+FC, 4-16-86 § 1; Ord. 6 S+FG, 9-6-95 § 1; Ord. 6 S+FM, 2-21-96 § 1)

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 Consumer Price Index (CPI) for the previous twelve (12) months for the New Jersey area, as established by the Federal Bureau of Labor Statistics'. In no case shall the allowable rent increase 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 Ordinance (19:2-9.8).**

percentage increase in rent which is greater than five (5%) percent for dwellings of forty-nine (49) units or less, or four (4%) percent for dwellings of fifty (50) units or more, without first petitioning the Rent Control Board. (R.O. 1966 C.S. § 15:9B-3; Ord. 6 S+FC, 4-16-86 § 1)

19:2-3.2. Increases Limited.

The rents for any housing space shall not be increased more than the percentages stated above in

any consecutive twelve (12) month period irrespective of the number of different tenants occupying the housing space during the twelve (12) month period, any change of ownership of the landlord or vacancy of the housing space.

(R.O. 1966 C.S. § 15:9B-3; Ord. 6 S+FC, 4-16-86 § 2)

19:2-3.3 Parking Fees.

The landlord shall report and register all on-site parking fees with the Rent Control Department. Parking fees should be specifically included as being covered under all provisions of the rent control ordinance.

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

No annual rent 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 this ordinance (19:2-9.8).

19:2-4. RENT REBATE.

The landlord shall rebate to the tenant any amount of rent collected in excess of that permissible pursuant to the terms of this Chapter by crediting the tenant with the amount of excess rent paid over a period not to exceed fourteen (14) months, or in the event the tenant is no longer in occupancy, by refunding within a one (1) month period. (R.O. 1966 C.S. § 15:9B-4)

19:2-5. TAX SURCHARGE.

19:2-5.1. Formula for Surcharge.

A landlord may seek a tax surcharge from a tenant because of an increase in municipal property taxes. The tax surcharge shall not exceed that amount authorized by the following provision: The landlord shall divide one-twelfth ($1/12^{\text{th}}$) of the annual increase in the present property tax over the property tax of the previous year by the total monthly rent roll, and that product shall be multiplied by the monthly rent paid by each tenant to establish the amount of surcharge that each tenant shall be required to pay. The tenant shall not be liable for a tax surcharge exceeding the tenant's percentage of the entire rent roll for the dwelling.

(R.O. 1966 C.S. § 15:9B-5)

19:2-5.2. Petition for Surcharge.

a. Any landlord seeking a surcharge shall petition the Board for approval and shall give notice to the tenant and the Board, at least thirty (30) days prior to the increase sought, of the calculations involved in computing the tax surcharge, including the present property tax for the dwelling; the property tax for the dwelling for the previous year; total rent rolls of all units, occupied or unoccupied in the dwelling; the percentage of the increase over the total rent roll; the rent of the tenant; and the percentage of his/her present rent compared to the total rent roll.

b. Prior to making a determination on a landlord's petition for a tax surcharge, the Board shall

obtain a report from the Division of Inspections and Enforcement to determine whether there are any outstanding code violations on the subject property. In the event that the report reveals outstanding code violations, the Board shall deny the landlord's application or defer action on the application until the landlord has abated the violations and proof of same has been submitted to the Board.
(R.O. 1966 C.S. § 15:9B-5; Ord. 6 PSF-B, 5-16-12)

19:2-5.3. Payment of Surcharge.

The tax surcharge each tenant is liable for shall be paid in equal monthly payments only after the landlord gives the tenant one (1) month prior notice of the increase as required by statute.
(R.O. 1966 C.S. § 15:9B-5)

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.

19:2-6. TAX DECREASES.

19:2-6.1. Apportionment.

If the municipal property taxes are decreased in a given year due to either a decrease in the property tax rate or a lowering of the assessed evaluation of the property by the municipality, then the tenants are entitled to a tax decrease. Apportionment of such decrease shall be in the same manner as apportionment of tax surcharge under subsection 19:2-5.1.
(R.O. 1966 C.S. § 15:9B-6; Ord. 6 S+FC, 4-16-86 § 3)

19:2-6.2. Tax Appeal, Reduction.

In the event a tax appeal is taken by the landlord and the landlord is successful in the appeal and the taxes reduced, the tenant shall receive seventy-five (75%) percent of the reductions as applied to its tax portion, after deducting all reasonable expenses incurred by the landlord in prosecuting the appeal.
(R.O. 1966 C.S. § 15:9B-6; Ord. 6 S+FC, 4-16-86 § 3)

19:2-6.3. Rebates.

The landlord shall be deemed to have received his/her rebate upon his/her receipt thereof from the receiver of taxes, or upon the execution of any agreement with the landlord. The tenant must receive notice within fourteen (14) days from when the landlord receives his/her notice of successful appeal. The landlord must notify the tenants within thirty (30) days of the time the landlord receives his/her rebate of the amount he/she has received with the computations on how much the tenant is entitled to. The amount due the tenant shall be forwarded to the tenant within the same thirty (30) day period.
(R.O. 1966 C.S. § 15:9B-6; Ord. 6 S+FC, 4-16-86 § 3)

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

19:2-7.1 Computation of Increase.

The landlord may seek additional rent (surcharge) for a Major New Improvement(s) made by

him/her in the dwelling or attributable to the dwelling. The landlord shall compute the average cost of the Major New Improvement(s) per year of useful life by dividing the cost of the completed Major New Improvement(s) by the number of years of useful life of the improvement(s) provided that the period shall not be less than one (1) year. The useful life is the actual number of years that the major improvement(s) is expected to last before needing replacement. The burden of proof is on the landlord to establish the useful life of the improvement(s). If the Major New Improvement(s) lowers the landlord's operating costs, the annual cost savings must be subtracted from the annual Major New Improvement(s) surcharge. The landlord is required to disclose all expected cost savings that will result from the Major New Improvement(s).

No increase shall be permitted for Major New Improvement(s) affecting more than ten (10) rental units, unless the total cost thereof exceeds two thousand (\$2,000.00) dollars. No increase shall be permitted for Major New Improvement(s) completed more than twenty-four (24) months prior to the date upon which notice to the Board of the improvements has been provided by the landlord. In no case will a Major New Improvement(s) rent increase be granted if the dwelling is not in substantial compliance and/or if the landlord has not met the registration requirements as specified in this Ordinance (19:1-10).

19:2-7.1. Computation of Increase.

In addition to the percentage of rent increase and tax surcharge herein provided for, the landlord may seek additional rent for capital improvements made by him/her in the dwelling or attributable to the dwelling. The landlord shall compute the average cost of this improvement per year of useful life by dividing the cost of the completed capital improvement by the number of years of useful life of the improvement allowed by the Internal Revenue Service for the capital improvement, provided that the period shall not be less than one (1) year. Capital improvements shall not include painting, whether exterior or interior. No increase shall be permitted for capital improvements affecting more than ten rental units unless the total cost thereof exceeds two thousand (\$2,000.00) dollars. No increase shall be permitted for capital improvements completed more than twenty-four (24) months prior to the date upon which notice to the Board of the improvements has been provided by the landlord. (R.O. 1966 C.S. § 15:9B-7; Ord. 6 S+FC, 4-16-86 § 4)

19:2-7.2. Increase Prorated.

The amount of the monthly increase which a landlord may charge shall be prorated among all tenants benefiting from the improvements by dividing one-twelfth (1/12th) of the annual cost of the capital improvements by the total monthly rent roll of the units affected by the improvement in the dwelling, occupied or unoccupied, and that product shall be multiplied by the monthly rent paid by each tenant to establish the amount of capital improvement increase that each tenant shall be required to pay.

(R.O. 1966 C.S. § 15:9B-7; Ord. 6 S+FC, 4-16-86 § 4)

19:2-7.3 Applicability; Notification.

No tenant shall be liable for a Major New Improvement(s) increase if he/she receives no benefit from the improvement nor, if he/she benefits, shall he/she be liable for an increase exceeding the percentage of rent paid by him/her as calculated above, and all such rent increases shall be charged for no period greater than the useful life of the improvements. The landlord shall notify the Board and tenants at least sixty (60) days before the effective date of

the increase. The notice to the Board shall, on forms provided by the Board, include the amount of increase, a description of the improvement, and the figures used to compute the increase. The Board or a tenant may request a hearing within thirty (30) days of receipt of notice from the landlord. After approval by the Board of a Major New Improvement surcharge, the landlord shall give to each tenant one (1) month prior notice of the effective date of the capital improvement major new improvement surcharge as required by statute. (R.O. 1966 C.S. § 15:9B-7; Ord. 6 S+FC, 4-16-86 § 4)

19:2-7.3. Applicability; Notification.

No tenant shall be liable for a capital improvement increase if he/she receives no benefit from the improvement nor, if he/she benefits, shall he/she be liable for an increase exceeding the percentage of rent paid by him/her as calculated above, and all such rent increases shall be charged for no period greater than the depreciation period of the improvements. The landlord shall notify the Board and tenants at least sixty (60) days before the effective date of the increase. The notice to the Board shall, on forms provided by the Board, include the amount of increase, a description of the improvement, and the figures used to compute the increase. The Board or a tenant may request a hearing within thirty (30) days of receipt of notice from the landlord.

After approval by the Board of a capital improvement surcharge, the landlord shall give to each tenant one (1) month prior notice of the effective date of the capital improvement surcharge as required by statute.

~~(R.O. 1966 C.S. § 15:9B-7; Ord. 6 S+FC, 4-16-86 § 4)~~

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.

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.

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

In no case will a Hardship Appeal be granted if the dwelling is not in substantial compliance and/or has not met the registration requirements as specified in this ordinance.

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 is not in substantial compliance with Newark codes, the Board shall 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.

In the event that the inspection reveals code violations the Board may deny the increase or conditionally grant the increase subject to the landlord abating the violations within a reasonable period of time. However, in no event shall this period of time exceed ninety (90) days.

b. *Failure to Comply; Refund to Tenants.* In the event that such abatement has not taken place within the aforesaid period prescribed by the Board, the Board shall revoke any such conditional increase, and the landlord shall be required to restore to the affected tenants all of the additional monies collected pursuant to the increase. The restoration of monies shall be in the form of either a direct refund of all monies collected or a deduction from the next month's rent.

c. *Definition.* As used in this section, code violations shall mean any violations of the existing building (construction), fire, plumbing, electrical or housing codes of the City of Newark then in effect. Violations which the Board may rely upon in implementing this section shall be only those violations which were found to have been in existence at the time of the original inspection as requested by the Board.

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

d. Nothing in this section diminishes the requirement in 19:2-8.1 that the dwelling be in substantial compliance with all Federal, State, and Newark codes as defined in 19:2-3 prior to granting a hardship increase.

19:2-8.3. Submission of Records.

The landlord shall submit proof of expenses for operation, maintenance and repairs, including, but not limited to taxes, insurance, fuel, utilities, maintenance and repairs, and reasonable superintendent and/or management fees, as well as expenses for vacancies, which have been held available for rental, to substantiate any hardship increase application and such proof shall be supported by affidavits that the expenses are complete, reasonable and necessary. Amounts allowed for vacancies and for management costs shall be fully documented, and in no event shall allowable expenses in either category exceed five (5%) percent of the landlord's gross income. This affidavit shall also describe any business, family or social relationship between the parties financing the purchase of the building and the landlord. The Board shall consider the proofs and expenses for a period not to exceed sixteen (16) months, but not less than twelve (12) months prior to the date of the landlord's application.

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

19:2-8.4. Fees not Applicable.

No attorney's fees, accountant's fees or application fees incurred by a landlord in connection with any application to the Board shall be included in determining whether a landlord is entitled to any rent increases.

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

19:2-8.5. Impartial Appraisal.

Whenever a relationship other than a business relationship is found to exist between the parties financing the purchase of the building and the landlord, or for other good cause, the Board may require that the value of the property be appraised by an appraiser to be approved by the Board. The cost of appraisal shall be included as a separate cost in the application fee and paid for by the applicant when so required by the Board at the rent control hearing.

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

19:2-8.6. Apportionment of Increase.

Any increase awarded to the landlord pursuant to this Section by the Board shall be apportioned among the tenants in the following manner: The monthly increase shall be divided by the total monthly rent roll and that product shall be multiplied by the monthly rent paid by each tenant to establish the amount of increase that each tenant shall be required to pay.

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

19:2-8.7. Time Period for Increase.

a. No increase pursuant to this Section shall be authorized with respect to a rental unit more than once in any twelve (12) month period, nor shall the Board conduct a hearing with respect to an application for such a rent increase for a rental unit more than once within a twelve (12) month period.

b. The Board shall take into account rent increases of any kind, including capital improvement increases, during the past twelve (12) months in determining whether to grant an increase, and the amount and terms thereof.

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

19:2-8.8 Cost not Applicable.

Owners and landlords operating multiple dwelling units shall be prohibited from claiming the cost of repairing the roof as a hardship leading to a rent increase.

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

[Note: No change in sections 19:2.9 through 19:2-14]

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.**

(R.O. 1966 C.S. § 15:9B-14)

[Note: No change in sections 19: 2-16 or 19:2-17]

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

19:2-18.1 New Construction.

a. *Application to Rent Control Board for Exemption.* The provisions of the Rent Control Ordinance, which limit the periodic or regular increases in base rentals of dwelling units shall not apply to Newly Constructed Multiple Dwellings for a period of time not to exceed the period of amortization of any initial mortgage loan obtained for the multiple dwelling, or for thirty (30) years following completion of construction, whichever is less. The owner of housing space or dwelling being rented for the first time shall not be restricted in the rent he/she charges for a period of five (5) years. However, prior to occupancy by any tenant and after applying for and receiving a Certificate of Occupancy from the City of Newark (certifying that the building conforms to the Zoning Ordinances of the City of Newark, the Uniform Construction Code of the City of Newark and State of New Jersey and all applicable health and housing codes in the City of Newark and State of New Jersey), the landlord of any newly constructed dwelling shall apply to the Rent Control Board for a Certification that the dwelling is granted an five (5) year exemption from any restrictions in the rent that the landlord may charge. The application to the Rent Control Board shall include a bona fide copy of the Certificate of Occupancy, without which the application shall not be acceptable and may not be acted upon by the Rent Control Board. The unrestricted initial rent that shall be charged shall also appear on the petition. If the application is acceptable, the Rent Control Board must show, within thirty (30) days of receiving the application, why the landlord is not eligible for the five (5) year exemption, otherwise, the five (5) year exemption shall be deemed to have been granted. Any subsequent rental increase after the five (5) year exemption period, however, shall be subject to the provisions of this chapter; at least ninety (90) days prior to the expiration of the five (5) year exemption from rent charge restrictions, the landlord shall notify the tenants and the Rent Control Board that the tenancy shall be subject to rent charge restrictions upon the expiration of the exemption period. The five (5) year exemption period shall begin on the first day of occupancy by a tenant or thirty (30) days after the landlord's application is received by the Rent Control Board, whichever occurs first.

(R.O. 1966 C.S. § 15:9B-17)

b. In the event that there is no initial mortgage financing, the period of the exemption from rent control shall be thirty (30) years from the completion of the construction.

19:2-18.2 Vacant Properties.

a. *Exemption.* Dwellings which become vacant after the effective date of this Section and remain vacant for a minimum of eighteen (18) months or dwellings which are already vacant on the effective date of this Section shall be exempt for a period of five (5) years from any restrictions in the rent that the landlord may charge, if the Rent Control Board determines that the cost of reconstruction or rehabilitation during a twelve (12) month period has exceeded fifty (50%) percent of either the undepreciated cost or the fair market value of the dwelling and that the dwelling has received a Certificate of Occupancy and meets all applicable State and municipal health and housing codes.

b. *Completion Prior to Application.* The substantial rehabilitation shall be completed prior to the date of application to the Rent Control Board for exemption under this section.

c. *Time Limit for Submission.* Petitions for an exemption under this Section shall be submitted no later than two (2) years from the date of the acquisition of the first permit from the City of Newark for the substantial reconstruction or rehabilitation.

d. *Requirements for Valid Petition.* The petition forms provided by the Office of Rent Control shall require that the owner submit some tangible evidence as to the undepreciated cost or the fair market value of the dwelling. The petition shall also require a written description of the reconstruction or substantial rehabilitation of the building, as well as a bona fide copy of a Certificate of Occupancy for the dwelling issued by the City of Newark, 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 State of New Jersey and all applicable health and housing codes of the City of Newark and State of New Jersey, without which the petition shall not be valid and may not be acted upon by the Rent Control Board. A continued Certificate of Occupancy shall not be allowable for these purposes. The unrestricted initial rent that shall be charged shall appear on the petition, as well as a sworn and notarized affidavit executed by the landlord stating that he/she did not in any way, manner or method evict the prior tenants from the dwelling in question for the purpose of being considered under this section.

e. *Notification of Tenants.* At least ninety (90) days prior to the expiration of the five (5) year exemption from rent control, the landlord shall notify the tenants and the Rent Control Board that the tenancy shall be subject to rent charge restrictions upon the expiration of the exemption period.

(R.O. 1966 C.S. § 15:9B-17)

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:

a. The Board shall determine that the cost of reconstruction or rehabilitation during a twelve (12) month period exceeds fifty (50%) percent of the fair market value of the property. The fair market value shall be established by an appraisal issued by a member of an appraisal institute such as the American Institute of Real Estate Appraisers, The Society of Real Estate Appraisers, The American Society of Appraisers, or the Independent Order of Fee Appraisers.

b. The Board shall determine that the reconstruction or rehabilitation shall have been completed in accordance with the requirements of the Uniform Construction Code.

The petitioner shall submit copies of all permits required for the rehabilitation of the building, including, but not limited to electrical, plumbing and construction permits issued by the Construction Official, as well as a detailed rehabilitation or reconstruction plan, a copy of which shall have been filed with the Construction Official on the date of the application for the permits described herein. Where the substantially rehabilitated building involves no more than four (4) apartment units a plan shall not be required.

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 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.

d. The Board shall further determine that the items described in the rehabilitation plan do not consist of items involving repairs that would be undertaken on an ongoing basis or annual basis in regard to the normal maintenance of the building. If the Board determines that any of the costs of the rehabilitation involve normal maintenance, those costs shall be disallowed in computing the cost of rehabilitation.

e. The substantial rehabilitation shall be completed prior to the date of application to the Rent Control Board for an exemption under this Section.

f. Petitions for an exemption under this Section shall be submitted no later than two (2) years from the date of acquisition of the first permit from the City of Newark for the substantial reconstruction or rehabilitation. The unrestricted initial rent that shall be charged shall also appear on the petition.

g. The application shall be certified as being accepted by the Administrator within fourteen (14) days of its receipt.

Any application, which does not contain a plan, a Certificate of Occupancy or other documents required by the Administrator shall be returned to the applicant within fourteen (14) days. Any application that is not certified as accepted in writing by the Administrator shall be presumed to be denied by the Administrator. An applicant may file a request for a hearing before the Rent Control Board from the decision of the Administrator.

h. Any application that is accepted by the Rent Control Board Administrator shall be submitted to the Board in accordance with the procedures outlined in Section 19:2-13. In addition, the petitioner shall give each tenant one (1) month prior notice of the effective date of any unrestricted rental increase approved by the Rent Control Board.

(R.O. 1966 C.S. § 15:9B-17; Ord. 6 S+FU, 2-17-88)

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.

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 one hundred (\$100.00) 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-five (25%) percent of the prior rent.

b. *Application for Increase.* The application for an increase shall be supported by an affidavit describing the amount expended on each room of the apartment and stating that such expenses are reasonable, necessary and complete for the purpose of rehabilitating the apartment unit. Expenses described in this application shall not be used to support any other application before the Board.

c. *Notice of Application Posted.* 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, 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.

f. *Inspection; Abatement of Violations.* An inspection by the Division of Inspections and Enforcement in the Department of Neighborhood and Recreational Services of the City of Newark shall be completed prior to granting an application. 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.

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. *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)

19:2-18.5 City Auction Manual Required Notice.

In all auction manuals prepared for use by the Office of Property Management there shall be included the following notice:

NOTICE TO PROSPECTIVE HOMEOWNERS

Pursuant to the provisions of this act, person(s), who acquire City-owned dwellings **(if the dwellings are not Sub-Standard Multiple Dwelling or Newly Constructed Multiple Dwelling)** in the City of Newark shall be exempted for a period of five (5) years from any restrictions in the rent that the landlord may charge provided that:

- a. The dwelling was vacant as of December 17, 1983; or
- b. The dwelling became vacant after December 17, 1983, and remained vacant for a minimum of eighteen (18) months; and
- c. The prospective homeowner's rehabilitation costs during the twelve (12) month period after the sale have exceeded fifty (50%) percent of the cost or fair market value of the dwelling and the dwelling is in conformance with all local and State health and housing codes and regulations as prescribed by the Revised General Ordinances of the City of Newark 19:2-18.2.
(R.O. 1966 C.S. § 15:9B-17; Ord. 6 S+FU, 2-17-88)

19:2-18.6 Application Submission.

All applications for rent control exemption must be made through the Rent Control Board, City Hall, Newark, New Jersey.
(R.O. 1966 C.S. § 15:9B-17; Ord. 6 S+FU, 2-17-88)

19:2-19. VIOLATIONS.

- a. Violation of any provisions of this Chapter or misrepresentation of facts before a hearing of the **Rent Control Board**, shall be punished, **upon conviction** by a fine of not more than five hundred (\$500.00) dollars or imprisonment for not more than ninety (90) days or both. A violation affecting more than one (1) housing space shall be considered a separate violation as to each housing space.
- b. Alternatively, **upon conviction**, the Board Municipal Court may impose a monetary penalty not to exceed five hundred (\$500.00) dollars for a violation of any provision of this Chapter after a notice and an opportunity to be heard are provided to the parties before the Board.
(Ord. R.O. 1966 C.S. § 15:9B-18)

19:2-20. LIBERALLY CONSTRUED.

This Chapter being necessary for the welfare of the City and its' inhabitants, shall be liberally construed to effectuate the purposes thereof.
(R.O. 1966 C.S. § 15:9B-19)

19:2-21. EXTENSION.

All rent for the rental of housing space and services in dwellings to which this Chapter is applicable are hereby controlled at the rent level received by the landlord, as of the first date that this Chapter was adopted, on September 4, 1985, and no rental increases shall hereafter be instituted, except as provided in this Chapter as amended and supplemented. This Chapter shall continue in full force and effect from October 19, 1988.
(R.O. 1966 C.S. § 15:9B-20; Ord. 6 S+FM, 9-4-85 § 1; Ord. 6 S+FU, 12-1-88 § 1)

19:2-22. LIMITATION ON INCREASES.

a. Since an immediate rent increase of more than twenty-five (25%) percent above the prior monthly rent may be considered unconscionable and imposes a hardship on a tenant, the Board shall not grant increases exceeding twenty-five (25%) percent in any one (1) year for any tenant.

b. For the purpose of determining whether the rent increase exceeds twenty-five (25%) percent of the monthly rent, all increases pursuant to Section 19:2-3, Rent Increases, 19:2-7, ~~Capital Improvements~~ **Major New Improvements** and 19:2-8, Landlord Hardships, occurring within twelve (12) months prior to the effective date of the increase shall be added to determine if that amount exceeds twenty-five (25%) percent of the prior monthly rent.

(R.O. 1966 C.S. § 15:9B-21)

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. Capital Improvement **Major New** Improvement applications
(19:2-7)..... \$25.00
- b. Hardship applications
(19:2-8)..... \$5.00 (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)..... \$100.00
- d. Inspections..... \$5.00 (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
- h. Tax or utilities surcharge applications (19:2-5,
19:2-17)..... \$15.00
- (R.O. 1966 C.S. § 15:9B-22)

19:24. LEASING OF PREMISES LOCATED IN EXEMPTED MULTIPLE DWELLINGS; EXEMPTION STATEMENT AND NOTICES

The owner of any multiple dwelling exempted from a rent control or rent leveling ordinance pursuant to this act, shall, prior to entering into any lease with a person(s) for tenancy of any premises located in the multiple dwelling, furnish the prospective tenant(s) with a written statement that the multiple dwelling in which the premises is located is exempt from rent control or rent leveling for such time as may remain in the exemption period. Each lease offered to a prospective tenant(s) for any dwelling unit therein during the period the multiple

dwelling is so exempted shall contain a provision notifying the tenant(s) of the exemption.

19:24.1 Statement of Owner's Claim of Exemption; Filing; Contents; Notice of Termination

The owner of any multiple dwelling claiming an exemption from a rent control or rent leveling ordinance pursuant to this act shall file with the Municipal Construction Official, at least thirty (30) days prior to the issuance of a Certificate of Occupancy for the newly constructed multiple dwelling, a written statement of the owner's claim of exemption from an ordinance under this act, including therein a statement of the date upon which the exemption period so claimed shall commence, such information as may be necessary to effectively locate and identify the multiple dwelling for which the exemption is claimed, and a statement of the number of rental dwelling units in the multiple dwelling for which the exemption is claimed. The owner shall, at least thirty (30) days prior to the date of the termination of the exemption period afforded pursuant to this act, file with the Municipal Construction Official a notice of the date of termination of the exemption period for the affected multiple dwelling.

SECTION 2. If any provision of this ordinance or application thereof to any person(s) or circumstance 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. The ordinance shall take effect upon final passage in accordance with the laws of the State of New Jersey.

STATEMENT:

This ordinance hereby amends and supplements Title 19, Chapter 2, Rent Control Regulations, and Rent Control Board to include provisions relating to Major New Improvements and other amendments to clarify intent in order to conform the ordinance with current State law.