ORDINANCE NO. 2024-31

ORDINANCE OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY, ESTABLISHING CHAPTER 463 OF THE TOWN CODE ENTITLED "RENT CONTROL"

WHEREAS, the Town Council of the Town of Phillipsburg finds and determines that the Town of Phillipsburg is in need of a body to mediate over affairs between tenants and landlords in regard to rent prices and habitability concerns; and

WHEREAS, the Town Council retained 4ward Planning, Inc. to perform an analysis of the impacts of implementing a rent control ordinance in the Town of Phillipsburg; and

WHEREAS, 4ward Planning, Inc. issued a report dated June 26, 2024 outlining the impacts of rent control on the Town of Phillipsburg and providing recommendations for implementing such regulations; and

WHEREAS, the Town Council of the Town of Phillipsburg finds and determines that the Town of Phillipsburg is undergoing a severe housing shortage and such a crisis leads to an increase in homelessness; and

WHEREAS, the Town Council of the Town of Phillipsburg finds and determines that it is in the Town's interests to regulate, control and stabilize rents in the Town in order to protect the health, safety and general welfare of the residents of the Town of Phillipsburg.

WHEREAS, *N.J.S.A.* 40:48-2 and the New Jersey Supreme Court Decisions in *Inganamort v. Borough of Fort Lee*, 62 *N.J.* 521 (1973) and *Helmsley v. Borough of Fort Lee*, 78 *N.J.* 200 (1978) empowers the Town of Phillipsburg to regulate, control and stabilize rents within the Town of Phillipsburg.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Phillipsburg, Warren County, State of New Jersey as follows:

Section 1

The Municipal Code of the Town of Phillipsburg is hereby amended to include Chapter 463, the title section of which shall read as follows:

Rent Control

Section 2

Chapter 463, Rent Control, of the Municipal Code of the Town of Phillipsburg is hereby adopted to read as follows:

§463-1 Exclusion from Application

A. The following shall be exempt from application of this Chapter:
   - Motels
   - Commercial rental properties
   - Hotels
   - Boarding houses
   - Educational dormitories
   - Public housing
   - Housing accommodating Section 8 recipients
   - Nursing homes
   - Structures containing three rental units or less with one of those units being owner occupied
   - All buildings built in 2005 or after
   - Buildings with four or more units shall be exempt for thirty (30) years following completion of construction pursuant to N.J.S.A. 2A:42-84.1 through 84.6

B. All other residential rental units shall be subject to the provisions of this Chapter.

§463-2 Lawful Base Rent.

A. For the purpose of this chapter, the lawful base rent for dwelling unit shall be the rent agreed upon by landlord and tenant for the initial rental period during the effective date of this ordinance.
B. Upon voluntary vacation of a rent-controlled dwelling unit, the landlord shall be allowed to increase the base rent at the time of vacation by no more than 10-percent, and up to 15-percent based on a documented need for making capital improvements:
   1. A landlord shall notify the Rent Control Board, in writing, upon the vacation of any rental unit within thirty (30) days of said rental unit becoming vacant. Said notice shall include the rent paid by the vacating tenant as well as the rent to be charged to a new tenant.
   2. Said notice shall include the new proposed rent amount. If the increase is more than 10-percent but less than 15-percent, the notice shall include a written description of the capital improvements being made to support the increase. No increase over 15-percent shall be permitted.
   3. Failure of the landlord to file the aforementioned notice with the Rent Control Board shall nullify any rent increase which the landlord obtained as a result of a vacant unit, and the landlord shall be required to maintain the unit under rent control rates.

§463-3 Establishment of Rents During Tenancy.

A. Establishment of rents between a landlord and a tenant in any dwelling shall hereinafter be determined by the provisions of this chapter. Any rental increase in excess of that authorized by the provisions of this chapter shall be void.
B. Permitted annual rent increases of dwelling units should be tied to the consumer price index (CPI) for the Northeast Region (as published monthly by the U.S. Bureau of Labor Statistics, covering the states of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont) and multiplied by a factor of 1.1 percent to account for a property owner's profit margin. The Northeast Region CPI used shall be for the month preceding the month in which the increase is to occur.
C. A landlord shall have the opportunity to request a waiver from the rental increase cap once annually based on a documented need to make capital repairs to one or more units, or the common area of the property, or for documented extraordinary annual increases in utility or property insurance costs (extraordinary cost increases shall be at a minimum of two times the increase of the Northeast CPI for the 12 months preceding the requested waiver). Approval of the requested increase shall be at the discretion of the Rent Control Board.

§463-4 Rent Increases Restricted

Any rental increase of a dwelling unit in excess of that authorized by the provisions of this chapter is prohibited and void. Rent shall include all amounts identified is a lease agreement as "additional rents."

§463-5 Creation, Membership, Compensation and Voting of Rent Control Board.

A. Established. The Rent Control Board, consisting of seven members as hereinafter established, is hereby continued in existence and maintained as the Rent Control Board of the Town of Phillipsburg.
B. Composition; terms.
    1. The Board shall consist of seven members who shall be appointed by the Town Council by resolution adopted by a majority vote of the Council. For reasons of continuity and in the best interests of the public the terms of the first members appointed pursuant to this subsection shall be staggered terms with two members serving one year, two members serving two years, two members serving three years and one member serving four years.
    2. Thereafter the term of office of the members of the Board shall be for five years each. Each member shall serve without compensation, but each shall receive such expenses and per diem allowances as the Town Council, from time to time, may deem appropriate.

3. At all times the Board shall have three members that reside in a rental property in Phillipsburg which meets the eligibility for being subject to rent control, three members that are landlords for properties meeting the eligibility for being subject to rent control (but owning properties not housing any of the tenant representatives), and one representative of the Town of Phillipsburg that is neither landlord nor renter of properties subject to rent control in the Town of Phillipsburg.

C. Alternate members. In addition to the five members of the Rent Control Board, the Town Council, as it deems necessary, may appoint two alternate members to the Rent Control Board, by resolution adopted by a majority vote of the Council. The term of an alternate member shall be for one year. If any vacancy should occur among the regular members, then the Town Council may appoint either of the alternate members to fill the unexpired term. An alternate member shall be entitled to sit with, and participate as a member, in any meeting of or hearing before the Board. An alternate member who has attended the full hearing or hearings on a specific matter may participate in, and may vote upon, any determination made during the absence or disqualification of any regular member.

D. Disqualification of member. No member or alternate member of the Rent Control Board shall be permitted to act on any matter in which that individual has, either directly or indirectly, any personal or financial interest.

E. Quorums. A quorum for hearing shall consist of four members or alternate members, and a majority shall be authorized to issue orders relating to the powers and functions of the Board.

§463-6 Powers and Duties of Rent Control Board.

The Rent Control Board shall implement the purposes of this chapter in the following manner:

A. The Board shall have the power to issue subpoenas for the attendance of witnesses and the production of records and may administer oaths and take testimony, and the provisions of the County and Municipal Investigations Law, N.J.S.A. 2A:67A-1 et seq., shall apply.

B. The Board shall promulgate and issue rules and regulations to give effect to the purposes of this chapter and may revise, repeal and amend the same from time to time. Sufficient copies of the current rules and regulations shall be on file with the Town Clerk and Coordinator for the Town of Phillipsburg Rent Control Board.

C. The Board shall supply information and assistance to landlords and tenants and aid them in compliance with this chapter.

D. The Board shall render a determination within forty-five (45) days after the date of the filing of any application or petition. If a hearing is required, a determination shall be rendered no later than the next meeting of the Board.
E. The Board shall hear complaints from tenants as to unlawful rental increases and shall have the power to require reimbursements to tenants by landlords and/or render charges and rental increases from landlord null and void.
F. The Board shall have the power to compel enforcement of any of the sections of this chapter including filing actions in the Superior Court of New Jersey, Warren County Vicinage.

§463-7 Notice to Tenants of Allowable Increase.

Any landlord seeking an increase in rent shall first notify the tenant by certified or registered mail, return receipt requested, of the calculations involved in computing the increase, the allowable percentage increase and the allowable rental increase. Any increase requested or received by landlord without notice as set forth above shall be null and void.

§ 463-8 Registration Statement.

A. Within 30 days of the effective date of this chapter, every landlord of a dwelling unit subject to this chapter shall file with the Rent Control Board a registration statement on a form to be prepared by such Board, showing:

1. The name, address and telephone number of:

a. The owner, agent and any other person authorized to collect rents on behalf of the owner.

b. The superintendent.

c. The person to be contacted in case of emergency.

2. The rent roll for each building covered by this Chapter, which shall include:

a. The apartment number.

b. The base rent.

c. All utilities and services that are included in the base rent.

d. Surcharges or other charges.

e. The date the last increase became effective.

3. Rental information which must be verified by documentation.

B. For failure to properly register, no landlord shall be permitted to charge or collect any rental increase, surcharge or any other charge until such time as all such registration requirements are met.

§ 463-9 Restriction of service fees; Application for fee increases.

A. From the effective date of this chapter, no landlord may demand or receive any fees for any new services or for any services previously provided without fees.

B. From the effective date of this chapter, any existing fees presently charged by the landlord may not be increased for any reason under this chapter. Any landlord objecting thereto and seeking to increase an already existing fee may make application for the same to the Rent Control Board setting forth the present fee, the service provided, the amount of the increase sought and the reasons for seeking an increase, including documentation of any costs claimed to be the basis for seeking the increased fee. In no event shall the fee be increased in an amount greater than the automatic yearly increase.

§463-10 Reprisal Against Tenant.

No landlord of housing space or dwellings to which this chapter is applicable shall serve a notice to quit upon any tenant or institute any action against a tenant to recover possession of housing space, whether by summary dispossess proceedings, civil action for the possession of land or otherwise, as a reprisal for the tenant's efforts to secure or enforce any rights under his leasehold arrangement or under this chapter. Such unlawful reprisal on the part of the landlord shall be punishable by the penalties hereinafter set forth.

§463-11 Severability

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

§463-12 Violations and Penalties

Any person, firm or corporation who shall violate any of the provisions of this chapter, including but not limited to material misstatements contained in any of the notices required herein, shall, upon conviction, be punished by a fine not to exceed five hundred dollars ($500) or by imprisonment in the county jail or in any place provided by the municipality for the detention of

prisoners, or both such fine and imprisonment, and each violation of any of the provisions of this chapter and each day there is a violation shall be deemed and taken to be a separate and distinct offense and violations affecting more than one (1) leasehold shall be considered separate violations.

§463-13 Interpretation

This chapter being necessary for the welfare of the Town and its inhabitants and shall be liberally construed to effectuate the general intended purposes.

ATTEST:

SUSAN TURNER
Acting Municipal Clerk
DATED: Dec 13, 2024

TOWN OF PHILLIPSBURG

RANDY PIAZZA, JR.
Mayor

CERTIFICATION

I, Susan Turner, Acting Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of an Ordinance duly adopted by the Town Council at their December 11, 2024 meeting.

Susan Turner,
Acting Municipal Clerk