

RECORD OF ORDINANCES

Passed and adopted by the Board of Commissioners of the

Township of North Bergen, in the County of Hudson, New Jersey

ORDINANCE OF THE TOWNSHIP OF NORTH BERGEN ESTABLISHING A PLANNING BOARD AND A ZONING BOARD OF ADJUSTMENT PURSUANT TO THE PROVISIONS OF CHAPTER 291, LAWS OF NEW JERSEY, 1975: PROVIDING FOR THE POWERS OF SAID BOARDS, FIXING THE PROCEDURES GOVERNING APPLICATIONS TO SAID BOARDS AND APPEALS THEREFROM.

BE IT ORDAINED by the Commissioners of the Township of North Bergen, Hudson County, New Jersey, as follows:

Section 1. Establishment.

There is hereby established pursuant to C.291 P.L. 1975, in the Township of North Bergen a planning board of 9 members consisting of the following four classes:

Class 1. Mayor

Class 11. One of the officials of the municipality other than a member of the governing body to be appointed by the Mayor; provided that if there is an Environmental Commission, the member of the Environmental Commission who is also a member of the planning board as required by C. 40:56A-1 shall be deemed to be the Class 11 planning board member if there is both a member of the Zoning Board of Adjustment and a member of the Board of Education among the Class IV members.

Class 111. The member of the Township Commission who's Department encompasses public works.

Class IV. Six other citizens of the municipality to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, except that one member may be a member of the Zoning Board of Adjustment and one may be a member of the Board of Education. A member of the environmental commission who is also a member of the planning board as required by R.S. 40:56A-1 shall be a Class IV planning board member unless there be among the Class IV members of the Zoning Board of Adjustment and a member of the Board of Education in which case the member of the Environmental Commission shall be deemed to be the class II member of the planning board.

Section 2. Terms. The term of the member composing Class I shall correspond with his official tenure. The terms of the members composing Class 11 and Class 111 shall be for one year or terminate at the completion of their respective terms of offices which ever occurs first, except for a Class II member who is also a member of the Environmental Commission. The term of a Class II or Class IV member who is also a member of the Environmental Commission shall be for three years or terminate at the completion of his term of office as a member of the Environmental Commission which ever occurs first.

The term of a Class IV member who is also a member of the Board of Adjustment or the Board of Education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first.

The terms of all Class IV members first appointed pursuant to this ordinance shall be so determined that the greatest practicable extent the expiration of such term shall be evenly distributed over the first four years after their appointment as determined by resolution of the governing body provided however that no term of any member shall exceed four years and further provided that nothing herein shall affect the term of any present member of the planning board, all of whom shall continue in office until, the completion of the term for which they were appointed. Thereafter all Class IV members shall be appointed for terms of four years except as otherwise herein provided. All terms shall run from January 1 of the year in which the appointment was made.

Section 3. Vacancies. If a vacancy of any class shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for unexpired term.

Section 4. Organization of Board. The planning board shall elect a chairman and a vice chairman from the members of Class IV and select a secretary who may be either a member of the planning board or a municipal employee designated by it.

Section 5. Planning Board Attorney. There is hereby created the office of planning board attorney. The planning board may annually appoint, fix the compensation of or agree upon the rate of compensation of the planning board attorney who shall be an attorney other than the Township attorney or assistant Township attorney.

Section 6. Experts and Staff. The planning board may also employ or contract for the services of experts and other staff and services as it may deem necessary. The Board shall not however exceed exclusive of gifts or grants, the amount appropriated by the governing body for its use.

Section 7. No member of the Planning Board shall be permitted to act on any matter which he or she has either directly or indirectly any personal or financial interest.

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Section 8. Any member of the Planning Board other than the Class I member may be removed from the governing body for cause. Any member so removed shall be entitled to a public hearing if requested by said member.

Section 9. Powers and Duties Generally. The planning board shall have the following powers and duties:

- to prepare and after public hearing adopt or amend a master plan or component parts thereof to guide the use of lands within a municipality in a manner which protects public health and safety and promotes the general welfare.
- to administer the provisions of the land subdivision ordinance of the Township of North Bergen in accordance with the provisions of said ordinances and the Municipal Land Use Law of 1968
- to annually prepare a program of municipal capital improvements projects projected over a term of six years and amendments thereto, and recommend same to the governing body.
- to consider and make report to the governing body within thirty five days after referral as to any proposed development regulations submitted to it pursuant to the provisions of C.40:55-26(a), and also pass upon other matters specifically referred to the planning board by the Mayor and Township Commissioners pursuant to the provisions of C. 40:55D-26(b).
- when reviewing applications for approval of subdivision plats, site plans, or conditions, to grant to the same extent and subject to the same restrictions as the zoning board of adjustment:

- variances pursuant to subsection 57c of Ch. 291 Laws of N.J. 1975 from lot area, lot dimensional set back and yard requirements; provided that such relief from lot area requirements shall not be granted for more than one lot.
 - direction pursuant to section 25 of said act for issuance of permit for building or structure in the bed of a mapped street or public drainage way, flood control basin or public reserved pursuant to section 23 of said act.
 - direction pursuant to section 27 of said act for issuance of a permit for a building or structure not related to a street.
- Whenever relief is requested pursuant to this subsection notice of a hearing on the application for development shall include reference to the request for a variance or direction of issuance of a permit as the case may be.
- to participate in the preparation and review of programs or plans required by state or federal law or regulations.
 - to assemble data on a continuing basis as a part of a continuous planning process.
 - to perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies or officers.

- to adopt by-laws governing its procedural operation pursuant to this ordinance and the municipal land use law of 1975.
- Section 10. Time.
- Minor subdivisions. Minor subdivisions approvals shall be granted or denied within 45 days of the date of submission of a complete application to the planning board or within such further time as may be consented to by the applicant. Approval of a minor subdivision shall expire 190 days from the date of planning board approval unless within such period a plat in conformity with such approval and the provisions of the "Map Filing Law" or a deed clearly describing the approved minor subdivision is filed by the developer with the county recording officer, the municipal engineer and the municipal tax assessor. Any such plat or deed must be signed by the chairman and secretary of the planning board before it will be accepted for filing by the county recording officer.
 - Preliminary Approval Major Subdivisions. Upon submission of a complete application to a subdivision of ten or fewer lots, the planning board shall grant or deny preliminary approval within 45 days of the date of such submission or within such further time as may be consented to by the developer. Upon submission of a complete application for a subdivision of more than 10 lots the planning board shall grant or deny preliminary approval within 95 days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the planning board shall be deemed to have granted preliminary approval for the subdivision.

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c. Ancillary Powers. Whenever the planning board is called upon to exercise its ancillary powers before the granting of a variance as set forth in section 9 of this ordinance, the planning board shall grant or deny approval of the application within 95 days after submission of the developer of a complete application or within such further time as may be consented to by the applicant. Failure of the planning board to act within the period prescribed shall constitute approval of the application and a certificate of the administrative officer as to the failure of the planning board to act shall be issued on request of the applicant.

d. Final approval. Application for final subdivision approval shall be granted or denied within 45 days of submission of a complete application or within such further time as may be consented to by the applicant.

Final approval of a major subdivision shall expire 95 days from the date of signing of the plat unless within such period of the plat shall have been duly filed by the developer with the county recording for an additional period not to exceed 190 days from the date of signing of the plat.

Section 11. Applications: Procedure for filing. Applications for development within the jurisdiction of the planning board pursuant to the provisions of C. 291 P.L. 1975 shall be filed with the Secretary of the Planning Board. Applicant shall file at least 15 days before the date of the monthly meeting of the board copies of a sketch plat; copies of applications for minor subdivision approval or copies of an application for site plan review, conditional use approval, or planned developments. At the time of filing the application but in no event less than 10 days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provision of this ordinance or any rule of the planning board. The applicant shall obtain all necessary forms from the secretary of the planning board. The secretary of the board shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the board.

Section 12. Advisory Committee. The mayor may appoint one or more persons as a citizens advisory committee to assist or collaborate with the planning board in its duties, but such person or persons shall have no power to vote or take other action required of the board. Such person or persons shall serve at the pleasure of the mayor.

Section 13. In the event the Mayor and Township Commissioner has established an Environmental Commission which as prepared and submitted to the Planning Board an index of the natural resources of the municipality, the planning board shall make available to the environmental commission an informational copy of every application for development to the planning board. Failure of the planning board to make such informational copy available to the environmental commission shall not invalidate any hearing or proceedings.

Section 14. Rules and Regulations. The board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this ordinance. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S. 2A:67A-1 et seq.) shall apply.

Section 15. Establishment: Composition: A zoning board of adjustment is hereby established pursuant to C. 40:55D-69 et seq. consisting of 7 residents of the Township of North Bergen appointed by a majority of the Board of Commissioners to serve for terms of four years from January 1 of the year of their appointment. The terms of the members first appointed shall be so determined that to the greatest practicable extent the expiration of such terms shall be distributed evenly over the first four years after their appointment; provided that the initial term of no member shall exceed four years. Thereafter the term of each member shall be for four years. Nothing in this ordinance shall, however, be construed to effect the term of any present member of the zoning board of adjustment, all of whom shall continue in office until the completion of the term for which they were appointed.

No member of the zoning board of adjustment may hold any elective office or position under the municipality.

A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.

Section 16. Officers. The Board of Adjustment shall elect a chairman and vice chairman from its members and shall also select a secretary who may be either a board member or another municipal employee.

Section 17. Board of Adjustments Attorney. There is hereby created the office of attorney to the zoning board of adjustment. The zoning board of adjustment may annually appoint, fix the compensation of or agree upon the rate of compensation of the zoning board of adjustment attorney who shall be an attorney other than the Township attorney or assistant Township attorney.

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Section 18. Experts and Staff. The zoning board of adjustment may also employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary. The board shall not authorize expenditures which exceed, exclusive of gifts or grant the amount appropriated by the governing body for its use.

Section 19. Rules and Regulations. The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this ordinance. In the issuance of subpoenas, administration of oaths, and taking of testimony the provisions of the County and Municipal Investigations Law of 1953 (N.J.S. 2A:67A-1 et seq.) shall apply.

Section 20. No member of the Board of Adjustment shall be permitted to act on any matter which either he or she has either directly or indirectly any financial or personal interest.

Section 21. Any member of the Board of Adjustment may be removed by the governing body for cause. Each member shall be entitled to a public hearing prior to removal in the event said member requests it.

Section 22. Powers of Zoning Board of Adjustment.

a. The powers of the zoning Board of Adjustment shall be in accordance with R.S. 40:55D-69 et seq. and amendments and supplements thereto, and with the provisions of this ordinance.

b. It is further the intent of this ordinance to confer upon the zoning board of adjustment as full and complete powers as may lawfully be conferred upon such board, including, not by way of limitation, the authority in connection with any case, action or proceeding before the provisions of this ordinance, or any terms, clauses sentence, or words hereof, and the zoning map in accordance with the general rules of construction applicable to legislative enactments.

c. The board may, in appropriate cases and subject to appropriate conditions and safeguards grant variances from the terms of this ordinance in accordance with the general or specific rule contained herein and with the general rules hereby laid down that equity shall be done in cases where the strict construction of the provisions of this ordinance would work undue hardship. The powers and duties of the board having been delegated to and imposed upon it by statute, the board shall in all cases follow the provisions applicable to it in said Ch. 291, P.L. 1975, or subsequent statutes in such case made and provided, and it shall from time to time furnish to any person requesting the same a copy of its rules and information as to how appeals or applications may properly be filed with the Board for its decisions thereon.

Section 23. Appeals and Applications.

a. Appeals to the board of adjustment may be taken by any person aggrieved, or by an officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Each appeal shall be taken within the 65 days prescribed by the statute by filing a notice of appeal with the officer from whom the appeal was taken, together with three copies of said notice with the secretary of the board of adjustment. Said notice of appeal shall specify grounds for said appeal. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

b. Applications addressed to the original jurisdiction of the board of adjustment without prior application to an administrative officer, shall be filed with the Secretary of the Zoning Board of Adjustment. Three copies of the application shall be filed. At the time of filing the appeal or application but in no event less than ten days prior to the date set for hearing, the applicant shall also file all plans, maps or other papers required by virtue of any provision of this ordinance or any rule of the board of adjustment. The applicant shall obtain any necessary forms from the secretary of the zoning board of adjustment. The secretary of the board shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting dates of the board.

c. An appeal stays all proceedings in furtherance of the action in respect of which the decision appealed from was made, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by the Superior Court of New Jersey on application or notice to the officer from whom the appeal is taken and on due cause shown.

Section 24. Power to Reverse or Modify Decisions. In exercising the above mentioned power, the board of adjustment may, in conformity with the provisions of C. 291 P.L. 1975 or amendments thereto to subsequent statutes applying reverse or affirm wholly or partly or may modify the order of determination or decision appealed from, and make such other requirement, decision or determination as ought to be made, and to that end have all the powers of the administrative officer from whom the appeal was taken.

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Section 25. Expiration of Variance. Any variance from the terms of this ordinance hereafter granted by the Board of Adjustment permitting the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire by limitation unless such construction or alteration shall have been commenced on each and every structure permitted by said variance, or unless such permitted use has actually been commenced within nine months from the date of entry of the judgment or determination of the board of adjustment; except however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the board of adjustment to the governing body or to a court of competent jurisdiction until the termination in any manner of such appeal or proceeding.

Section 26. Powers granted by Law. The board of adjustment shall have such powers as are granted by law to:

a. hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of the zoning ordinance.

b. hear and decide requests for interpretation of the map or zoning ordinance or for decisions upon other special questions upon which such board is authorized by the zoning ordinance to pass.

c. where by reason of exceptional narrowness, shallowness or shape of a specific piece of property the strict application of any regulation in the zoning ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property to grant an application or an appeal relating to such property, a variance from such strict application, so as to relieve such difficulties or hardship provided, however, that no variance shall be granted under this paragraph to allow a structure or use in a district restricted against such structure or use; and further provided that the proposed development does not require approval by the planning board of a subdivision, site plan or conditional use in conjunction with which the planning board shall review a request for a variance pursuant to the subsection 47a of the Municipal Land Use Law of 1975, Ch. 291, P.L. 1975.

d. Grant a variance to allow a structure or use in a district restricted against such structure for use in particular cases and for special reasons, but only by the affirmative vote of at least two thirds of the full authorized membership of the board.

e. No variance or other relief may be granted under the provisions of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. Any application under any subsection of this section may be referred to any appropriate person or agency including the planning board, for its report provided that such reference shall not extend the period or time within which the zoning board of adjustment shall act.

Section 27. Additional Powers. The zoning board of adjustment shall in addition to the powers specified in Section 26 have power given by law to:

1. direct issuance of a permit pursuant to c. 40:55D-34 for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved on the official map.

2. direct issuance of a permit pursuant to c. 40:55D-34 for a building or structure not related to a street.

The board of adjustment shall have the power to grant to the same extent and subject to the same restrictions as the planning board subdivision or site plan approval pursuant to Article 6 of Ch. 291 P.L. 1975 or conditional use approval pursuant to c. 40:55D-67 whenever the board is reviewing an application for approval of a use variance pursuant to Section of this ordinance.

Section 28. Item for Decision. The Board of Adjustment shall render its decision not later than 120 days after the date (1) an appeal is taken from the decision of an administrative officer, or (2) the submission of a complete application for development to the board pursuant to the provisions of c. 40:55D-70 (b).

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Failure of the Board to render a decision within 120 day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.

Section 29. Conflicts of Interest. No member of the planning board or zoning board of adjustment shall act on any matter in which he has either directly or indirectly any personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the board on the hearing of such matter nor participate in any discussion or decision relating thereto.

Section 30. Meetings.

a. Meetings of both the planning board and zoning board of adjustment shall be scheduled no less often than once a month and any meeting so scheduled shall be held as scheduled unless cancelled for lack of applications for development to process.

b. Special meetings may be provided for at the call of the chairman or on the request of any two board members, which shall be held on notice to its members and the public in accordance with all applicable legal requirements.

c. No action shall be taken at any meeting without a quorum being present.

d. All actions shall be taken by majority vote of a quorum except as otherwise required by any provision of C. 291 Laws of N.J. 1975.

e. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Law, Ch. 231, Laws of N.J. 1975. An executive session for the purpose of discussing and studying any matters to come before either board shall not be deemed a regular or special meeting in accordance with the provisions of C. 40:55D-9.

Section 31. Minutes. Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the board and of the persons appearing by attorney, the action taken by the board, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the municipal clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a fee for reproduction of the minutes for his use as provided for in the rules of the board.

Section 32. Fees. Fees for applications for the rendering of any service by the planning board or zoning board of adjustment or any member of their administrative staffs which is not otherwise provided by ordinance may be provided for and adopted as part of the rules of the board and copies of said rules or of the separate fee schedule shall be available to the public.

Section 33. Hearings.

a. Rules. The planning board and zoning board of adjustment may make rules governing the conduct of hearings before such bodies which rules shall not be inconsistent with the provisions of C. 40:55D-1 et. seq. or of this ordinance.

b. Oaths. The officer presiding at the hearing or such person as he may designate shall have power of administering oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the "County and Municipal Investigations Law" P.L. 1953, c. 1938 (C. 2A:67A-1 et seq.) shall apply.

c. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer and the right to cross examine shall be permitted to all interested parties through their attorneys, if represented or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitation as to time and number of witnesses.

d. Evidence. Technical rules of evidence shall not be applicable to the hearing but the board may exclude irrelevant, immaterial or unduly repetitious evidence.

e. Records. Each board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The board shall furnish a transcript or duplicate recording in lieu thereof on request for any interested party at his expense. Any party requesting a transcript shall provide at their own expense a copy of said transcript to their secretary of the board.

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Section 34. Notice Requirements for Hearing. Whenever a hearing is required on an application for development pursuant to c. 40:55D-1 et. seq. the applicant shall give notice thereof as follows:

- a. public notice shall be given by publication in the official newspaper of the municipality at least ten days prior to the date of the hearing.
- b. Notice shall be given to the owners of all real property as all directions of the property which is the subject of such hearing and whether located within or without the municipality in which applicant's land is located. Such notice shall be given by:
 - (1) serving copy thereof on the owner as shown on the said current tax duplicate or his agent in charge of the property or
 - (2) mailing a copy thereof by certified mail to the property owner as shown on the said current tax duplicate. A return receipt is not required. Notice to a partnership owner may be made by serve upon any partner Notice to a corporate owner may be made by service upon its President, vice-president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.
- c. Notice of all hearings on applications for development involving property located within 200' of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality, which notice shall be in addition to the notice required to be given pursuant to Section 34b to the owners of lands in such adjoining municipality which are located within 22' of the subject premise.
- d. Notice shall be given by personal service or certified mail to the county planning board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the official tax map or on the county master plan, adjoining other county land or situate within 200' of a municipal boundary.
- e. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a State highway.
- f. Notice shall be given by personal service or certified mail to the Director of the Division of State and Regional Planning in the Department of Community Affairs of a hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. Such include a copy of any maps or documents required to be on file with the municipal clerk pursuant to section 6b of c. 291 Laws of N.J. 1975.
- g. All notices hereinabove specified in this section shall be given at least ten days prior to the date fixed for hearing and the applicant shall file an affidavit of proof of service with the board holding the hearing on the application for development.
- h. Any notice made by certified mail as hereinabove required shall be deemed to complete

1. Form of notice. All notices required to be given pursuant to the terms of this ordinance shall state, the date, time and place of the hearing, the nature of the matters to be considered and identification of the property proposed for development by street address, if any or by reference to lot and block numbers as shown on the current tax duplicate in the municipal tax assessor's office and the location and times at which any maps and documents for which approval is sought are available as required by law.

Section 35. List of Property Owners Furnished. Pursuant to the provisions of c. 40:55D-12c the Administrative office of the municipality, shall within 7 days after receipt of a request therefor and upon receipt of payment of a fee of \$10.00 make and certify a list from the current tax duplicate of names and addresses of owners to whom the applicant is required or give notice pursuant to Section 34b of this ordinance.

Section 36. Decisions

a. Each decision on any application for development shall be set forth in writing as a resolution of the board which shall include findings of fact and legal conclusions based thereon

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b. A copy of the decision shall be mailed by the board within ten days of the date of decision to the applicant or if represented, then to the attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and who have paid the fee prescribed by the board for such service. A copy of the decision shall also be filed in the office of the municipal clerk who shall make a copy of such filed decision available to an interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the municipality.

Section 37. Publication of Decision. A brief notice of every final decision shall be published in the official newspaper of the municipality. Such publication shall be arranged by the secretary of the planning board or zoning board of adjustment, as the case may be, without separate charge to the applicant. Said notice shall be sent to the official newspaper for publication within ten days of the date of such decision.

Section 38. Payment of Taxes. Pursuant to the provisions of c. 40:55D-39 and c. 40:55D-40, every application for development submitted to the planning board or to the zoning board of adjustment shall be accompanied by proof that no taxes or assessments for local improvements due or delinquent on the property which is the subject of such application; or, if it is shown that taxes or assessments are delinquent on said property, any approvals or other relief granted by either board shall be conditioned upon either the prompt payment of such taxes or assessments or the making of adequate provision for the payment thereof in such manner that the municipality will be adequately protected.

Section 39. Appeals from the Planning Board and the Zoning Board of Adjustment to the Governing Body.

a. Any interested party may appeal to the governing body and final decision of the planning board, provided such appeal shall be made within ten days of the date of publication of such final decision of the planning board. Such appeal shall be made in accordance with the provisions of N.J.S. 40:55D-17.

b. Any interested party may appeal to the governing body any final decision of the zoning board of adjustment, provided such appeal shall be made within ten days of the date of publication of such final decision of the zoning board of adjustment.

Section 40. Alternates. Two alternates members may be appointed to the zoning board of adjustment by a majority of the board of commissioners said alternate members shall be designated by the chairman "Alternate No. 1" and "Alternate No. 2" and shall serve in rotation during the absence or disqualification of any regular member or members. The term of each alternate member shall be two years commencing Jan. 1 of the year of the appointment.

Section 41. Repeals. All sections of the zoning ordinance of the Township of North Bergen site plan and review ordinance or any other ordinance of the Township of North Bergen which contains provisions contrary to the provisions of this ordinance shall be and are hereby to the extent of such inconsistency repealed.

Section 42. Pending Applications. All applications for development filed prior to the effective date of this ordinance may be continued but any appeals arising out of decisions made on any such application shall be governed by the provisions of Section 39 of this ordinance.

Section 43. This ordinance shall be known and may be cited as "The Land Use Procedures Ordinance of the Township of North Bergen".

Section 44. Effective Date. This ordinance shall take effect immediately upon passage publication according to law.

Section 45. Copy to be filed with County Planning Board. Immediately upon adoption of ordinance the municipal clerk shall file a copy of this ordinance with county Planning Board and ordinances relating to Land Use.

INTRODUCED: June 7, 1979

PUBLISHED: June 9th & June 25th, 1979.

ADOPTED: June 21, 1979

Christopher J. Carmeci
ACTING TOWNSHIP CLERK

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Bernard Bier
George Dolan
Nicholas J. Fortunato
Anthony DiVincent
(Mayor & President)

WHEREAS, a review of the table of organization of the police

department of the Township of North Bergen has been made by the staff of the Commissioner of the Department of Public Safety; and

WHEREAS, after consultation with the Chief of Police of the

Township of North Bergen it has become apparent that certain positions within the police department are no longer necessary for the proper administration of said department, and further it is apparent that the abolition of said positions will alleviate great economic strain

cast upon the operation of the department:

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the Township of North Bergen, County of Hudson, as follows:

Section 1: That the positions of Deputy Chief of Police

are hereby abolished.

Section 2: All ordinances or parts of ordinances inconsistent

herewith are hereby repealed.

Section 3: This ordinance shall take effect immediately

upon passage and publication in the manner prescribed by law.

INTRODUCED: JUNE 21st, 1979.

PUBLISHED: JUNE 25th & JULY 9th, 1979.

ADOPTED: JULY 5th, 1979.

ATTEST:

CHRISTOPHER J. CARMICI
ACTING TOWNSHIP CLERK

JOHN J. DUFFY

NICHOLAS J. FORTUNATO

GEORGE J. DOLAN

BERNARD BIER

ANTHONY DI VINCENT
(Mayor & President)

WHEREAS, on April 24, 1979, the Board of Commissioners of the Township of North Bergen, did finally adopt an ordinance entitled "AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED "AN ORDINANCE REGULATING THE SPECIAL TRAFFIC CONDITIONS EXISTING UPON THE STREETS OF THE TOWNSHIP OF NORTH BERGEN, SETTING PENALTIES FOR THE VIOLATIONS THEREOF AND REPEALING ALL ORDINANCES OR PORTIONS IN CONFLICT HERewith" ADOPTED NOVEMBER 16, 1949, AS AMENDED AND SUPPLEMENTED,, and

WHEREAS, on June 28, 1979, Department of Transportation determined that the ordinance improperly designated the regulations,

THEREFORE BE IT ORDAINED by the Board of Commissioners of the Township of North Bergen, County of Hudson, State of New Jersey as follows:

Section 1. That the ordinance entitled as above as amended be supplemented so that the following described intersections be and are hereby designated as Stop intersections:

(a) 74th Street and Hudson Avenue: a stop sign shall be installed on Hudson Avenue.

(b) 75th Street and Hudson Avenue: a stop sign shall be installed on Hudson Avenue.

Section 2. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed as to the conflicting portions thereof.

Section 3. This ordinance shall take effect upon adoption and publication as required by law and approval the Commissioner of the Department of Transportation State of New Jersey.

INTRODUCED: July 19th, 1979.

BERNARD BIER

PUBLISHED: July 21st & August 6th, 1979.

GEORGE J. DOLAN

ADOPTED: August 2nd, 1979.

NICHOLAS J. FORTUANTO

ATTEST:

ANTHONY DI VINCENT
Mayor and President

CHRISTOPHER J. CARMECI
ACTING TOWNSHIP CLERK

created in the Township of North Bergen, in the County of Hudson, to be known as "Housing Authority of the Township of North Bergen, in the County of Hudson."

SECTION 2.

The said Authority shall constitute a body corporate and politic, exercising public and essential governmental functions and having all the powers conferred by necessity or convenience to carry out and effectuate the purposes and provisions of the "Local Housing Authority Law" Chapter 19 of the laws of 1938, revised statutes title 55:14A-let seq.

SECTION 3.

The authority shall consist of 7 members, who shall be appointed and hold office for the terms as hereinafter provided:

A.

The Board of Commissioners shall appoint 5 Commissioners of the Authority;

B.

The Mayor shall appoint one Commissioner;

C.

The Director of the State Housing Board shall appoint one Commissioner who shall hold office at the pleasure of the Director.

SECTION 4.

The Commissioners first appointed shall be designated to serve for the following terms:

One for a term of one year, one for the term of two years, one for a term of three years, one for a term of four years and two for the term of five years, and until their successors are appointed and have qualified.

A.

After the initial appointments, Commissioners so appointed shall hold office for a term of five years and until their respective successors are appointed and have qualified, except that all vacancies shall be filled for the unexpired term.

SECTION 5.

Not more than one Commissioners of the Authority may be an officer or employee of the municipality.

SECTION 6.

A Certificate of the appointment or reappointment of any Commissioner shall be filed with the Clerk of the Township and such Certificate shall be conclusive evidence of the due and proper appointment of such Commissioner.

Section 7.

All Ordinances or parts of Ordinances not consistent herewith are hereby repealed.

SECTION 8.

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

PUBLISHED:

AUGUST 6th & AUGUST 20th, 1979.

GEORGE J. DOLAN

ADOPTED:

AUGUST 16, 1979

NICHOLAS J. FORTUNATO

ATTEST:

ANTHONY DI VINCENT

(Mayor & President)

JOHN J. DUFFY

CHRISTOPHER J. CARMECI
ACTING TOWNSHIP CLERK

including the appropriation to be created by this ordinance is\$35,000.00 and three percent of the total operating appropriations in the budget for 1979 is.....\$336,649.97

NOW THEREFORE, the Board of Commissioners of the Township of North Bergen in the County of Hudson, New Jersey, DO ORDAIN (not less than two thirds of all members thereof affirmatively concurring) that in accordance with N.J.S. 40A4-45.3 (c) petition be made to the Local Finance Board for the creation of an appropriation set forth in the preamble hereof in accordance with the following:

1. An emergency appropriation be and the same is hereby made for judgements.....\$35,000.00
2. That said emergency appropriation shall be provided for in full for the 1980 budget.

3. That an "Emergency Note" not in excess of the above amount be authorized pursuant to the N.J.S. 40A:4-48 and in accordance with the provisions of N.J.S. 40A:4-51.
4. That such note or notes shall be executed by the Mayor and the Director of Revenue and Finance.

5. That said note or notes shall be issued pursuant to a resolution or resolutions to be adopted at a later time and may be renewed from time to time, and such note and any renewals thereof shall be payable on or before December 31, 1980.
6. That the statement required by the Local Finance Board has been filed with the Clerk and a copy thereof will be transmitted to the Local Finance Board.

7. That three copies of this ordinance be filed with the Local Finance Board.
8. This ordinance shall take effect after approval of the Local Finance Board and final passage.

Introduced: July 19, 1979

BERNARD BIER

Published: July 21st & August 20th, 1979.

GEORGE J. DOLAN

Adopted: August 16th, 1979.

NICHOLAS J. FORTUNATO

Attest:

JOHN J. DUFFY

CHRISTOPHER J. CARMECI
Acting Township Clerk

ANTHONY DI VINCENT
(Mayor & President)

The Board of Commissioners of the Township of North Bergen
in the County of Hudson, DO ORDAIN:

Section 1: The Board of Commissioners of the Township of North Bergen in the County of Hudson finds and determines that it is necessary and expedient for the preservation of the public health, safety, general welfare or to eliminate a fire hazard, to require the removal or destruction of brush, weeds, including ragweed, dead and dying trees, stumps, roots, obnoxious growth, filth, garbage and debris upon lands situated, lying and being in the municipality.

Section 2: The owner or tenant of lands situated, lying and being in the municipality, shall within 10 days after receipt of notice from the Township Health Officer, remove or destroy all brush, weeds, including ragweed, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris thereon, and in the event the owner or tenant of the said lands refuses or neglects to remove or destroy the same, in the manner or within the prescribed period of 10 days, such a removal or destruction shall be undertaken by or under the direction of the Township Health Officer and the cost of such removal or destruction shall become a fine or charge upon said lands as provided herein, pursuant to N.J.S.A. 40:48-2.13 and 40:48-2.14.

Section 3: In all cases where brush, weeds, including ragweed, dead and dying trees, stumps roots, obnoxious growth, filth, garbage, trash and debris are destroyed or removed from any lands situated, lying and being in the municipality under this ordinance by or under the direction of the Township Health Department or its representatives shall certify the cost thereof to the governing body, which shall examine the certificate, and if found correct shall cause the cost as shown thereon to be charged against said lands; the amount so charged shall forthwith become a fine or charge upon such lands and shall be added to and become and form part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced and in the same manner as taxes and/or any person, persons, firm, corporation or other legal entity failing to obey the provisions of this ordinance, or the orders of the Director or the Township of North issued by virtue hereof, shall be guilty of a violation of the ordinance and upon conviction thereof shall be liable to a fine not exceeding \$500.00 nor less than \$50.00 or imprisonment for a term not exceeding 90 days or both at the discretion of the magistrate before whom such conviction shall be heard.

Section 4: If any section, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the remaining portion hereof.

Chas. J. Carver
Acting Secretary
Clerk

Attest:

Samuel D. East
George J. Easton
Michael J. Easton
John J. Easton
Charles J. Easton
(Mayor President)

Attorney and such assistants as may be necessary.

Section 2. The Township Attorney shall be the chief legal advisor of the Township government and all of its officers, departments, divisions, and Boards as provided by law. He shall give all necessary legal counsel and advice when required by the Board of Commissioners or requested by any member thereof. He shall supervise the preparations of all ordinances, regulations, resolutions, contracts and other legal documents of whatsoever nature and shall advise the Board of Commissioners upon any legislation affecting the Township, its administration and for of government. He shall be the Attorney of record in all actions and proceedings, for the adoption of ordinances and regulations of the Township, and all actions or proceedings in any Court or before any Board wherein the Township of North Bergen or its offices, Board, Departments, or employees by reasons of any suits growing out of their official duties shall be parties defendant or parties in interest. The Township Attorney may settle and compromise claims with the advice and written consent of the Board of Township Commissioners on any matter referred to him. He shall be the legal advisor to the Township and shall render advice on all legal questions affecting the Township whenever requested to do so by the Township Commissioners. Upon request by the Mayor or by the Township Commissioners he shall reduce any such opinion into writing. He shall have sole authority over municipal litigation, shall administer the Law Department and shall assign all matters, in his discretion, to any Assistant Attorney. He shall be required to prepare all contracts and endorse on each his approval of the form thereof for same to take effect. If in his opinion, there is good legal reason for approving a contract he must so advise the Director of the Department which the Law Department may be or has been assigned to them by the Township Attorney.

Section 3. The legal assistants shall be nominated by the Township Attorney and shall be appointed by the Director of the Department to which the Law Department may be or has been assigned and shall hold office at the pleasure of the Director of Department in which the Law Department may be or has been assigned. The legal assistants shall perform such and functions as may be assigned to them by the Township Attorney.

Section 4. There shall be provided to the Township Attorney by the Director of the Department of which the Law Department may be or has been assigned such suitable quarters and staff assistants as shall be necessary to properly maintain and fulfill the duties of the Township Attorney. Township Attorney shall preserve in said office all cases in which the Township has an interest before the Courts or any quasi judicial body and shall also keep a docket of all cases and preserve in his office copies of all written opinions furnished by him. Such docket abstracts files and copies shall be the property of the Township and the Township Attorney and all the assistant townships attorneys when requested so do the Board of Township Commissioners upon his resignation, removal, or retirement from office shall deliver them to the Director of the Department to which the Law Department may be or has been assigned.

shall be fixed by law pursuant to the salary ordinance by the Board of Commissioners in the Township.

Section 8. The Township Attorney may recommend special counsel to undertake the conduct of any particular cause or other particular matters. Upon the recommendation of the Township Attorney, a majority vote of the full board of Commissioners shall be empowered to enter into contracts with special counsel for particular cases or other matters.

Section 9. All ordinances and resolutions or parts of ordinance or resolutions in conflict with this ordinance are to such extend repealed or rescinded with effect on publication immediately upon publication according to law.

INTRODUCED: September 6th, 1979

BERNARD BIER

PUBLISHED: September 10th & September 24th, 1979.

GEORGE DOLAN

ADOPTED: September 20th, 1979

JOHN J. DUFFY

NICHOLAS FORTUNATO

ANTHONY DI VINCENT
Mayor & President

Christopher J. Carmeci
Acting Township Clerk

The Board of Commissioners of the Township of North Bergen, in the County of Hudson, New Jersey, DO ORDAIN as follows:

Section 1. The Township of North Bergen shall acquire new automotive vehicles including original apparatus and equipment necessary and suitable therefor and additional or replacement equipment for use by the Department of Public Works of the Township of North Bergen, consisting of the following:

- a) two (2) garbage trucks
- b) one (1) truck (chassis)
- c) three (3) garbage truck bodies

Section 2. The sum of \$250,000 be and the same hereby is appropriated to the payment of the cost of the acquisition of such new automotive vehicles and additional or replacement equipment. Said sum so appropriated shall be met from the proceeds of the sale of the bonds and notes authorized and the down payment appropriated by this ordinance. Said acquisition shall be undertaken and made as a general improvement, no part of the cost of which shall be assessed against property specially benefited.

Section 3. It is hereby determined and stated that (1) the making of such improvement (hereinafter referred to as "purpose") is not a current expense of said Township and (2) it is necessary to finance said purpose by the issuance of obligations of said Township pursuant to the Local Bond Law of New Jersey, and (3) the estimated cost of said purpose is \$250,000 and (4) \$12,500 of said sum is to be provided by the down payment herein-after appropriated to finance said purpose, and (5) the estimated maximum amount of bonds or notes necessary to be issued for said purpose is \$237,500 and (6) the cost of such purpose, as hereinbefore stated, includes the aggregate amount of \$25,000 which is estimated to be necessary to finance the cost of such purpose, including architect's fees, accounting, engineering and inspection costs, legal expenses and other expenses, including interest on such obligations to the extent permitted by Section 40A:2-20 of the Local Bond Law.

Section 4. It is hereby determined and stated that moneys exceeding \$12,500, appropriated for down payments on capital improvements or for the capital improvement fund in budgets heretofore adopted for said Township are now available to finance said purpose. The sum of \$12,500 is hereby appropriated from such moneys to the payment of the cost of said purpose.

Section 5. To finance said purpose, bonds of said Township of an aggregate principal amount not exceeding \$237,500 are hereby authorized to be issued pursuant to the Local Bond Law. Said bonds shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law. All matters with respect to said bonds not determined by this ordinance shall be determined by resolutions to be hereafter adopted.

Section 6. To finance said purpose, bond anticipation notes of said Township of an aggregate principal amount not exceeding \$237,500 are hereby authorized to be issued pursuant to the Local Bond Law in anticipation of the issuance of said bonds.

seal of said township and attested by the township clerk. Said officers are hereby authorized to execute said notes and to issue said notes in such form as they may adopt in conformity with law. The power to determine any matters with respect to said notes not determined by this ordinance and also the power to sell said notes, is hereby delegated to the Director of Revenue and Finance who is hereby authorized to sell said notes either at time or from time to time in the manner provided by law.

Section 8. It is hereby determined and declared that the period of usefulness of said purpose, according to its reasonable life, is a period of five years computed from the date of said bonds.

Section 9. It is hereby determined and stated that the Supplemental debt statement required by the Local Bond Law has been duly made and filed in the office of the Township Clerk of said Township, and that such statement so filed shows that the gross debt of said Township, as defined in Section 40A:2-43 of the Local Bond Law, is increased by this ordinance by \$237,500 and that the issuance of the bonds and notes authorized by this ordinance will be within all debt limitations prescribed by said Local Bond Law.

Section 10. Any funds received from the County of Hudson, the State of New Jersey or any of their agencies or any funds received from the United States of America or any of its agencies in aid of such purpose, shall be applied to the payment of the cost of such purpose, or, if bond anticipation notes have been issued, to the payment of the bond anticipation notes, and the amount of bonds authorized for such purpose shall be reduced accordingly.

Section 11. This ordinance shall take effect twenty days after the first publication thereof after final passage.

INTRODUCED: September 6th, 1979

BERNARD BIER

PUBLISHED: September 16th & September 24th, 1979

GEORGE DOLAN

ADOPTED: September 20th, 1979

JOHN J. DUFFY

Attest:

NICHOLAS FORTUNATO

ANTHONY DI VINCENT

Christopher J. Carmeci
Acting Township Clerk

SECTION 1

That the Board of Commissioners, in the Township of North Bergen shall convey to the State of New Jersey for the consideration of the sum of \$19,300.00, the following land being in the Township of North Bergen, County of Hudson, more particularly described as follows:

Parcel 28A, as indicated on a map entitled: "New Jersey State Highway Department, GENERAL PROPERTY PARCEL MAP, ROUTE 3 (1953) SECTION 4, Pleasant Avenue to 8th. Street, Showing Existing Right of Way and Parcels To Be Acquired in the City of Union City, Township of North Bergen and Town of Secaucus, County of Hudson, Scale: As Indicated, February 1961",

Parcel 28A, including specifically all the land and premises located at about Station 6 & 35 (Base Line "A" Stationing), bounded on the south-east by lands now or formerly of N.Y. Susquehanna & Western R.R. Co.; on the west by the proposed right of way line of State Highway Route 3 (1953) Section 4, as laid down on the aforesaid map; and on the north by lands now or formerly of Port of New York Authority; all as shown on the aforesaid map; containing 0.021 acre more or less;

TOGETHER WITH, the right of form and maintain slopes for grading the said State Highway as far as the line marked "Slope E.W.", on the aforesaid map, including the right to top soil, seed, plant trees, vines and shrubs and to maintain the same so as to stabilize the soil, prevent erosion and/or to improve the aesthetic aspects of the highway; PROVIDED, HOWEVER, that the slope easement may be annulled only after the State has been given sufficient notice to remove the aforementioned stabilizing and landscaping items and by furnishing and maintaining adequate support or protection for the highway so as to make the continuance of the slope right unnecessary;

Together with all the right, title and interest the owner may have in and to Route 3 and Route 1 & 9 contiguous to the above described premises as shown on the aforesaid map. Pursuant to an Agreement between the Township of North Bergen and the State of New Jersey.

SECTION II

Be it further declared that the aforesaid described property is not needed for public use in the Township of North Bergen

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

Introduced: September 20, 1979

Published: September 24th & October 8th, 1979.

Adopted: October 4, 1979

Attest:

CHRISTOPHER J. CARMICI
Acting Township Clerk

ANTHONY DI VINCENT
(Mayor & President)

JOHN J. DUFFY

NICHOLAS J. FORTUNATO

BERNARD BIER

"BOND ORDINANCE TO AUTHORIZE THE APPROPRIATION OF \$75,000.00 FOR THE IMPROVEMENT OF A PUBLIC PARK IN THE TOWNSHIP OF NORTH BERGEN BY THE REPLACING, CONSTRUCTING AND RECONSTRUCTION OR REPAIRING OF A CERTAIN LIGHTING SYSTEM, INCLUDING THE ACQUISITION OF NEW APPARATUS AND EQUIPMENT AND ALL WORKS IN THE COUNTY OF HUDSON, NEW JERSEY, TO MAKE A DOWN PAYMENT AND TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS"

INVALID

WHEREAS, an Ordinance entitled "Bond Ordinance to authorize the appropriation of \$75,000.00 for the improvement of a public park in the Township of North Bergen by the replacing, constructing and reconstruction or repairing of a certain lighting system, including the acquisition of new apparatus and equipment and all works in the County of Hudson, New Jersey, to make a down payment and to authorize the issuance of bonds to finance such appropriation and to provide for the issuance of such Bonds", was adopted by the Board of Commissioners of the Township of North Bergen by the affirmative vote of only three Commissioners and,

WHEREAS, pursuant to law, it was necessary to have the affirmative vote of four commissioners in order to adopt said Ordinance.

NOW THEREFORE, the Board of Commissioners in the Township of North Bergen, in the County of Hudson and State of New Jersey do Ordain as follows:

SECTION I

That the Ordinance Entitled "Bond Ordinance to Authorize the Appropriation of \$75,000.00 for the improvement of a Public Park in the Township of North Bergen by the replacing, constructing and reconstruction or repairing of a certain lighting system, including the acquisition of new apparatus and equipment and all works and appurtenances necessary thereto in said Township in the County of Hudson, New Jersey, to make a down payment and to authorize the issuance of bonds to finance such appropriation and to provide for the issuance of and Anticipation Notes in anticipation of the issuance of such Bonds", and the same shall hereby be declared invalid and repealed in its entirety.

SECTION II

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

Section 1: That the line items hereinafter set forth on Schedule marked "A", annexed to this ordinance entitled as above, as amended and supplemented, be further amended as of August 3rd, 1978, to read as follows:

DEPARTMENT OF PUBLIC WORKS
SCHEDULE "A"

No of	Positions	Position	Minimum	Maximum	Classification
1		Principal Clerk	\$8,000.	\$15,000.	C
1		Public Works Supt.	\$20,000.	\$30,000.	C
1		Ass't Public Works Supt.	\$15,000.	\$25,000.	C
1		Disposal Plant Supt.	\$15,000.	\$21,000.	C

Section 2: If any part or parts of this Ordinance are for any reason held to be invalid, such decision shall not effect the validity of the remaining portions of this ordinance.

Section 3: All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed as to the conflicting portions thereof and this ordinance shall take effect upon adoption and publication as required by law.

INTRODUCED: December 6th, 1979

PUBLISHED: December 10th & December 24, 1979

ADOPTED: December 20, 1979

BERNARD BIER

GEORGE J. DOLAN

NICHOLAS J. FORTUNATO

JOHN J. DUFFY

ANTHONY DI VINCENT

(Mayor & President)

CHRISTOPHER J. CARMICI
ACTING TOWNSHIP CLERK

Where the landlord substantiates through credible proof in form acceptable to the Emergency Rent Leveling Commission's Secretary that his heating expenses for the twelve (12) months immediately preceding his application are in excess of ten (10%) of the heating expense for the prior twelve months, the Emergency Rent Leveling Commission shall grant a heating surcharge to the applying landlord. However, the increase allowable under this section shall not exceed three (3%) of the monthly base rent roll in the month in which the application is submitted. Any such increase shall be payable in equal monthly installments over the twelve (12) month period following date of certification to tenants of the approved increase.

In the event a heating surcharge not to exceed three (3%) of the monthly base rent is granted by the Emergency Rent Leveling Commission to any landlord the monthly heating surcharge installment shall be separate and distinct from the monthly base rent for that tenant.

Notwithstanding the other provisions of this Ordinance, the maximum increase in rents for any dwelling unit due to all causes and applications made by the landlord during the twelve (12) calendar months to which the heating surcharge shall be effective, shall not exceed a total of fifteen (15%) for the calendar year during which the landlord made application for the heating surcharge.

When the Emergency Rent Leveling Commission's Secretary has received the application of the landlord, and all documentation required by the Emergency Rent Leveling Commission to make the determination, the application shall come before the Emergency Rent Leveling Commission. The landlord's completed application must include a signed and certified statement from the landlord's fuel oil heating dealer. This statement must include the number of gallons and cost per gallon and total fuel oil cost, for both years involved with specific breakdown for the seven month period from the October 1 to May 1 of the year immediately preceding this application and for the same seven (7) month period during the previous year; this is to be an integral part of the statements for both years. The decision of the Emergency Rent Leveling Commission must be reached within sixty (60) days of filing of the completed application in form accepted by the Secretary. Failure of the Emergency Rent Leveling Commission to make a decision within sixty (60) days shall result in the application being deemed granted.

The landlord shall notify all tenants in writing of the approved increase. Said notice must be served upon the tenants at least one month prior to the effective date of the increase. The landlord shall file with the Emergency Rent Leveling Commission's Secretary a copy of this notice that was served upon the tenants. The tenant may appeal the Emergency Rent Leveling Commission's decision by notifying the Emergency Rent Leveling Commission in writing.

The landlord shall equally distribute this Heating Surcharge that has been granted according to the number of rooms within the housing space in the building for which the application is made, which shall include those rooms occupied by the landlord, janitor or superintendant or any other agent or family member of landlord. The computation of the Heating Surcharge shall be the annual amount of increase divided by the number of rooms in the building and the results of that division, divided by the twelve months for which the application is made. The prorated amount per room shall be multiplied by the number of rooms for each apartment of the building as will equal the Heating Surcharge amount per month for each apartment.

SECTION III. This Ordinance shall take effect immediately upon passage and publication as provided in the law.

SECTION IV. The aforesaid ordinance and the several supplements and amendments thereto which this ordinance supplements and amends is hereby confirmed, ratified, and validated in all other respects.

SECTION V. If any provisions of this ordinance or the application of such provision to any person or circumstances is declared invalid such invalidity shall not affect other provisions or applications of this act are declared to be severable and separable.

INTRODUCED: December 28, 1979.

PUBLISHED: January 7 & January 21, 1980.

ADOPTED: January 17, 1980.

BERNARD RIER

GEORGE J. DOLAN

NICHOLAS J. PORTINARO

JOHN J. DUFFY

ANTHONY DI VINCENT

(Mayor & President)

CHRISTOPHER J. O'NEAL
ALDERMAN