ORDINANCE NO. 2024-21

AN ORDINANCE OF THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY RE-ESTABLISHING CHAPTER 64 OF THE TOWNSHIP CODE ENTITLED "RENT LEVELING"

NOW THEREFORE BE IT ORDAINED by the Mayor and Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey that Chapter 64 of the Township Code entitled "Rent Leveling" is hereby re-established and shall read as follows:

SECTION 1.

§ 64-1. Definitions.

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 state of which the Township of Barnegat, New Jersey, is a part, published periodically by the Bureau of Labor Statistics, United States Department of Labor. The index used will be the CPI-U index. The index used will be the CPI-U for the New York—North Jersey Region.

Mobile Home Park: A parcel of land which has been so designed and improved that it contains two 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 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 where no existing tenant is involved in the resale including those ~~which~~ that are newly constructed or renovated by the replacement of a home with a new home ~~where no existing tenant is involved~~ and rented for the first time, or that have a home sited thereon that is owned by a lender that has repossessed the home where no existing tenant is involved with a resale, are exempted, and the new rent to the home buyer ~~initial~~ rent may be determined by the community owner. All subsequent rents will be subject to the provisions of this chapter.

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Reasonable and Necessary Operating Expenses: All expenses actually incurred and expensed or accrued by the landlord for the operation of the mobile home park during a calendar year. All submissions for rental increase shall provide a breakdown of all the Reasonable and Necessary Operating Expenses that the landlord seeks to utilize in support of its application. 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 and can be recovered by the landlord through a capital improvement surcharge pursuant to §64-8B.

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.

D. Management expenses shall be limited to the amounts paid for actual services performed by a manager of the management firm. In no event shall a fee for management services exceed the amount determined by the rent board to be reasonable 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.

Utilities: The minimum rate charged for electricity supplied to common areas or facilities, 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.

§ 64-2. Determination of rents.

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A. The establishment of rents between a landlord and a tenant to whom this chapter 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.

(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 3.5% of the current 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 CPI-U index for July of each year for the Northern New Jersey-New York region (which includes the County of Ocean) shall be the index utilized for this purpose. The "rental income" used for this purpose will be the total of the allowable rental income for all lots divided by the total number of mobile home spaces in the mobile home park thereby yielding a per mobile home rent increase permitted under this section that is the same dollar amount for each lot. The landlord must notify the Barnegat Township Rent Leveling Board of any such rent increase. Said notification must be in writing and received by the Administrator on or before July1.

(4) Increase by agreement. Where the landlord and the tenants effectuate a rent increase by agreement, the agreement shall be in writing, signed by the landlord and signed by the tenants representing 75% plus one of the occupied rental units affected by the rent increase. Such rental increases by agreement shall take effect in accordance with the terms and conditions thereof, and a copy of such agreement shall be filed with the Rent Leveling Board within 45 days of the execution of the document.

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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, except for annual CPI increases, or tax surcharges, 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 request per landlord per mobile home park for any increase per calendar year, for each of the increases permitted by this ordinance , 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 90 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 served upon the tenant as required by this ordinance to any tenant who may be affected by the increase applied for. In the event that a landlord shall submit an application for increase in rent based upon any of the criteria herein, the Rent Leveling Board shall hold a hearing within 30 days of the submission of the completed application. No hearing is required for any decrease proposed unless challenged by a tenant.

C. A tenant may be notified by other than certified mail, return receipt requested and regular 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) 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 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 chapter 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.

E. Any and all bills submitted in connection with any application for a rent increase, as set forth elsewhere herein, shall be for work paid by the landlord within the 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 paid earlier than 18 months prior to the date of the application shall be reviewed by the Barnegat Township Rent Leveling Board on a case by case basis. The landlord shall

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have the burden of proof as to why the bill was not submitted within the time restrictions provided.

F Notwithstanding the provisions of this section or elsewhere In Chapter 64, a landlord shall be permitted to charge and receive a rent not in excess of 15% higher than the existing rent last approved by the Rent Leveling Board or otherwise calculated consistent with the terms of this ordinance to any new tenant that did not inherit the unit from a previous tenant that was subject to the provisions of the rent control ordinance without the need for Rent Leveling Board approval and by situation shall be deemed a "resale decontrol." or existing tenant on the occasion of that tenant's purchase, or receipt by gift of a mobile home from another tenant without the need for Rent Leveling Board approval, and that situation shall be termed a "resale decontrol". The increase in the rent by the landlord under this section shall be permitted only once following each transfer of title of a mobile home, and no more than one such resale decontrol shall be permitted in any 12 month period, regardless of the number of times a mobile home title may be transferred during that 12 month period. The landlord's increase in a resale decontrol situation shall be not more than the actual amount of the increase imposed, so that, in the event the landlord elects to increase the rent relative to that mobile home by a percentage less than 15%, the landlord shall thereafter be prohibited from again increasing the rent by any additional percentage on account of that resale decontrol.

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

A. Rent increases, as authorized by this chapter, 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 Rent Leveling 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 Rent Leveling Board for a reasonable reduction in rent, commensurate with any such noncompliance by the landlord, whereupon the Rent Leveling 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.

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

Any rental income or additional charge increase at a time other than on a date authorized by the Rent Board or~~,~~ except as otherwise provided in this chapter, shall be void. Any rental income or additional charge increase in excess of that

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authorized by the provisions of this chapter shall be void. This ordinance does not prohibit the collection of contingent charges associated with a tenant default such as legal fees, late fees, bounced check fees, etc., as "additional rent" in Landlord Tenant Court.

§ 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 reduction in ~~credit to~~ rent in 12 monthly installments commencing from September 1 of each year. Any tenant entitled to a rent decrease hereunder shall be notified by the landlord, by hand delivery or ~~certified mail, return receipt requested and~~ regular 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 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.

§ 64-6. Tax surcharges.

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, return receipt requested and regular mail, at least

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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 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 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, return receipt requested and regular mail, within 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 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 Rent Leveling 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 Rent Leveling 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, return receipt requested and regular mail. The landlord must thereafter notify each affected tenant in person or by certified mail, return receipt requested and regular mail, of the hearing date for the appeal and post a notice of the hearing in a conspicuous place

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at the mobile home park for at least 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 chapter.

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 renovate or replace an existing object than repair it.

Any single renovation or improvement to the sanitary sewer or septic system or water system having a cost in excess of $100,000 shall be deemed a major improvement for purposes of this regulation; and such improvement having a cost of less than $100,000 shall be considered a utilities expense.

Prior to undertaking any major improvements, the landlord shall solicit three (3) quotations to have the work completed and those three (3) quotations shall remain on file for inspection by the Rent Board and/or tenants. The Landlord does not have to choose the lowest bid in disregard of a history of reliable service previously provided by a contractor, but if the lowest bid is not accepted the rent board may consider it in its determination of the amount of the rent increase to be approved. For any work and/or improvements completed pursuant to Section 64-8B, the landlord shall provide copies of any warranties for any such work or improvements to the homeowner's association of the mobile home park within thirty (30) days of the landlord's receipt of said warranty.

Prior to filing an application with the Rent Leveling Board, the landlord must notify each tenant by certified mail, return receipt requested and regular 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 1%. The landlord seeking a major

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improvement surcharge shall apply for said surcharge to the Rent Leveling Board who shall determine, after the landlord has provided notice of the hearing to the affected tenants by certified mail, return receipt requested and regular 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 chapter. In any event, no increase granted by the authority of this section shall exceed 10% of the tenant's rental income, unless said increase or major improvement is mandated by law.

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.

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.

E. **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 percentage point.

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 5%. The proof requirement established hereunder shall be satisfied by presenting three bids from separate and unrelated vendors.

G. Landlords shall not be entitled to receive rental increases for hardship or major improvements for work or improvements that directly benefit the landlord. By way of example, but not limitation, the tree clearing to create additional pad sites for new mobile home spaces cannot be charged to the residents, as that is a direct benefit to the landlord to sell additional lots.

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H. **Hearings**. Any appeal or hardship rent increase application must be filed 45 days prior to the proposed hearing date. Any data which the landlord seeks to rely upon before the Board must be submitted with the application in order to allow the Board 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 was unable to submit the information or material on a timely basis and was acting in good faith.

I. The 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 Rent Leveling Board must take action and render a decision on all major improvement applications within 90 days of the application date.

(2) **Utility increase applications.** The Rent Leveling Board must take action and render a decision on all utility increase applications within 60 days of the application date.

(3) **Hardship applications.** The Rent Leveling Board must take action and render a decision on all hardship applications within 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 four regular members and a Chairman. One member shall be a landlord representative and one of whom shall be a tenant representative of a mobile home park. A voting Chairman shall be chosen by the Barnegat Township Mayor and Committee on an annual basis. The Chairman will preside over each meeting of the Board. All members shall be appointed by the Township Committee and shall serve one-year terms, commencing on the first day of January of the year of their appointments. There shall be two alternates, appointed annually by the Township Committee, to serve in the absence or disqualification of a corresponding regular member, one of whom shall be a landlord representative and one of whom shall be a tenant representative of a mobile home park. Vacancies shall be filled for the balance of the term. No member shall vote upon or enter into discussions

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as to any matter in which he has a direct or indirect interest, financial or otherwise.

§ 64-10. Appeals.

A. Both a landlord and tenant may appeal, in writing, the findings of the Rent Leveling Board to a court of competent jurisdiction or any other body agreed upon by the parties. All expenses associated with the cost of an appeal shall be the responsibility of the parties. The Township Committee will have no authority to hear appeals of decisions made by the Board.

§ 64-11. Maintenance of standards.

A. During the term of this chapter, 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 Rent Leveling Board for a reasonable reduction in rent, commensurate with such failure by the landlord, whereupon the Rent Leveling Board 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.

§ 64-12. Violations and penalties.

A. Willful violation of any provisions of this chapter, 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 $500 or imprisonment for not more than 90 days, or both, in the discretion of the court. A violation affecting more than one leasehold shall be considered a separate violation as to each leasehold.

§ 64-13. Rent Leveling Board meeting room.

All meetings of the Rent Leveling Board shall be held at the Township Municipal Building, in the Township Municipal Court Room.

§ 64-14. Effective Date.

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Upon adoption of this ordinance on second reading, the ordinance will take retroactive effect from January 1, 2024 and the determination by the Rent Board at its public hearing of November 8, 2023 shall remain in full force and effect.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be 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 validity of the remaining portions hereof.

SECTION 4. This ordinance shall take effect after second reading and publication as required by law

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NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Barnegat on the **6th day of August, 2024**, and will be considered for second and final passage at a meeting of the Township Committee to be held on the **3rd day of September, 2024, at 6:30 ~~AM /~~PM.** at the Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

~~DONNA M. MANNO, RMC, Clerk~~
~~Township of Barnegat~~Donna M. Manno, RMC
Municipal Clerk

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