

RENT LEVELING

Chapter 64

RENT LEVELING

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[HISTORY: Adopted by the Township Committee of the Township of Barnegat 6-20-77 as Ord. No. 1977-19.1 Amendments noted where applicable.]

GENERAL REFERENCES Mobile home parks — See

Ch. 56.

'Editor's Note: This ordinance repealed former Ch. 64, Rent Control, adopted 9-9-76 as Ord. No. 1976-19A.

Be it ordained by the Township Committee of the Township of Barnegat, in the County of Ocean and State of New Jersey:

§ 64-1. Definitions.

The following definitions shall apply to this ordinance:

AVAILABLE FOR RENT TO TENANTS — Fit for habitation, as defined by the statutes, codes and ordinances in full force and effect in the State of New Jersey, County of Ocean, and Township of Barnegat, and occupied or unoccupied and offered for rent.

CONSUMER PRICE INDEX — The consumer price index (all items) for the region of the United States of which the Township of Barnegat, New Jersey, is a part, published periodically' by the Bureau of Labor Statistics, United States Department of Labor.

MOBILE HOME PARK—A parcel of land which has been so designed and improved that it contains two (2) or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy.

MOBILE HOME SPACE—Includes that portion of a mobile home park rented or offered for rent, for the purpose of parking or positioning a trailer or mobile home for living and dwelling purposes, to one (1) or more tenants or family units together with all the privileges, services, equipment, facilities and improvements connected with the use or occupancy of such portion of the property. Mobile home spaces which are newly constructed and rented for the first time are exempted, and the initial rent may be determined by the owner. All subsequent rents will be subject to the provisions of this ordinance.

REASONABLE AND NECESSARY OPERATING EXPENSES [Added 8-7-95 by Ord. No. 1995-36] — All expenses actually incurred and accrued by the landlord for the operation of the mobile home park during a calendar year. Reasonable and necessary operating

expenses shall be computed in accordance with the following limitations and requirements.

- A. Taxes shall be limited to amounts actually paid solely on the mobile home park less the amounts of any tax surcharges paid by the tenants.
- B. Repair and maintenance expenses shall not include expenditures for major improvements or items which meet the definition of capital improvements. [Amended 5-1-00 by Ord. No, 2000-16]
- C. Professional fees, including legal and accounting expenses, shall be limited to actual costs for day to day operation of the park. Legal and accounting expenses resulting solely from an application made pursuant to this chapter or resulting in legal challenges on this chapter shall not be considered "reasonable and necessary operating expenses", as defined in this chapter. [Amended 10-2-95 by Ord. No. 1995-44]
- D. Management expenses shall be limited to the amounts paid for actual services performed by a manager of management firm. In no event shall a fee for management services exceed seven percent (7%) of the gross income inclusive of all on-site and off-site management.

RENTAL INCOME —The payable rent charged and received for the mobile home space over the previous twelve-month period exclusive of any of the following: all real property taxes, space fees or license fee charged by the Township of Barnegat pursuant to any duly adopted ordinance, any cost of utilities if the same are provided for by the landlord and any increase for major improvements as permitted by § 64-8B hereof. [Amended 5-1-00 by Ord. No. 2000-16]

UTILITIES—The minimum rate charged for sewerage, water service and private trash collection. In areas where there are no public sewer or water service utilities, it shall

include private septic and private well systems. Any single renovation of an existing utility system which meets the definition of a major improvement under this chapter is excepted from this definition. [Amended 4-21-80 by Ord. No. 1980-13; 8-7-95 by Ord. No. 1995-36; 10-2-95 by Ord. No. 1995-44; 5-1-00 by Ord. No. 2000-16]

§ 64-2. Determination of rents.

- A. The establishment of rents between a landlord and a tenant to whom this ordinance is applicable shall hereafter be determined by the following provisions:
- (1) At the expiration of the tenancy for a mobile home space, no landlord may request or receive any increase in the rental income or additional charges for that mobile home space from any tenant, new or continuing, which is greater than a combination of the following:
 - (a) Any increased cost to the landlord for utilities.
 - (b) Any increased cost to the landlord in mobile home space fees or license fee charged by the Township of Barnegat pursuant to any duly adopted ordinance.
 - (c) [Amended 8-7-95 by Ord. No. 1995-36; 10-2-95 by Ord. No. 1995-44; repealed 5-1-00 by Ord. No. 2000-16]
 - (2) No new or continuing tenant, at the termination of a tenancy, shall suffer or be caused to pay any rent increase for the mobile home space in any twelve-month period which exceeds the above permitted increase for the twelve-month period.
 - (3) The landlord shall be entitled, without need for application or hearing, to a yearly rent increase in an amount equal of three and one-half percent (3.5%) of the previous twelve (12) month rental

income for the mobile home space or the percentage increase in the consumer price index, whichever is less. The percentage increase of the consumer price index shall be measured as July 1 of each year. Any rent increase based upon the consumer price index shall be effective as of January 1 of the following year. The consumer price index for the region including the County of Ocean shall be the index utilized for this purpose. The landlord must notify the Barnegat Rent Leveling Board of any such rent. Said notification must be in writing and received by the Barnegat Rent Leveling Board on or before November 1. [Added 5-1-00 by Ord. No. 200046]

- B. No landlord may request or receive of the tenants any increase in rental income or additional charges except as provided by this section and until such time as the landlord shall have obtained approval in writing from the Rent Leveling Board, as hereinafter established, for said increase. Furthermore, there shall be only one (1) request per landlord per mobile home park for any increase per calendar year, for each of the increases permitted by this section, which request and decision shall be binding upon all tenancies of that particular mobile home park which expire during said calendar year. The landlord shall notify the Rent Leveling Board in writing, at least sixty (60) days prior to the effective date, of any increase proposed pursuant to the provisions of this section. At the same time, a copy of said notice shall be mailed by certified mail, return receipt requested, to any tenant who may be affected by the increase applied for. In the event that a landlord shall submit an application for increase or decrease in rent based upon any of the criteria herein, the Rent Leveling Board shall hold a hearing within sixty (60) days of the submission of the completed application. [Amended 4-21-80 by Ord. No. 198043]

A tenant may be notified by other than certified mail only if the landlord or his representative shall serve the

tenant personally with the notice provided for herein and shall certify such service by affidavit and retain such affidavit in his records. Upon receipt of said notice and where the increase sought is based upon the terms in Subsection A(1)(a) or (c) herein, the Rent Leveling Board shall schedule a hearing on said increase and the landlord shall post, in a conspicuous place in or about the park, a notice of said hearing date at least five (5) days prior to the proposed date of hearing. Where the increase sought is based upon the terms in Subsection A(1)(b) herein, no hearing shall be scheduled and the increase shall become effective on the date specified in said notice if all other applicable provisions of this ordinance are complied with.

- D. In the event that a landlord shall make application for any rent increase hereunder or supply any notice to the Rent Leveling Board or any tenant, said application shall include a certification by the landlord that all information supplied in an application or notice is true and accurate. [Added 4-21-80 by Ord. No. 1980-13]
- E. Any and all bills submitted in connection with any application for a rent increase, as set forth elsewhere herein, shall be for work invoiced to the landlord within the eighteen (18) months next preceding the date of the filing of the application. All bills must be presented with proof of payment thereof. Any bill presented by the landlord which was invoiced earlier than eighteen (18) months prior to the date of the application shall be reviewed by the Barnegat Rent Leveling Board on a case by case basis. The landlord shall have the burden of proof as to why the bill was not submitted with the time restrictions provided.

§ 64-3. Certification compliance; rent reduction due to noncompliance.

- A. Rent increases, as authorized by this ordinance, may be allowed only if the mobile home park substantially

complies with all existing state, county and local codes. As part of his application for any increase, the landlord shall submit to the Board such certification of compliance with said codes as he is required by law to maintain.

- B. Where the mobile home park fails to substantially comply with said codes, any tenant may apply to the Board for a reasonable reduction in rent, commensurate with any such noncompliance by the landlord, whereupon the Board shall duly notify the landlord and schedule the matter for a hearing. If, as a result of such a hearing, a reasonable reduction in rent is granted, it shall remain in effect until the landlord proves that the noncompliance has been corrected.

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§ 64-4. Timing of increase; excess increase.

Any rental income or additional charge increase at a time other than at the expiration of a tenancy or the termination of a periodic tenancy shall be void, except as otherwise provided in this ordinance. Any rental income or additional charge increase in excess of that authorized by the provisions of this ordinance shall be void.

§ 64-5. Rent reduction procedure.

A tenant shall be entitled to a rent reduction from a landlord because of a decrease in the municipal property taxes or utilities or any decrease in space fees or license fee charged by the municipality. The reduction shall not exceed that amount authorized by the following provisions:

- A. Where the decrease consists of a decrease in the municipal property tax due to aid received from the State Aid for Schools Fund and where said decrease is subject to the provisions of c. 63, P.L. 1976 (N.J.R.S. 54:4-62 et seq.), as may be amended from time to time, the landlord shall make such rebate and upon such terms as c. 63, P.L. 1976, provides.
- B. Where the decrease consists of a decrease in the municipal property tax other than that decrease provided for in Subsection A above, the landlord shall divide the decrease in the present tax over the tax for the previous year by the total number of occupied mobile home spaces in the mobile home park. The decrease each tenant is entitled to shall be a credit to rent in twelve (12) monthly installments commencing from July 1 of each year. Any tenant entitled to a rent decrease hereunder shall be notified by the landlord, by certified mail, of the calculations involved in computing such reduction and the effective date of such reduction.
- C. Where the decrease consists of a decrease in utilities, space fees or license fee, the landlord shall divide the

decrease in the present utilities, mobile home space fees or license fee over the utilities, mobile home space fees or license fee of the previous year by the total number of occupied mobile home spaces in the mobile home park to obtain the decrease per space. The decrease each tenant is entitled to shall be a credit to rent in twelve (12) monthly installments commencing from the effective date of said reduction. Any tenant entitled to a rent decrease hereunder shall be notified by the landlord, by ordinary mail, together with filing of an affidavit of mailing by the landlord, of the calculations involved in computing such reduction and the effective date of such reduction. [Amended 4-21-80 by Ord. No. 1980-13]

§ 64-6. Tax surcharges. [Amended 4-21-80 by Ord. No. 198043]

A landlord shall be entitled to a rent surcharge for any increase in municipal property taxes. Any landlord seeking a surcharge for property taxes shall notify the tenants, by certified mail at least thirty (30) days prior to the date of which said increase is to be effective, of the calculations involved, including the property tax for the mobile home park for the previous year and the increase in the present tax over the tax for the previous year divided by the total number of mobile home spaces in the mobile home park. The tax surcharge each tenant is liable for shall be paid in twelve (12) monthly installments commencing September 1 of each year.

§ 64-7. Tax appeals.

- A. In the event that a municipal property tax appeal is taken by the landlord and the landlord is successful in said appeal and the taxes are reduced, the tenants involved shall receive fifty percent (50%) of said reduction after the landlord's costs of securing said tax reduction have been deducted. The landlord shall

receive the remaining benefit of the reduced taxes. Thereafter, in succeeding years, the benefit of such successful tax appeal shall be divided evenly between the tenants and the landlord.

- B. Any such successful landlord shall notify the tenants, by certified mail within thirty (30) days after the receipt of the judgment, of the calculations involved, including an itemization of the costs of securing said reduction and the reduction each tenant is entitled to, determined by dividing one-half (1/2) the remainder of the amount of said tax reduction by the total number of mobile home spaces in the mobile home park.

§ 64-8. Additional rent increases.

- A. **Hardship.** A landlord who finds that the present rental income and additional charges from the mobile home park on which he seeks relief thereunder are insufficient to cover the costs of payments on a first mortgage and any subsequent mortgages directly used to improve and upgrade the mobile home park and/or payments for maintenance and/or all reasonable and necessary operating expenses, and at the same time ensure the landlord a just and reasonable return, may appeal to the Rent Leveling Board for an increase in rental income. The Board, after a hearing, may grant the landlord a hardship rents increase to meet these requirements or needs after consideration of the proofs presented by the landlord, the physical condition of the mobile home park and the degree of hardship to the landlord. Prior to filing for any such appeal to the Board, the landlord must post notice of said appeal setting forth the basis for the appeal in a conspicuous place in and about the mobile home park. Each tenant must be served with written notice either in person or by certified mail. The landlord must thereafter notify each effected tenant in person or by certified mail, of the hearing date for the appeal and post a notice of the hearing in a conspicuous place at the mobile home

park for at least ten (10) days prior to the hearing date. If said increase is granted, it shall not be considered rental income and shall not be calculated in allowable increases as otherwise set forth in the ordinance.

[Amended 8-7-95 by Ord. No. 1995-36; 10-2-95 by Ord. No. 1995-36]

- B. Major improvements. A landlord may seek an additional charge for major improvements. For the purposes set forth herein, a major improvement shall be defined as a major improvement to a park system or facility extending the useful life of its streets, paving or curbing, water system, sewer or septic system, clubhouse, tenant transportation vehicles, or swimming pool, having a direct benefit to the tenants of the park. Applications for major improvement surcharges may be granted upon the demonstration by the landlord, to the satisfaction of the Rent Leveling Board, that the improvement serves a direct benefit to the tenants, and that it was more feasible to replace an existing object than repair it based upon a comparison of the cost of repair versus the market value of the improvement.

Any single renovation or improvement to the sanitary sewer or septic system or water system having a cost in excess of five thousand dollars (\$5,000.) shall be deemed a major improvement for purposes of this regulation; any such improvement having a cost of less than five thousand dollars (\$5,000.) shall be considered a utilities expense.

Prior to filing an application with the Rent Leveling Board, the landlord must notify each tenant, by certified mail, of the total cost of the completed major improvement; the number of years of useful life of the improvement for the purposes of depreciation based upon the maximum term allowed under the Internal Revenue Code; the average cost, including debt service, of the improvement (calculated by dividing the cost of the major improvement by the total number of mobile homes spaces in the mobile home park); and the major

improvement surcharge sought from each tenant. In no event however shall the debt service used to calculate a major improvement surcharge exceed the prime rate plus one percent (1%). The landlord seeking a major improvement surcharge shall apply for said surcharge to the Rent Leveling Board which shall determine, after the landlord has provided notice of the hearing to the affected tenants by certified mail, if said improvement is a major improvement and, if so, if it shall permit such increase to take place and any conditions thereof. If said increase is granted, it shall be considered rental income and not calculated in allowable increases as otherwise set forth in this ordinance. In any event, no increase granted by authority of this section shall exceed ten percent (10%) of the tenant's rental income, unless said increase or major improvement is mandated by law. [Amended 8-7-95 by Ord. No, 1995-36; 5-1-00 by Ord. No. 2000-16]

- C. In the event that a landlord seeks an additional charge for any major improvement, it shall be necessary for said landlord to produce actual receipts and bills for the cost of said improvements, and testimony as to those items will not be considered sufficient in and of itself without the proper backup materials. [Added 4-21-80 by Ord. No. 1980-13; Ord. No. 5-1-00 by Ord. No. 2000-16]
- D. In the event that a landlord is to seek an additional rent increase based upon major improvements, the charge to be passed on to the tenant shall be based upon the proportionate part of the useful life of said major improvement rather than taking all of the improvement costs in the year that the landlord seeks the rent increase. [Added 4-21-80 by Ord. No. 1980- 13; Ord. No. 5-1-00 by Ord. No. 2000-16]

Loans. In the event that the financial information submitted by the landlord reveals a loan made by the landlord or by someone having an ownership interest in the landlord, if the landlord is a business entity such as

a partnership or a corporation, interest expense on any such loan shall be computed based upon a rate not to exceed an imputed rate equal to the prime lending rate charged by commercial banks plus one (1) percentage point. [Added 8-7-95 by Ord. No. 1995-36]

- F. **Related entity.** In the event the landlord shall retain the services of any related entity (meaning owned by the landlord or someone who has an interest in the landlord as a partnership corporation) the landlord shall provide proof that the cost of this service did not exceed the fair market value of same by more than five percent (5%). The proof requirement established hereunder shall be satisfied by presenting three (3) bids from separate and unrelated vendors. [Added 8-7-95 by Ord. No. 1995-36; 10-2-95 by Ord. No. 1995-44]
- G. **Hearings.** Any appeal or hardship rent increase application must be filed forty-five (45) days prior to the proposed hearing date. Any data upon which the landlord seeks to rely upon before the Board must be submitted with the application in order to allow the Board and/or its professionals adequate time to review the data prior to the hearing. If the Board finds that it has been given the proper and appropriate information prior to the hearing, the Board may, in its discretion, agree to review additional data at the time of the hearing not previously submitted. The Board would make such determination based on the pertinence to the landlord's appeal and the finding that the landlord is unable to submit the information or material on a timely basis was acting in good faith. [Added 8-7-95 by Ord. No. 1995-36]
- H. **Reserved.**
- I. [Added 5-1-00 by Ord. No, 2000-16] The Barnegat Rent Leveling Board must take action and render a decision on all applications presented to it within the following time limitations:

- (1) Major improvement applications. The Board must take action and render a decision on all major improvement applications within ninety (90) days of the application date.
- (2) Utility increase applications. The Board must take action and render a decision on all utility increase applications within ninety (90) days of the application date.
- (3) Hardship applications. The Board must take action and render a decision on all hardship applications within one hundred twenty (120) days of the application date.

§ 64-9. Rent Leveling Board.

- A. Board created. There is hereby created a Rent Leveling Board within the Township of Barnegat. The Board shall consist of five (5) regular members of whom one (1) shall be a mobile home park landlord and one (1) a tenant of a mobile home park. The Chairman shall be chosen from among the non-landlord-tenant members. All members shall be appointed by the Township Committee and shall serve, commencing with the initial appointments, terms of one (1) year, two (2) years, three (3) years, four (4) years and five (5) years, respectively, and thereafter terms of five (5) years, commencing the first day of January of the year of their appointments. There shall be three (3) alternates, appointed annually by the Township Committee, to serve in the absence or disqualification of a corresponding regular member, one (1) of whom shall be neither a landlord nor a tenant of a mobile home park, one (1) of whom shall be a landlord and one (1) of whom shall be a tenant of a mobile home park, but neither alternate landlord nor tenant member of the Board shall be of the same mobile home park as a regular member. Vacancies shall be filled for the balance of the terms. Members shall not hold any other elective office or position in the township. The members

of the Board shall serve without compensation, but shall be reimbursed for reasonable and necessary expenses. The Board shall have available to it such clerical assistance and legal counsel as is budgeted annually by the Township Committee. No member shall vote upon or enter into discussions as to any matter in which he has a direct or indirect interest, financial or otherwise.

B. Powers and duties. The Rent Leveling Board is hereby granted and shall exercise, in addition to other powers herein granted, all the powers necessary and appropriate to carry out and execute the purposes of this ordinance, including but not limited to the following:

- (1) To issue and promulgate such rules and regulations as it deems necessary to implement the purposes of this ordinance, such rules and regulations being subject to the approval of the Township Committee.
- (2) To supply information and assistance to landlords and tenants to help them comply with the provision of this ordinance.
- (3) To hold hearings and adjudicate applications from landlords for additional rental income or charges as hereinafter provided.
- (4) To hold hearings and adjudicate applications from tenants for reduced rental income or charges as herein provided.

Said Board shall give both the landlord and tenant reasonable opportunity to be heard before making any determination and shall base its determination on the reasonable and credible evidence before it, although the strict rules of evidence shall not apply. The Board shall render its decision, in writing, within thirty (30) days after the close of hearings.

- C. The Board shall maintain minutes of its hearings and/or meetings.
- D. Meetings and hearings. All meetings and hearings of the Barnegat Rent Leveling Board shall be conducted in accordance with Roberts Rules of Order, Newly Revised. [Added 5-1-00 by Ord. No. 2000-16]

§ 64-10. Appeals.

- A. Both a landlord and tenant may appeal, in writing, the findings of the Rent Leveling Board to the Township Committee, within ten (10) days from the date of said final determination, and may request a hearing thereon by the Township Committee, on the record of the proceedings before the Rent Leveling Board, to be held within thirty (30) days of such appeal. The Township Committee shall have a right to approve, deny, remand or modify said decision. Its decision shall be in writing.
- B. Any tenant may appeal to the Rent Leveling Board any calculation made by the landlord or any failure to make calculation, pursuant to the provisions of this ordinance.

§ 64-11. Maintenance of standards.

- A. During the term of this ordinance, the landlord shall maintain the same standards of service, maintenance and equipment in the mobile home park or mobile home spaces as he provided or was required to do by law or lease, written or unwritten, as of the date the tenancy was entered into.
- B. Where the landlord fails to maintain such standards, any tenant may appeal to the Board for a reasonable reduction in rent, commensurate with such failure by the landlord, whereupon the Board shall duly notify the landlord and

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schedule the matter for a hearing. If, as a result of such a hearing, a reasonable reduction in rent is granted, it shall remain in effect until the landlord proves the standards are being maintained.

§ 64-12. Violations and penalties.

A willful violation of any provisions of this ordinance, including but not limited to the willful filing with the Rent Leveling Board of any material misstatement of fact, shall be punishable by a fine of not more than five hundred dollars (\$500.) or imprisonment for not more than ninety (90) days, or both, in the discretion of the court. A violation affecting more than one (1) leasehold shall be considered a separate violation as to each leasehold.

§ 64-13. Implementation procedure.

Each landlord shall have a period of sixty (60) days from the date of final adoption of this ordinance to file a request to the Rent Leveling Board for any proposed increases during the remainder of the calendar year 1977. He shall notify the tenants as required by the provisions of this ordinance. Any increases in rental income imposed on or after June 1, 1977, are hereby declared to be null and void as of the effective date of this ordinance until such time as a review has been made as to the maximum permissible increases permitted under the terms of this ordinance and a final determination has been rendered by the Rent Leveling Board or the Township Committee. The final determination shall be effective as of June 1, 1977.