

## HAMPTON TOWNSHIP ORDINANCE 2015-07

### AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF HAMPTON SUSSEX COUNTY, NEW JERSEY ESTABLISHING RENT CONTROL WITHIN THE TOWNSHIP OF HAMPTON TO BE KNOWN AS CHAPTER 66 “RENT CONTROL”

**BE IT ORDAINED** by the Township Committee of the Township of Hampton that the Code of the Township of Hampton be amended to include the within Ordinance to be known as the Rent Control Ordinance to read as follows:

**Section 1.** Chapter 66 entitled “Rent Control” is hereby adopted to read as follows:

#### **§ 66-1. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**AVAILABLE FOR RENT TO TENANTS:** Fit for rental as defined by the statutes, codes and ordinances in full force and effect in the State of New Jersey, County of Sussex and Township of Hampton and occupied or unoccupied and offered for rent.

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

**GROSS MAXIMIZED ANNUAL INCOME:** The gross maximum potential rent roll less a reasonable amount for vacancies and uncollectibles, or the actual sum of rents earned, whichever amount is larger.

**LANDLORD:** The mobile home park operator, owner or other person leasing a mobile home and/or a mobile home park space to a tenant.

**LEASE:** Any written or oral agreement which pursuant to law permits any person or persons to occupy a mobile home and/or a mobile home park space.

**MAJOR CAPITAL IMPROVEMENT:** For the purpose of this chapter, any item considered as such under the Federal Internal Revenue enactments and regulations. The replacement of an existing item or facility with an item or facility which has a more serviceable and useful life shall be considered a "capital improvement" unless the Board, in its discretion, determines that such replacement consists of normal and necessary maintenance and repairs.

**MOBILE HOME PARK:** Any lot or parcel of land and premises where the owner, lessee or other person having control thereof shall offer sites for mobile homes on a rental or lease or other basis.

**MOBILE HOME PARK SPACE:** That portion of a mobile home park rented or offered for rent for the purpose of parking a trailer or positioning a 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 park spaces" which are newly constructed and rented for the first time or rented as a result of tenant vacancy are exempted, and the initial rent may be determined by the owner. All subsequent rents will be subject to the provisions of this chapter.

**NET OPERATING INCOME:** Gross maximized annual income less reasonable and necessary operating expenses.

**PERIODIC TENANT:** A tenant that may continue to occupy a mobile home space on a month-to-month basis or other recurring period until said tenancy is terminated by landlord or tenant as provided by law.

**PERSON:** Any natural person or any partnership, limited partnership, joint venture, association, corporation or other entity.

**REASONABLE AND NECESSARY OPERATING EXPENSES:** All valid expenses incurred by a mobile home park owner that were reasonably necessary for the operation of the park during the period reflected in income computed in accordance with the provisions and limitations of this chapter. In computing "reasonable and necessary operating expenses," the following limitations shall apply in all cases:

- A. Operating expenses shall not include fines, penalties and mortgage amortization (principal) payments.
- B. Taxes shall be limited to amounts actually incurred, including those incurred in escrow pending appeal. Taxes shall not include the park owner's real estate taxes on his personal residence(s) or on units owned by a non-tenant on pads used by a non-tenant such as a manager or custodian.
- C. Repairs and maintenance expenses shall not include expenditures for major capital improvements as defined in this chapter.

- D. New equipment cost not qualifying as a major improvement under this chapter may be prorated over the useful life of the item or listed as a current expense.
- E. Professional fees including legal and accounting expenses shall be limited to actual costs incurred for the day-to-day operation of the park.
- F. Management expenses shall be limited to the value of reasonable and necessary services actually performed and incurred for including the manager's salary, employee benefits including managers, employees salaries, including but not limited to secretarial and maintenance salaries, telephone expenses, postage, office supplies, stationery and the value of the resident manager's mobile home site if said value is included in gross maximized annual income. In the case of self-management by a park owner performing management duties from an on-site personal residence, management expenses shall be allocated between expenses incurred in the operation of the park and expenses incurred for the park owner's personal and household expenses.

**REBATE:** Any reimbursement received by or credited to a landlord for any tax or utility charge paid by or assessed against him in connection with the operation of a mobile home park, or any reduction in the amount of any tax or utility charge or assessment a landlord is required to pay in connection with the operation of a mobile home park.

**RENT:** Any charge or charges made, fixed, demanded or charged for the use or occupancy of a mobile home park space, whether or not commonly known as rent, be it for a landlord or tenant-owned mobile home. "Rent" shall not include other charges and fees which may be payable in addition to the base rent, i.e., washer, dryer, pet fees and extra-person fees.

**REPAIR:** To maintain property in the original order.

**SERVICE:** Mailing to the home address by certified mail, return receipt requested, or in-hand delivery certified to by affidavit, or an acknowledgment of service executed by the person served, which affidavit or acknowledgment of service must be retained in the records of the person causing service.

**SUPPLIED UTILITIES:** Trash removal, water service and sewer services supplied directly to the individual mobile home or park, for which services the landlord is responsible to the supplier for payment.

TENANT: Any mobile home owner who rents a mobile home park space. This definition specifically excludes a park owner, park landlord and any and all mobile home park spaces under the direct control of the aforementioned parties that are not rented to individuals who own or lease their own mobile home.

**§ 66-2. Excess rents prohibited.**

No landlord shall, after the effective date of this chapter, charge any rents in excess of which he was receiving from the effective date of this chapter except for increases authorized by this chapter.

**§ 66-3. Initial rents.**

The landlord of a mobile home rental space which is newly constructed and rented for the first time or rented as a result of tenant vacancy is exempted from the provisions of this chapter and the initial rent to be charged may be determined by the landlord, and subsequent rental increases, however, shall be subject to the provisions of this chapter; provided, however, that the rent permitted to be charged as a result of a tenant vacancy, which shall include but not be limited to the sale of a unit by a tenant, shall in no case exceed 25% of the rent that was being charged to the previous tenant at the time of the vacancy.

**§ 66-4. Establishment of rent.**

- A. Establishment of rents for mobile home rental spaces which are available for rents to tenants, and to which this chapter is applicable, shall hereafter be determined by the provisions of this chapter.
- B. Any rental increase at a time other than at the expiration of a lease or termination of a periodic lease shall be void. Any rental increase in excess of that authorized by the provisions of this chapter shall be void.

**§ 66-5. Automatic consumer price index increases.**

- A. At the expiration of a lease or at the termination of the lease of a periodic tenant, but not more than once per twelve-month period from the last increase based on the consumer price index, the landlord shall be entitled to and receive an automatic rent increase which shall be equal to the percentage difference between the consumer price index as of the last rent increase granted pursuant to this chapter and the consumer price index as of January 1 of the calendar year in which the increase is sought. The allowable increase shall be added to the tenant's base rent

and shall become effective as set forth in the notice and shall not be stayed regardless of an appeal being filed as hereinafter provided for. In the event of a successful appeal resulting in a denial or decrease in the proposed rent increase, the Board shall order a refund of any excess rent paid or may allow a credit for the same from future rents.

- B. Any owner seeking an increase in rent based upon the consumer price index under the provisions of this chapter shall notify the Rent Leveling Board and the affected tenants, in writing, at least 30 days prior to the effective date of the proposed increase, setting forth therein, in detail, the calculation involved in computing the increase. Said calculation shall set forth the consumer price indexes being utilized in computing any increase, the allowable rental increase, the amount of base rent before and after the proposed increase and the effective date of the proposal increase. A copy of said notice shall be mailed to the tenant's residence by certified mail, return receipt requested. A tenant may be notified by other than certified mail, return receipt requested, if the landlord or his representative shall serve the tenant personally with the notice provided for herein and shall certify by affidavit such service and file said affidavit with the Rent Leveling Board. The failure of the owner to provide the tenant and the Rent Leveling Board with the proper notice and/or the necessary affidavit shall make any increase void, and the tenant shall receive any increase which the tenant may have paid.

#### **§ 66-5.1. Consumer price index decreases.**

At the expiration of a lease or at the expiration of the lease of a periodic tenant, any tenant may receive from the landlord a percentage decrease in the amount of base rent being charged for the occupancy of a mobile home rental space. Said consumer price index decrease is to be computed based upon the percentage decrease in the consumer price index (CPI) equal to the difference between the consumer price index as of the last rent increase granted pursuant to § 66-4 or allowable thereunder and the consumer price index as of January 1 of the calendar year in which the decrease is sought. No more than one decrease shall be permitted during the twelve-month period from the last CPI increase or the date of the last permitted increase in the event that such an increase had not been sought by the landlord.

#### **§ 66-6. Automatic real estate tax surcharge.**

- A. An increase in municipal real estate taxes, but not more than once per twelve-month period from the last increase based on increased real estate taxes, the

landlord shall be entitled to and receive an automatic rent increase which shall be calculated by dividing the increase in the present year's property tax over the property tax of the previous year by the number of square feet in the mobile home rental space to obtain the tax increase per square foot. A tenant shall not be liable for a tax surcharge exceeding the tax increase per square foot multiplied by the number of square feet in the mobile home rental space occupied by the tenant. The allowable tax surcharge shall be added to the tenant's base rent and shall become effective as set forth in the notice and shall not be stayed regardless of an appeal being filed as hereinafter provided for. In the event of a successful appeal by the tenant resulting in a denial or decrease in real estate tax surcharge, the Board may order a refund of any real estate tax surcharge paid or may allow a credit for the same from future rents.

- B. Any owner seeking a real estate surcharge under the provisions of this chapter shall notify the Rent Leveling Board and the affected tenants, in writing, at least 60 days prior to the effective date of the proposed increase, setting forth therein, in detail, the calculation involved in computing the surcharge. The calculation shall include the present property tax for the mobile home rental space, the property tax for the space for the previous year, the number of square feet in the space, the tax increase per square feet occupied by the tenant and the maximum allowable surcharge.
- C. The tax surcharge imposed for the increase in the current year's tax shall be due and payable in six equal monthly installments commencing on the date set forth in the notice. Effective January 1 of the next calendar year, in addition to the surcharge for the prior year the monthly rental shall be increased to reflect a tax increase of 1/12 per month of the total tax increase which may be applicable to the tenant based on the prior year's tax total increase. The one-twelfth increase shall be deemed to be part of the base rent for the purpose of computing future CPI rental increase under this chapter.
- D. In the event that a successful tax appeal is taken by the landlord resulting in a tax decrease to the landlord affecting the mobile home rental space occupied by the tenant(s), the tenants upon application shall be entitled to a rent reduction as applied to their mobile home rental space applying the same calculation as is applied in an application by the landlord for a rent surcharge. In determining the total amount of tax reduction which the landlord has obtained, there shall, however, be deducted from the total decrease received by landlord all reasonable expenses incurred by the landlord in prosecuting the tax appeal.

**§ 66-7. Additional rent increases.**

- A. Hardship. It is expressly recognized that an efficient landlord is entitled to a just and reasonable rate of return from this property. To that end, a landlord is permitted to make application to the Board for rental increases on the basis that rents allowed by this chapter prevent the landlord from receiving a just and reasonable rate of return. Such rental increases shall be based on the formula set forth in this provision to the extent this formula permits a fair return. Upon application duly made pursuant to the requirements of this chapter, the Board may grant a park owner a rental increase upon his showing that his reasonable and necessary operating expenses for his last full fiscal year exceed 60% of his gross maximized annual income (60/40 Rule). If the Board is satisfied that such a showing has been established, then the Board shall grant a rental increase sufficient to restore reasonable and necessary operating expenses to 60% of the gross maximized annual income.
- B. Application requirements. In any application under this section, the owner shall, in addition to those requirements mandated by other sections of this chapter, specifically certify that the owner is in full compliance with all state and local laws pertaining to tenants' rights.
- C. The park owners shall make written application to the Board and shall further certify that the landlord is not earning a just and reasonable return pursuant to the formula set forth herein. The application shall be on the accrual basis and shall include the amount of increase and percentage of increase requested, together with detailed statements of income and expenses for the past two complete fiscal years and must be filed within 90 days of the close of the last fiscal year included in the application. At the time of application, the landlord shall notify all tenants affected, in writing, that an application is being made. If at any time during the course of consideration of an increase pursuant to the provisions of this section the Board shall determine that a landlord is not in substantial compliance with any or all of the above requirements, the Board may temporarily withhold further consideration of the application for an increase until such time as the landlord has corrected any such deficiency.

- D. No owner shall be permitted to receive an increase under this section until such time as the owner has owned and operated the mobile home park for a period of 12 months.
- E. Increases authorized under this section shall be based only on financial information of park operation for the fiscal year which ended immediately prior to the date of application under this section. Losses carried over from prior years or unrealized income for prior years shall not be included in computing income under this section, except for second year or subsequent year losses incurred as a result of rental agreements exceeding one year.
- F. Except for second year or subsequent year losses incurred as a result of rental agreements exceeding one year, no rental increase may be obtained by an owner under any provision of this section to cover resulting from the failure of the owner to either apply for or obtain rental increases or surcharges under this section. The failure of the owner to either apply for or obtain such rental increases or surcharges within 12 months of the close of the fiscal year in which the operating losses are incurred or in which the reasonable rate of return is not realized or the owner's charging of such insufficient rents during the fiscal year shall be deemed a waiver of the owner's right to such additional rents or surcharges.
- G. Major capital improvements. An owner may apply to the Board for additional rental charges for the payment of the reasonable cost of major capital improvements. An owner seeking additional rent for a major capital improvement shall apply within 12 months of the completion of said capital improvement. An improvement shall not be deemed to be complete until all governmental approvals, if necessary, have been received and the improvement is on line serving the tenants, whichever occurs first. An owner seeking additional rent for a major capital improvement may apply but is not required to apply to the Board for prior approval of said capital improvement and additional rent. If the Board determines that approval is to be granted and subject to all requirements of this chapter, said owner may proceed with said major capital improvement. In no instance may an owner impose additional rent for the capital improvement until such time as the improvement has been completed and the Board has determined that all requirements of this chapter and the Board's terms and conditions have been complied with in full. At least 15 days prior to the hearing by the Board on an application for additional rental charges under this section, the owner shall serve upon the tenants and shall post in a conspicuous place in or about the mobile home park a notice of the application setting forth the date, time and location of the



hearing and setting forth the total cost of the completed capital improvement, the number of useful years of life of the improvement using the straight-line method (whether or not the owner uses a straight-line or another method for tax return purposes), the average cost, including debt service, of the improvement, calculated by dividing the cost of the major improvement by the total number of completed mobile home spaces in the mobile home park and the capital improvement increase he is seeking from each tenant. Following a hearing, the Board may grant to the owner an additional rental charge under this section for a specific period of time after considering the proofs presented by the owner. If said increase is granted, it shall not be considered rental income and shall not be used in calculating allowable increases as otherwise set forth in this chapter. Any increase granted by authority of this section shall be paid over the period of the actual useful life of the completed capital improvement, and any increase granted by this section shall not exceed ten percent (10%) of the tenant's rental income, unless said increase or capital improvement is mandated by law. Any increase granted under this section shall be payable commencing on the first of the month following the decision of the Board. In order to provide the Board with sufficient time to review the required financial data and schedule a hearing, it is required that an applicant file an application for additional rental charges under this section at least 90 days prior to the effective date of the proposed additional rental charges; provided, however, that an owner may make emergency applications for capital improvement at any time. An owner shall not be required to obtain Board approval prior to performing an emergency major capital improvement. The owner shall be required to obtain the approval after the capital improvement work has been completed in accordance with § 66-7B. For purposes of this chapter, "emergency capital improvements" shall mean a capital improvement made to correct a condition causing immediate and/or imminent danger to the health or safety of occupants of the mobile home park. Any proposed major capital improvement not required by any law, ordinance or regulation may be granted only if and to the extent that it benefits the living conditions of the tenants.

- H. The cost of expanding or enlarging the mobile home park or a section thereof shall not be borne by the tenants or utilized in computing additional rental charges under this section, except to the extent that such improvements benefit the existing tenants.

#### **§ 66-8. Rent Leveling Board.**

- A. There is hereby created a Mobile Home Park Rent Leveling Board within the Township of Hampton. Said Board shall consist of five members. The members of said Board shall be appointed by the governing body and their terms of office shall be for a period of three years each, with each member serving without compensation.
- B. The Township Committee of Hampton Township shall appoint two alternate members to the Hampton Township Rent Leveling Board. Alternate members shall be designated by the Chairman as "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 or, if appointed simultaneously, the initial terms of such members shall be one or two years, respectively.
- C. Three members present shall constitute a quorum. Vacancies shall be filled for the balance of the terms vacated.
- D. The Mobile Home Park Rent Leveling Board is hereby granted and shall have and exercise, in addition to other powers herein granted, all the powers necessary and appropriate to carry out and execute the purposes of this chapter, 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 chapter, which rules and regulations shall have the force of law until revised, repealed or amended from time to time by the Board in the exercise of its discretion, provided that such rules are filed with the Township Clerk.
  - (2) To supply information and assistance to owners and tenants to aid them in complying with the provisions of this chapter.
  - (3) To hold hearings and adjudicate applications from owners for additional rental as provided herein.
  - (4) To hold hearings and adjudicate applications from tenants for reduced rental as hereinafter provided.
  - (5) Said Board shall give both owner and tenant reasonable opportunity to be heard before making any determination.

- E. An appeal of a decision or finding of the Board shall be to a court of competent jurisdiction within the time provided by court rule for the taking of such appeals.

**§ 66-9. Landlord's records.**

The landlord, when applying for a rent increase, except for those permitted under § 66-5, shall furnish to the Board any reasonable and pertinent data the Board may deem necessary to arrive at a fair and reasonable decision under this chapter. The Board shall make all such records available for inspection by the tenant or tenants which may effect the decision of the Board. The Board, in its discretion, shall have the power to grant discovery to the owner and/or tenants and compel production of documents relevant to the matter pending before the Board.

**§ 66-10. Procedure.**

**A. Application.**

- (1) All applications for rent increases (except for common price index increases and tax surcharge increases, which shall be automatic and do not require a hearing) shall be made by completing the application provided by the Township Clerk and supplying proof of notice and other information required in accordance with this chapter and such rules and regulations promulgated by the Rent Lending Board within the time periods set forth in this chapter. Upon receipt of the complete application and all information, the applicant shall be notified of the date, time and place at which the Board shall act on such application, which said time shall not be less than 30 days after filing of the application. Upon receipt of the notice of the date, time and place of the hearing, the applicant shall, at least 15 days prior to said hearing date, notify by certified mail, return receipt requested, or by personal service each tenant affected by the rent increase of the date, time and place of the scheduled hearing and shall post in a conspicuous place in or about the rental premises a notice of said hearing date, time and place at least 5 days prior to the proposed hearing date. An affidavit of service shall be filed with the Board prior to hearing. The fee as prescribed in § 66-10B shall be paid with the application to the Township of Hampton to cover costs incurred, together with the appropriate escrow fee as may be required.

- (2) The landlord shall file eight copies of the application with the Township Clerk and shall, not later than five days prior to the first scheduled hearing date, file the required affidavit of service and all records which the landlord intends to rely upon in support of its application and which are required to be kept pursuant to § 66-9. The Board or its expert may require the landlord to furnish any other information it may deem necessary to make a decision on the application.

B. Appeals.

- (1) Any tenant may appeal to the Board any calculation made by the landlord or failure to make a calculation, pursuant to the provisions of this chapter. An appeal shall be effective upon the filing of a notice of appeal which shall set forth concisely the basis of the appeal which shall include the calculation being appealed and a calculation as to what the appealing tenant(s) alleges to be the correct calculation with any supporting information which will be relied upon in the presentation of the appeal. The notice of appeal shall be filed with the Township Clerk within 20 days of receipt by the appealing tenant(s) of the notice of a proposed rent increase. A copy of the notice of appeal shall be served upon the landlord by certified mail, return receipt requested, at the landlord's registered address by mailing the same within the aforesaid twenty-day period. Upon the filing of the notice of appeal, there shall be paid to the township a filing fee to defray a portion of the costs of administration of the appeal hearing. Upon request of a notice of appeal, the Board shall designate a date for initial hearing thereon which shall not be less than 20 nor more than 30 days following the filing of the notice of appeal. If upon appeal the Board shall determine that the calculation by the appellant is correct, it may order that the landlord refund to the appellant the filing fee paid hereunder, together with reasonable attorney fees not to exceed \$500. If the Board shall determine that the calculation by the landlord is correct, it may order that the appellants shall reimburse the landlord for reasonable attorney fees not to exceed \$500.
- (2) Application fees, appeal fees and escrow deposits. [Amended 2-9-1993]

**Type**

**Fee**

*Application fees*

Hardship	\$500
Major capital improvement	\$500
<i>Appeal fees</i>	
Reduction appeals	\$250
Escrow deposits	\$250
Hardship application	\$500
Major capital improvement application	\$500
All appeals	\$500

- (3) In addition to the escrow fees set forth above, the applicant or appellants may be required to pay fees in excess of the escrow deposit to pay for professional review of the evidence submitted in support of the application and or appeal as the Board may require. Failure to make the additional escrow deposits as required by the Board shall result in a denial of the application and or appeal. Disbursements from escrow deposits and allowances for additional fees as provided for herein shall be made and calculated based on the rate normally charged the township by such professional for similar services. Application for fees by a party to the hearing shall be supported by an appropriated affidavit of services.

**§ 66-11. Maintenance of standards.**

During the term of this chapter, the owner shall maintain the same standards of service, maintenance and equipment in the mobile home park and rental space as he provided or was required to do by law or lease at the date the lease was entered into.

**§ 66-12. Violations and penalties.**

A willful violation of any provisions of this chapter, including but not limited to the willful filing with the Mobile Home Park Rent Leveling Board of any material misstatement of fact, shall be punishable by a fine of not more than \$1,000 and imprisonment for not more than 90 days, or both. A violation affecting more than one rental space shall be considered a separate violation as to each rental space.

**§ 66-13. Construal of provisions.**

This chapter, being necessary for the welfare of the township and its inhabitants, shall be liberally construed to effectuate the purposes thereof.

**§ 66-14. Severability.**

If any provisions of this chapter or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect, and to this end, the provisions of this chapter are declared to be severable.

*Section 2.* This ordinance is to take effect immediately upon passage and publication as required by law.

**HAMPTON TOWNSHIP  
NOTICE**

**TAKE NOTICE** that the foregoing Ordinance #2015-07 was introduced and passed on First Reading at the regular meeting of the Hampton Township Committee held on August 25, 2015 and was ordered published according to law, and will be further considered at the regular meeting of the Hampton Township Committee to be held on September 29, 2015 at 7:00 P.M. prevailing time, at the Hampton Township Municipal Building, Baleville, New Jersey at which time and place all interested parties may appear and be heard. A copy of this Ordinance has been posted on the Bulletin Board upon which public notices are customarily posted in the Township Hall of the Township.

Kathleen Armstrong, RMC  
Township Clerk

**HAMPTON TOWNSHIP  
NOTICE**

**NOTICE IS HEREBY GIVEN** that the foregoing Ordinance #2015-07 was adopted at Final Reading at the regular meeting of the Township Committee of the Township of Hampton, County of Sussex held on Tuesday, September 29, 2015 at the Hampton Township Municipal Building, Baleville, N.J.

Kathleen Armstrong, RMC  
Township Clerk

**CERTIFICATION**

I hereby certify that the above Ordinance was adopted by the Township Committee at their regular meeting held September 29, 2015 at the Hampton Township Municipal Building, Baleville, Sussex County, New Jersey.

Date: \_\_\_\_\_

\_\_\_\_\_  
Kathleen Armstrong, RMC  
Township Clerk