

ORDINANCE 2014-27

AN ORDINANCE OF THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 64 OF THE CODE OF THE TOWNSHIP OF BARNEGAT ENTITLED "RENT LEVELING"

NOW, THEREFORE BE IT ORDAINED BY the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey that Chapter 64 of the General Code of the Township of Barnegat is hereby amended and supplemented as follows:

SECTION 2. Entitled "Determination of rents" is hereby amended as follows:

- A. (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 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 Township Administrator of any such rent increase. Said notification must be in writing and received by the Administrator on or before November 1.
- 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 Township Administrator, 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 Township Administrator 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 Township Administrator shall hold a hearing within thirty (30) days of the submission of the completed application.
- (C) 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 terms in Subsection A (1) (a) or (c) herein, the Township Administrator 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, no written approval is required 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 Township Administrator 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.
- (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 Township administrator on a case by case basis. The landlord shall have the burden of proof as to why the bill was not submitted within the time restrictions provided.

SECTION 3. Entitled "Certification compliance; rent reduction due to non-compliance"

- 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 Township Administrator 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 Township Administrator for a reasonable reduction in rent, commensurate with any such noncompliance by the landlord, whereupon the Administrator 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.

SECTION 8. Entitled "Additional rent increases" shall be amended as follows:

- 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 Township Administrator for an increase in rental income. The Administrator, 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 Township Administrator, 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.
- 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 Township Administrator, that the improvement serves a direct benefit to the tenants, and that it was more feasible to renovate or replace an existing object than repair it
- C. 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; and 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 Township Administrator, 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 the total number of mobile home 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 Township Administrator who 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.

- 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 Township Administrator must be submitted with the application in order to allow the Township Administrator and/or its professionals adequate time to review the data prior to the hearing. If the Administrator finds that it has been given the proper and appropriate information prior to the hearing, the Administrator may, in his discretion, agree to review additional data at the time of the hearing not previously submitted. The Administrator 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.
- I. The Barnegat Township Administrator must take action and render a decision on all applications presented to it within the following time limitations:
 - (1) Major improvement applications. The Township Administrator 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 Township Administrator must take action and render a decision on all utility increase applications within sixty (60) days of the application date.
 - (3) Hardship applications. The Township Administrator must take action and render a decision on all hardship applications within one hundred twenty (120) days of the application date.

SECTION 9. Entitled "Rent Leveling Board" is hereby deleted in its entirety, and in its place new Section 9 as described below:

SECTION 9. Entitled "Rent Leveling Administrator" is hereby inserted as follows:

- A. There is hereby created within the Township of Barnegat, a Rent Leveling Administrator, which shall consist of the currently appointed Township Administrator. The Rent Leveling Administrator shall serve without compensation. The Administrator shall have available to him such clerical assistance and legal counsel as is budgeted annually by the Township Committee.
- B. Powers and duties. The Rent Leveling Administrator 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 purpose 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 provisions of this ordinance.
 - (3) To adjudicate applications from landlords for additional rental income or charges as hereinafter provided.
 - (4) To adjudicate applications from tenants for reduced rental income or charges as hereinafter provided.

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

SECTION 10. Entitled "appeals" is hereby amended as follows:

- A. Both a landlord and tenant may appeal, in writing, the findings of the Township Administrator's decision 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 Administrator, 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. The Township Committee's decision shall be in writing.
- B. Any tenant may appeal to the Township Administrator any calculation made by the landlord or any failure to make calculation, pursuant to the provisions of this ordinance.

SECTION 11. Entitled "Maintenance of standards" is hereby amended as follows:

- B. Where the landlord fails to maintain such standards, any tenant may appeal to the Township Administrator for a reasonable reduction in rent, commensurate with such failure by the landlord, whereupon the Administrator shall duly notify the landlord and schedule the matter for investigation. If, as a result of such an investigation, a reasonable reduction in rent is granted, it shall remain in effect until the landlord proves the standards are being maintained.

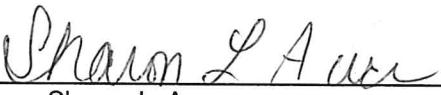
SECTION 12. Entitled "Violations and penalties" is hereby amended as follows:

A willful violation of any provisions of this ordinance, including but not limited to the willful filing with the Administrator of any material misstatement of fact, shall be punishable by a fine of not more than five hundred (\$500) dollars 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.

SECTION 13. Entitled "Implementation procedure" is hereby deleted in its entirety.

NOTICE

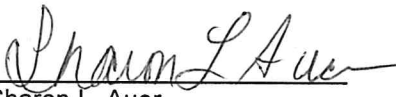
NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed on the first reading by the Township Committee of Barnegat, County of Ocean, State of New Jersey on **October 20, 2014 at 6:30 p.m.**, at the Barnegat Township Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey. The Ordinance will be considered for second and final reading at a meeting of the Township Committee on **December 15, 2014, at 6:30 p.m.**, or as soon thereafter as the matter may be reached and considered, at the Barnegat Township Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey. At that time the public is invited to ask questions, raise objections or provide public comment with regard to the proposed adoption of this Ordinance.



Sharon L. Auer
Acting Municipal Clerk

CERTIFICATION

I, Sharon L. Auer, Acting Municipal Clerk of the Township of Barnegat, County of Ocean State of New Jersey do hereby certify that the foregoing ordinance was duly adopted on second reading by the Barnegat Township Committee at their meeting held on the 15th day of December 2014.



Sharon L. Auer
Acting Municipal Clerk