

AN ORDINANCE TO AMEND CHAPTER 34 OF THE CITY CODE TO PROVIDE FOR RESIDENTIAL RENT STABILIZATION

#0434

Sponsor:

**Council
Member
Darby**

WHEREAS, more than half of Wilmington residents rent their primary residence and do not have protection from high rental prices and abrupt, exorbitant rent increases; and

WHEREAS, the prevailing rent levels in the City have a detrimental effect on the health, safety, and welfare of a substantial number of City residents, particularly persons in low and moderate income households, and persons on fixed incomes; and

WHEREAS, rental prices have risen much faster than wages of many City residents, making it difficult for them to afford basic needs as they must spend a majority of their monthly income on rent alone; and

WHEREAS, except for mobile homes, the State of Delaware's Landlord-Tenant Code does not impose rent ceilings or any limitations on residential rent increases, thereby enabling landlords in the City to demand rent that is above fair market value and to raise rent by any amount and for any reason; and

WHEREAS, numerous jurisdictions throughout the Country have implemented rent stabilization policies designed to protect renters; and

WHEREAS, City Council believes that the passage of this Ordinance is necessary to address the serious threats to the public health, safety, and welfare caused by exorbitant rent increases, including housing insecurity, inequitable rent burden, displacement, and homelessness.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. A new division, Division 7, is hereby added to Chapter 34 (“Housing Code”), Article II (“Administration and Enforcement”) by adding the following underlined language to read as follows:

DIVISION 7. – RESIDENTIAL RENT STABILIZATION

Sec. 34-197. – Establishment of base rent.

Subject to the rent ceiling provisions herein, all rents for residential property established between landlords and tenants as of the effective date of the ordinance from which this division is derived, and any subsequent permitted increase to rent, shall represent the base rent from which allowable rent increases are calculated.

Sec. 34-198. – Rent ceiling; maximum base rent.

The rent ceiling establishes the maximum amount of base rent that a landlord may legally demand or receive for a rental unit which is covered by this chapter. If rent for a unit has reached the applicable maximum base rent, further increases in rent are prohibited unless otherwise specifically approved. The maximum base rent for rental units shall be determined by the current base payment standards established by the New Castle County Housing Authority (“NCCCHA”), which is adjusted each calendar year.

Sec. 34-199. – Allowable rent increases.

At the expiration of a lease or periodic tenancy, no landlord of any dwelling subject to the provisions of this chapter may demand, charge, or accept from any tenant a percentage increase in rent in excess of the 12-month average percentage change in the Consumer Price Index for all Urban Consumers, Philadelphia-Camden-Wilmington (All Items), as most recently published by the Bureau of Labor Statistics of the U.S. Department of Labor, or in excess of 3% of the most recent base rent, whichever is lower. Once rent reaches the applicable authorized rent ceiling, no further rent increases pursuant to this section are permitted.

Sec. 34-200. – Exemptions.

This chapter shall not apply to:

- (a) Public housing dwelling units and units owned by or receiving state or federal government subsidies.
- (b) Properties with three or fewer residential dwelling units in which one of the dwelling units is the owner’s primary residence.
- (c) Units in hotels, motels, or other facilities occupied by transient guests.

- (d) Housing accommodations in a nonprofit hospital, religious facility, extended care facility, or licensed residential care facility for the elderly.
- (e) Single-family homes, single condominium units, or single co-operative units.
- (f) Housing provided for students by a school, college, or similar institution which owns or controls that housing.
- (g) Any dwelling unit being rented for the first time for the initial rent charge only. Any subsequent rental increases, however, shall be subject to the provisions of this chapter.

Sec. 34-201. – Miscellaneous Provisions.

- (a) Notification of Rental Increase. Any landlord seeking an increase in rent shall notify the tenant in accordance with the State of Delaware’s Landlord-Tenant Code, which requires a minimum of 60 days’ written notice prior to the expiration of the rental agreement to modified.
- (b) Frequency. No landlord shall demand, charge, or accept from a tenant a rent increase more than once in a 12-month period, including tenants on month-to-month leases.
- (c) Property Maintenance. Landlords subject to this chapter shall be obligated to maintain the same standards of service, maintenance, furniture, fixtures, equipment, appliances and conveniences in or on the premises as were provided or required by the original lease.
- (d) Parking Spaces. All separate charges by a landlord to a tenant for rental of parking space shall be added to the rent and be considered a part of the total base rent for purposes of this chapter. There shall be no independent or separate increases in rent on parking spaces. Any parking provided to a tenant by a third party unrelated to the landlord and negotiated between the tenant and said third party is not covered by this chapter.
- (e) Utilities. During a tenant’s occupancy of a unit in which the landlord provides utilities to the units of the building, the landlord shall be prohibited from installing a separate apartment unit meter and otherwise separately billing or charging for any utility service previously provided by the landlord as part of rent, including, but not limited to, heat, water, trash and sewerage.
- (f) Vacancy. This chapter’s limitation on rent increases shall apply regardless of change in occupancy in a dwelling unit except as otherwise allowed under section 34-201 of this chapter.

- (g) Unauthorized Increase. Any rent increase not in compliance with the provisions of this chapter is void, of no force and effect, and shall be refunded or credited to the tenant.
- (h) Prohibition of waiver. Any lease provision which waives or purports to waive any right, benefit or entitlement created in this chapter shall be deemed void and of no lawful force or effect.

Sec. 34-202. – Reasonable Return On Investment.

- (a) All landlords shall be entitled to a reasonable return on investment based on the factors herein. The department of land use and planning shall establish a process by which landlords can request exceptions to rent ceilings and limitation on rent increases based on the right to a reasonable return on investment. Rationale for deviations from the limitation on rent increases must take into account the following factors:
 - (1) Increases or decreases in property taxes.
 - (2) Unavoidable increases or any decreases in maintenance and operating expenses.
 - (3) The cost of planned or completed capital improvements to the rental unit (as distinguished from ordinary repair, replacement and maintenance) where such capital improvements are necessary to bring the property into compliance or maintain compliance with applicable local code requirements affecting health and safety, and where such capital improvement costs are properly amortized over the life of the improvement.
 - (4) Increases or decreases in the number of tenants occupying the rental unit, living space, furniture, furnishings, equipment, or other housing services provided.
 - (5) Substantial deterioration of the rental unit other than as a result of normal wear and tear.
- (b) It is the intent of this chapter that exceptions to rent ceilings and limitation on rent increases be made only when the landlord demonstrates that such adjustments are necessary to provide the landlord with a fair return on investment.
- (c) No exception to rent ceilings or the limitation on rent increases shall be granted for any dwelling unit where the landlord has failed to bring the unit into compliance with the implied warranty of habitability.

- (d) No exception to rent ceilings or limitation on rent increases shall be granted for any dwelling unit where the landlord has not owned the dwelling unit for at least one year.

Sec. 34-203. –Administration, enforcement, and penalties.

- (a) Administration. The department of land use and planning shall adopt rent stabilization guidelines and forms for the implementation and administration of this chapter. The guidelines shall be reviewed and updated as needed by city council.
- (b) Violations and penalties. Violations of the requirements in this chapter shall be subject to the penalties set forth in City Code section 34-37. In addition, the city solicitor shall be authorized to enforce the provisions of this chapter by civil action and any other proceeding or method permitted by law or equity.
- (c) Private right of action. Any tenant aggrieved by a landlord’s noncompliance with this chapter may seek relief in any court of competent jurisdiction to the extent permitted by law. In such circumstances, however, the city is not a proper party nor shall a private citizen or any party bring legal action against the city for non-enforcement of this chapter.

Sec. 34-204. - Severability.

If any of the parts or provisions of this section or the application thereof to any person or circumstance is held invalid or unconstitutional by a decision of a court of competent jurisdiction, the remainder of this section, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this section are severable.

SECTION 2. This Ordinance shall become effective immediately upon its date of passage by the City Council and approval by the Mayor.

First Reading.....June 6, 2024
Second Reading.....June 6, 2024
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2024.

Mayor

SYNOPSIS: This Ordinance amends Chapter 34 of the City Code by establishing residential rent stabilization policies. For non-exempt residential dwelling units, the authorized rent ceilings for rental units shall be determined by the current base payment standards established by the New Castle County Housing Authority. In addition, and subject to the rent ceiling provisions, the maximum percentage increase to rent in any 12-month period shall be the lesser of (a) three percent (3%) or (b) the 12-month average percentage change in the Consumer Price Index for all Urban Consumers, Philadelphia-Camden-Wilmington (All Items), as most recently published by the Bureau of Labor Statistics of the U.S. Department of Labor.

FISCAL IMPACT: The passage of this Ordinance is expected to have minimal to no fiscal impact.