

Ordinance #6 1-2-19
1st reading

SPONSORED BY: 
SECONDED BY: 

**CITY OF HOBOKEN
ORDINANCE NO.:**

**ORDINANCE AMENDING HOBOKEN CITY CODE CHAPTER 155
“RENT CONTROL” AT §155-6 “TAX SURCHARGE FROM TENANTS”**

WHEREAS, currently, the City’s Rent Control ordinance utilizes 1988 as the year from which any increases in property taxes are calculated for the purposes of the assessment of a tax surcharge collectable from a tenant; and,

WHEREAS, because of the thirty (30) year gap between 1988 and the present, tax surcharges can result in a significant additional assessed amount to be added to the allowable rent even in cases where the landlord has not owned the property since 1988 and thus has not had to absorb the corresponding tax increases along with the limitations on increasing the base rents, as imposed in Chapter 155 of the code; and,

WHEREAS, on the other hand, it is recognized that many landlords depend upon the tax surcharge in order to be able to afford to continue to maintain their rental properties; and,

WHEREAS, the City Council wishes to address these issues by maintaining tax surcharges that are currently in effect as is, but also by limiting the calculation of tax surcharges moving forward to the actual period of ownership of the property by the landlord so as to make the tax surcharge more fair to and less onerous on tenants; and,

WHEREAS, the City Council therefore seeks to amend the Rent Control ordinance so that future tax surcharges will be calculated from either 1988 or the date that a landlord acquired the property, whichever assessment date is later, as of the effective date of this ordinance; and,

NOW, THEREFORE, the City Council of the City of Hoboken does hereby Ordain as follows (additions noted in underline, ~~deletions noted in strikethrough~~):

SECTION ONE: AMENDMENTS TO HOBOKEN CITY CODE CHAPTER 155 “RENT CONTROL” AT §155-6 “TAX SURCHARGE FROM TENANTS”:

§155-6 Tax Surcharge from tenants.

A. For all tax surcharges that were in effect and current prior to the effective date of this ordinance, a landlord may continue to collect a tax surcharge from a tenant in the amount heretofore approved for those taxes that are in excess of those assessed for the 1988 tax year. For such properties where a tax surcharge was in effect and current prior to the effective date of this ordinance, a landlord may annually reapply for a new tax surcharge once every twelve months to replace the old surcharge. For such properties, if a landlord fails or elects not to annually reapply for a tax surcharge, the tax surcharge shall lapse, and should that landlord seek a new tax surcharge on that property, the landlord must seek a tax surcharge in accordance with subsection C. of this section of the code. The rental increase permitted for taxes is determined, charged, and treated in the manner set forth in subsection C., below. A tax surcharge is “current” if the

All new

landlord has applied for a tax surcharge or reapplied for a new tax surcharge within the past twelve months.

} all new

B. If properties with tax surcharges in effect and current prior to the effective date of this ordinance are sold or otherwise transferred, the new owner/landlord may continue to collect a tax surcharge from a tenant in the amount heretofore approved for those taxes in the same manner as the prior owner, as set forth and in accordance with subsection A., above.

C. For any application for a tax surcharge after the effective date of this ordinance, a landlord may seek a tax surcharge to be charged to a tenant because of an increase in municipal property taxes if said taxes are in excess of those assessed for the year that the landlord acquired the property or for the 1988 tax year, whichever assessment date is later. Any such application for a tax surcharge shall be accompanied by a copy of the deed to the property to establish the year in which the property was acquired by the landlord for the purpose of determining the tax surcharge. The rental increase permitted for taxes is determined by the Rent Regulation Officer pursuant to a formula approved by the Rent Control Board. The rent increase for taxes that each tenant is liable to pay shall be paid in twelve equal monthly payments, 1/12 each month. The surcharge shall not be considered rent for purposes of computing cost-of-living rental increases. Determinations under this section shall be made by the Rent Regulation Officer. If an initial rental decontrol as set forth in § 155-37 occurs, the base year shall be the date of the first paid four quarters in the taxes after the initial rental decontrol.

D. Tax surcharges are in effect for twelve months. A landlord with a tax surcharge must reapply for a new tax surcharge every 12 months.

} new

E. Notice on standardized form.

(1) The landlord shall, upon approval by the Rent Regulation Officer of its tax surcharge application, notify its tenants, by personal service, on standardized forms, setting forth:

- (a) An explanation of the tax surcharge.
- (b) The base rent.
- (c) The tax surcharge, total and apportioned.
- (d) The effective date.

(2) This notice shall be filed with the Rent Regulation Officer.

F. Any tax surcharge that has been approved may only be imposed at the commencement of a lease term or upon renewal of a lease term and must be included in the lease/renewal, otherwise it may not be imposed.

(1) In no case shall the landlord be permitted to impose a tax surcharge without removal of the previous tax surcharge.

(2) Nothing herein requires a landlord to impose a tax surcharge or to impose the full amount of the allowable tax surcharge after having been approved to do so.

(2) Rental units must be registered to qualify for tax surcharge.

SECTION TWO: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION THREE: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION FOUR: EFFECTIVE DATE

This Ordinance shall take effect immediately upon passage and publication as provided by law.

SECTION FIVE: CODIFICATION

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Meeting Date: January 2, 2019

Approved as to Legal Form:

Vetoed by the Mayor for the following reasons:



Brian Aloia, Esq. Corporation Counsel

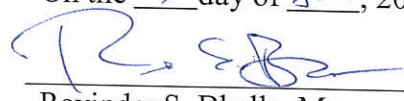
Adopted by the Hoboken City Council
 By a Vote of 8 Yeas to 0 Nays
 On the 16 day of Jan, 2018



 James Fanna, City Clerk

-or-

Approved by the Mayor
 On the 23 day of Jan, 2018



 Ravinder S. Bhalla, Mayor

✓ Vote Record - CC - Ordinance					
		Yes/Aye	No/Nay	Abstain/Alternate	Absent
<input checked="" type="checkbox"/> 1st Reading <input checked="" type="checkbox"/> 2nd Reading <input type="checkbox"/> Tabled <input type="checkbox"/> Adopted <input type="checkbox"/> Failed	Peter Cunningham	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Mike DeFusco	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	James Doyle	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Vanessa Falco	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Tiffanie Fisher	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Jennifer Giattino	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Emily Jabbour	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Michael Russo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Ruben Ramos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>