

11-2 RENT CONTROL.*

11-2.1 Purpose. The council hereby declares that an emergency exists within the borough with respect to the rental of housing space in dwellings not subject to rent regulation by reason of the demands for increases in rent which are determined by the mayor and council to be exorbitant, speculative and unwarranted, and that such increases are causing severe hardships upon the tenants and are adversely affecting the health, safety and general welfare of the borough citizens warranting legislative action by the council.

Under the police powers granted to the mayor and council in order to protect the health, safety and welfare of the borough citizens, a rent leveling and control board is determined to be necessary within the borough.

11-2.2 Definitions. As used in this section:

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

b. "Dwelling" shall mean any building or structure or trailer or land being used as a trailer park, rented or offered for rent, to one or more tenants or family units. Exempted from this section are public housing and dwelling space in any motel, hotel or any other premises primarily serving transient guests and similar type buildings in which at least one-third of the occupied floor space is commercial and dwelling places of three units or less. Housing units of three families in which one of the units is owner-occupied shall also be exempt. In any multiple unit structure containing three or more dwelling units, wherein a minimum of three dwelling units are rented by tenants, and are not owner-occupied, such rented dwelling units shall be subject to the rent control regulations of the borough. Housing units newly constructed and rented for the first time are exempt and the initial rent may be determined by the landlord, and thereafter all subsequent rents shall be subject to the provisions of this section.

*Editor's Note: Pursuant to Ordinance No. 7-93, any reference to a rent increase, which may be made for any reason, is limited to one such increase per calendar or lease year, whichever is appropriate, if such increase is otherwise properly permitted and granted pursuant to the provisions of the Rent Control Ordinance (section 11-2).

All multi-family structures designed, built, sold and occupied as condominiums are exempt from this section, irrespective of rental status. In a multi-family dwelling which was subject to rent control prior to conversion to condominiums or cooperative apartments, any unit occupied by a tenant paying rental and in possession continuously since prior to such conversion shall continue to be subject to rent control for the duration of such tenancy, irrespective of the number of rental units remaining after conversion.

11-2.3 Establishment of Rents. Establishment of rents between landlord and a tenant to whom this act is applicable shall hereafter be determined by the provisions of this section.

a. At the expiration of a lease or at the termination of a contract, no landlord may request or receive an increase in rent which is more than twenty (\$20.00) dollars monthly increase for any rent up to four hundred ninety-nine (\$499.00) dollars.

The maximum increase for a monthly rental between the amounts of five hundred (\$500.00) dollars to five hundred ninety-nine (\$599.00) dollars shall be limited to four percent.

The maximum increase for a monthly rental of six hundred (\$600.00) dollars or more shall be twenty-five (\$25.00) dollars.

b. The landlord shall be entitled to a fuel surcharge of the difference between the electric and natural gas fuel rates which were in effect on June 1, 1980 and the date upon which the fuel surcharge is to be charged to the tenant and the landlord shall be entitled to a fuel oil surcharge of one-half the difference between the gallonage cost of ninety (\$0.90) cents and the cost of fuel oil on the date upon which the fuel surcharge is to be charged to the tenant. Such surcharge shall be passed on to the tenants by dividing the number of rooms rented by them.

c. If the landlord seeks to impose a fuel surcharge upon the tenant, he must furnish a notice of such intention in the same manner as the procedure established by law for notice of a rent increase. In addition, the landlord must include with his notice of intent of fuel surcharge, a statement as proof upon which the fuel surcharge is to be imposed. The statement of proof may be by an affidavit or photocopies of fuel charges or statements from fuel dealers or public utilities.

d. Any rental which is rented for the first time or shall become vacant for any reason whatsoever, shall be decontrolled. Upon the re-

rental of such rental unit, it shall become subject to the provisions of this section. This provision has been included to encourage improvements in rented dwelling units.

e. Any increase in rent or the imposition or adjustment of a fuel surcharge shall be accomplished only in accordance with rental increase procedures provided by law.

f. If any provision of this subsection or the application of each such provision to any person or circumstance is declared invalid, such invalidity shall not affect other provisions or applications of this act and are declared to be severable. All ordinances or parts of ordinances inconsistent with this subsection are hereby repealed.

11-2.4 Rent Increase Regulated. Any rental increase at a time other than at the expiration of a lease or termination of a periodic lease shall be made void. Any rental increase in excess of that authorized by the provisions of this section shall be void.

11-2.5 Certificate of Occupancy.

a. A certificate of fitness for occupancy shall be required by every apartment that becomes vacant. The certificate of fitness for occupancy to be obtained upon application from the office of the housing inspector of the borough and for which a fee of ten (\$10.00) dollars shall be charged. No person or persons may occupy any apartment for which a certificate has not been issued by the office of the housing inspector of the borough.

b. Any person violating any of the provisions of this subsection shall, upon conviction thereof, pay a penalty of not less than five (\$5.00) dollars, nor more than five hundred (\$500.00) dollars for each offense. Complaint shall be made in the municipal court of the borough or before another judicial officer having authority under the laws of the State of New Jersey.

11-2.6 Provisions For Tax Surcharge. A landlord may seek a tax surcharge from a tenant because of an increase in borough property taxes, provided they exceed the property taxes for the base year, 1976. The tax surcharge shall not exceed that amount authorized by the following provisions. The landlord shall divide the increase in the present property tax over the property tax of the previous year by the total square feet in the dwelling to obtain the tax increase per square foot. The tenant shall not be liable for a tax surcharge exceeding the tax increase per square foot multiplied by the number of square feet occupied by the tenant plus a proportionate share of the square footage of the common areas including hallways and grounds.

11-2.7 Requirements For Tax Surcharge. Any landlord seeking a tax surcharge shall notify the tenant by certified mail or personal service of the calculations involved in computing the tax surcharge including the present property tax of the dwelling, the property tax for the dwelling for the previous year, the number of square feet in the entire dwelling, the number of square feet in the common areas, the computed tax increase per square foot, the number of square feet occupied by the tenant, the proportionate share of common area charged to the tenant, and the maximum allowable surcharge. Failure of the landlord to provide the tenant with this information shall make any tax surcharge void.

11-2.8 Method of Payment of Surcharge. Any tax surcharge imposed upon the tenant shall be paid to the landlord in 12 equal monthly installments by the tenant, commencing 60 days from the date of service of the notice upon the tenant required by subsection 11-2.7 hereof.

11-2.9 Surcharge Exemption For Rent Computation. The tax surcharge shall not be considered rent for purposes of computing cost of living rental increases.

11-2.10 Tax Appeal. 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 his proportionate share of the reduction after deducting all expenses incurred by the landlord in prosecuting the appeal. Payment to the tenant may be made in the form of a credit against monthly rent next ensuing or by check made payable to the tenant, all within 30 days of the day the landlord receives such rebate.

11-2.11 Hardship Rent Increase.

a. In the event that a landlord deems it a hardship to maintain his premises on existing controlled rentals, he may appeal to the rent leveling board for increased rental. The board may grant the landlord a hardship rent increase if it is satisfied that such hardship does in fact exist, and shall set forth its findings of fact upon which it bases such increase. Prior to any

such appeal to the board, a landlord must post in the lobby of each building or if no lobby is present, in a conspicuous place in and about the premises, a notice of the appeal setting forth the basis for the appeal. The notice must be posted for at least 15 days prior to the proposed date of appeal. In addition, a copy shall be served personally or by certified mail, return receipt requested, upon each tenant at least 15 days prior to the proposed date of appeal. The landlord shall file an affidavit of compliance prior to the hearing of the appeal.

b. A landlord may seek a capital improvement surcharge for any completed or contemplated major capital improvement. The landlord shall notify each tenant by certified mail or personal service of the total cost of the completed or contemplated capital improvement, the number of years of useful life of the improvement as claimed by the landlord for purposes of depreciation for income tax purposes, the average annual cost of the improvement, the total number of square feet in the dwelling, the total number of square feet of common area, the total number of square feet occupied by the tenant, and the proportionate share of the square feet of the common areas charged to the tenant. In calculating the capital improvement surcharge, the cost of the capital improvement shall be divided by the number of years of useful life of the improvement to determine the average annual cost. The total square footage of the dwelling shall be divided into the annual cost of the improvement and multiplied by the number of square feet occupied by and charged to the tenant in order to determine the capital improvement surcharge. The surcharge shall cease upon termination of years of useful life. Any capital improvement surcharge imposed upon the tenant shall be paid by the tenant to the landlord in 12 equal monthly installments of the average annual cost as determined herein, 60 days from the date of service of a copy of the board's decision by the landlord on the tenant.

c. The landlord seeking a capital improvement surcharge shall appeal for the surcharge to the rent leveling board who shall determine if the improvement is a major improvement and if so shall permit such increase to take place. If the increase is granted, it shall not be considered rental.

d. Definition of a Major Capital Improvement. A major capital improvement shall be defined as an improvement which has not been previously provided or is an additional service not previously afforded. Said improvement must be an added benefit to the building which also must run to the tenants.

11-2.12 Creation of a Rent Leveling Board. There is hereby created a rent leveling board within the borough. The board shall consist of five members each of whom shall reside in the borough and in the event they move out of the borough, they shall lose their seat automatically. The members of the board shall be appointed by the mayor with the advice and consent of the council and their terms of office shall be one year. Three alternate members may be appointed by the mayor and council to serve in the absence of or due to the disability of any of the regular members of the rent control board.

Alternate members shall serve at the discretion of the mayor and council. The term of office shall commence on the date of passage of this subsection and continue until the first council meeting of the succeeding year at which time alternate members may be appointed for a period of one year unless sooner removed due to disability or by termination by the governing body.

11-2.13 Duties of the Rent Leveling Board. The rent leveling board is hereby granted, and shall have and exercise, in addition to other powers herein granted, all the powers necessary and appropriate to carry out and execute the purposes of this section, including but not limited to the following:

a. To issue and promulgate such rules and regulations as it deems necessary to implement the purpose of this act, which rules and regulations shall have the force of law until revised, repealed or amended by the board in the exercise of its discretion, providing that such rules are approved by the mayor and council and filed with the borough clerk.

b. To supply information and assistance to landlords and tenants to help them comply with the provisions of this section.

c. To hold hearings and adjudicate applications from landlords for additional rental as hereinafter provided.

The board shall give both landlords and tenants reasonable opportunity to be heard before making any determination.

11-2.14 Appeal. Both landlord and tenant may appeal the findings of the board to the mayor and council within 20 days from the date of the determination and request a hearing thereon by the mayor and council.

11-2.15 Landlord's Requirements. During the term of this ordinance, the landlord shall maintain the same services, utilities and standards of service, maintenance, furniture, furnishings and equipment in the housing space and dwelling as provided or was required to do by law as of the date of the commencement of the tenancy.

11-2.16 Base Rent Established. No landlord shall, after March 20, 1973, charge any rents in excess of the base rent. The base rent shall be deemed to be the lawful rent for the housing space which was in effect on January 1, 1976 and that rent for the housing space after December 7, 1976, shall not exceed base rent plus any surcharge or increase authorized by this section.

11-2.17 Violation. A willful violation of any provisions of this section including, but not limited to, the willful filing with the rent leveling board of any material misstatement of fact, shall be punishable by a fine of not more than two hundred (\$200.00) dollars and imprisonment for not more than 30 days or both. A violation affecting more than one leasehold shall be considered a separate violation as to each leasehold.

11-2.18 Reserved.

11-2.19 Succession of Tenancy. In those cases where an adult relative had been occupying the rented premises with the tenant in whose name the premises is rented or is the lessor of said premises, and has been occupying the premises for at least one year prior to the death of the named tenant, the surviving adult relative shall succeed to the tenancy of the deceased tenant. Said surviving tenant shall become the tenant of the dwelling and be subject to the same terms and provisions of this section, rental agreement and/or lease, if any to which the previous tenant was subject.

11-2.20 Rights of Tenants upon Restoration of Dwellings. If a dwelling, as defined in this section, is destroyed by virtue of fire or such other disaster that renders a unit uninhabitable, and if the owner of said dwelling chooses to refurbish the unit and make it available for rental, in that event the previous tenant shall have the right of first refusal to the refurbished or rebuilt premises at the former rent with appropriate consideration being given for such additional improvements to the premises.

If the premises which were vacated by a tenant due to a fire or similar disaster is then being converted to a cooperative or condominium, said displaced tenant shall not be required to pay more than the insiders' price for said apartment which should be offered by the tenant to the landlord no later than sixty days after being informed of a conversion by the landlord.

All landlords of an apartment dwelling which was converted to a cooperative or condominium following a disaster shall notify the previous tenant of such conversion and the insiders' price for the apartment previously rented by the tenant.