

**AN ORDINANCE OF THE TOWNSHIP OF MANCHESTER, COUNTY OF OCEAN,
STATE OF NEW JERSEY AMENDING CHAPTER 326 OF THE TOWNSHIP CODE
ENTITLED "RENT LEVELING"**

NOW THEREFORE BE IT ORDAINED by the Township Council of the Township of
Manchester, County of Ocean and State of New Jersey as follows:

SECTION 1. Chapter 326 of the Township Code entitled "Rent Leveling" is hereby created,
which shall read as follows:

§ 326-1. Definitions.

The following definitions shall apply to this chapter:

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 Manchester, 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 Manchester, 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.

MOBILE HOME PARK

A parcel of land which has been so designed and improved that it contains two or more mobile/manufactured home lots available to the general public for the placement thereon of mobile/manufactured 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, mobile or manufactured 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 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 chapter.

REASONABLE AND NECESSARY OPERATING EXPENSES

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.

B. Repair and maintenance expenses shall not include expenditures for major improvements or items which meet the definition of capital improvements.

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 of this chapter shall 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 a management firm. In no event shall a fee for management services exceed what the Rent Board determines to be reasonable

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: the pass through of all real property taxes, space fees or license fee charged by the Township of Manchester pursuant to any duly adopted ordinance, any pass through of the cost of utilities if the same are provided for by the landlord and any increase for major improvements as permitted by § 326-9(B) hereof.

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.

§ 326-2. Determination of rents.

A. The establishment of rents for mobile home rental spaces between a landlord and a tenant, and which are available to rent to tenants to which this chapter is applicable, shall hereafter be determined by the following provisions:

(1) No 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 increases permitted herein for the twelve-month period. This Ordinance does not limit the amount of rent that the landlord may negotiate with and charge to a new tenant who agrees to pay that rent, but once a rent is established for a new tenant this ordinance shall thereafter limit the annual increases that may be imposed upon that tenant;

(2) 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 previous twelve-month rental income for the mobile home space, or the percentage increase in the consumer price index, whichever is less. For the avoidance of doubt, if the consumer price index is less than zero, there shall be no obligation to reduce rents on that account. The landlord is not obligated to increase the rent by the amounts permitted by this Ordinance but shall not increase the rent to an existing resident by more than is permitted by the Ordinance. The percentage increase of the consumer price index shall be effective for increases as of, or after January 1. The consumer price index for the region including the County of Ocean during the Month of September of the previous year shall be the index utilized for this purpose. The landlord must notify the Manchester Township Rent Leveling Board of any rent increase.

(3) Increase by agreement. Where the landlord and the tenants effectuate a rent increase by agreement, the agreement(s) 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(s) shall be filed with the Rent Leveling Board within 45 days of the execution of the agreement(s) . Mobile home parks that meet this provision pursuant to current or future agreement(s) will not be subject to the rent increase provision set forth in Subsection 326-2(A)(2) herein.

B. Landlords shall be entitled to “pass through” to tenants the actual amounts paid by the landlord for taxes and utilities, including any real estate or property taxes, without prior approval or authorization from the Rent Leveling Board. Increases permitted pursuant to sections 362-2(A)(1), (2) & (3) and sections 326-7 and 326-15 may be implemented without Rent Board approval. All other increases permitted by this ordinance must be the subject of written Rent Board approval before implementation.

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 326-9 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 from tenants is based upon the terms in Subsection 326-2 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 under Subsection 326-9 , said application shall include a certification by the landlord that all information supplied in the application is true and accurate.

E. Any and all bills for work or services 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 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 18 months prior to the date of the application shall be reviewed by the Manchester Township 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 within the time restrictions provided.

§ 326-3. Disclosure of rents to new tenants.

The landlord shall provide and disclose to all new tenants, in writing upon execution of a lease, the sums allocated

in the gross rent paid to the landlord for the following items:

- (1) Rental Income.
- (2) Tax surcharge or passthrough.
- (3) License fee.
- (4) Any other special expense.

§ 326-4. Certification of compliance; rent reduction due to noncompliance.

A. Rent increases, as authorized by Subsection 326-9, may be allowed only if the mobile home park substantially complies with all existing state, county and local codes and is deemed available for rent to tenants. As part of his application for any increase under Subsection 326-9, 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 after reasonable notice and opportunity to cure fails to substantially comply with said codes, any tenant may apply to the Rent Leveling Board for a reasonable reduction in rent, commensurate with diminution in value for the tenant's mobile home space caused by 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 date the noncompliance has been corrected as proved by the landlord.

§ 326-5. Timing of increase; excess increase.

After the enactment of this Ordinance, 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 chapter. Any such rental income or additional charge increase in excess of that authorized by the provisions of this chapter shall be void.

§ 326-6. 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, provided that nothing herein shall require a rebate or reduction as long as the landlord does not pass through or charge the tenant more on account of real estate taxes than the landlord actually paid for such taxes. 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 mobile home spaces in the mobile home park. The decrease each tenant is entitled to shall be a reduction computed pursuant to section 326-7 hereof.

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 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.

§ 326-7. Municipal Services Fees..

Municipal service fee increases may be charged when the municipality increases them, the month they are increased. No notice to quit is required. If the municipal fees are reduced, they shall be reduced to the tenant the month they are reduced by the municipality.

§ 326-8. 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 within 30 days after the receipt of the judgment or determination of taxes by taxing authorities, 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.

§ 326-9. 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 additional increase in rental income. The Rent Leveling Board, after a hearing, may grant the landlord a rent increase to meet these requirements or needs after consideration of the proofs presented by the landlord, the physical condition of the mobile home park. 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. The landlord must thereafter notify each affected 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 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 infrastructure, including but not limited to 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 \$25,000 shall be deemed a major improvement for purposes of this regulation; and such improvement having a cost of less than \$25,000 shall be considered a utilities expense.

As soon as a hearing date is established for the application, a copy of said notice shall be mailed by certified mail, or hand delivered as provided for herein to any tenant who may be affected by the relief sought in the application. 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 improvement surcharge shall apply for said surcharge to the Rent Leveling Board. After the hearing is scheduled, the Board will determine at the hearing, after the landlord has provided notice of the application and 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. The Tenant notice and application shall include 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. If said increase is granted, it shall not be considered rental income and not calculated in allowable increases as otherwise set forth in this chapter. In any event, no increase granted by authority of this section shall exceed 10% of the tenant's monthly rent, 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. 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.

H. 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) Hardship applications. The Rent Leveling Board must take action and render a decision on all hardship applications within 120 days of the application date.

§ 326-10. Rent Leveling Board; creation, membership, terms.

A. There is hereby created a Rent Leveling Board within the Township of Manchester.

B. The Board shall consist of five members and two alternate members who shall serve in the event of absence or disqualification of a regular member. The members of the Board and the alternate members shall be appointed by the Mayor, with the advice and consent of the Township Council, and their terms of office shall be as follows: two members shall be appointed for a period of one year; two members shall be appointed for a period of two years; and one member shall be appointed for a period of 3 years. Both alternates shall be appointed for a period of two years. Each member shall serve without compensation. One member and one alternate member shall be a tenant of a mobile home park, and one member and one alternate member shall be a landlord of a mobile home park, as that term is defined in § 326-1. Each non-landlord member shall be a resident of the Township. Vacancies shall be filled for the balance of the term.

§ 326-11. Powers and duties of the Board.

A. The Rent Leveling Board is hereby granted and shall have and exercise, in addition to other powers herein granted, all of 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 and notice of said rules and regulations is provided to all landlords subject to this Ordinance.

(2) To supply information and assistance to landlords, owners and tenants to aid them in complying with the provisions of this chapter.

(3) To hold hearing and adjudicate applications for additional rentals or such other relief as herein provided.

(4) Nothing herein shall be construed to authorize the Rent Board to reduce rents that are authorized by this Ordinance or agreed to by tenants.

B. The Board shall, among its members, elect a Chairman annually on January 1st to oversee the operation of the Board.

C. The Board shall give both the landlord or owner and tenant reasonable opportunity to be heard before making any determination and shall base its determination on the relevant credible evidence before it.

D. The Board shall meet twice per month. All meetings of the Rent Leveling Board shall be held at the Township Municipal Building, in the Township Municipal Court Room. In the event that there are no pending applications, the Board Chairman shall cancel a scheduled meeting and shall provide public notice of such cancellation.

§ 326-12. Appeals.

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 within 45 days of the Rent Board decision and said appeals shall be in accordance with Court Rule 4:69-1 et seq. The Township Council shall not hear any appeals. All expenses associated with the cost of an appeal shall be the responsibility of the parties. The Township Council will have no authority to hear appeals of decisions made by the Board.

§ 326-13. Maintenance of standards.

A. During the term of this chapter, the landlord shall maintain substantially 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, after reasonable notice and opportunity to cure, fails to substantially maintain such standards, any affected tenant may appeal to the Rent Leveling Board for a reasonable reduction in rent, commensurate with any diminution in the value of the tenant's space as a result of such failure by the landlord, whereupon the Rent Leveling Board shall duly notify the landlord and schedule the matter for hearing. If, as a result of such a hearing, a reasonable reduction in rent is granted, it shall remain in effect until the date on which the landlord again maintains the standards, as proved by the landlord. However, this provision shall not apply to temporary closures related to repairs or improvements, nor shall it apply merely because the landlord substitutes one amenity for another reasonably comparable amenity. For example, if a landlord temporarily closes a clubhouse for repairs, or permanently eliminates tennis courts but thereafter replaces them with a different amenity, e.g., a basketball court or pickleball court, those actions would not provide a basis for a request for rent reduction.

§ 326-14. Violations and penalties.

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 \$1,000 in the discretion of the court. A violation affecting more than one leasehold shall be considered a separate violation as to each leasehold.

§326-15. Market adjustment.

Upon the transfer of title to new tenants or upon the voluntary, uncoerced vacating or court-ordered eviction, or a repossession of any mobile home by a lender holding a secured interest in same located on

any mobile home space for which rent increases are controlled by the terms of this chapter and upon compliance with Subsections A to B below, at the time of the re-rental of a rental unit the rental increase restrictions of this chapter shall not apply, and a landlord shall be entitled to apply this market adjustment provisions for the rent to be charged for that mobile home space. However, the market adjustment provisions shall not apply a) where a landlord-tenant relationship exists between the landlord and the proposed new tenant where that tenant is transferring to a new rental unit owned by the same landlord on the same property, and b) for any subsequent rental increase for the market-adjusted rental unit unless there is another, separate vacancy event as described in the first sentence of this section. Further clarifying this Item b), if a multiyear lease is proposed for a market-adjusted rental unit, only the initial rent set forth in such lease is subject to market adjustment. All subsequent rentals charged, even those set forth within the multiyear lease, must comply with the rental restrictions of this chapter. When seeking to implement a market adjustment, the landlord shall comply with each of the following:

- A. The landlord shall file with the Rent Board a certification, in such form as prescribed by the Board and signed by the landlord, that the surrender of possession by the vacating tenant was voluntary and uncoerced or pursuant to a lawful court-ordered eviction or repossession.
- B. The landlord shall file with the Rent Board the name and address of the vacating tenant, the then current rental amount of the vacated mobile home space, an identification of the vacated mobile home space and the rent to be charged to the new tenant.

§ 326-16. Effective Date.

This Ordinance shall take effect January 1, 2024.

From the passage of this Ordinance on second reading, there shall be no rental increases that are effective in 2023 that are inconsistent with this amended ordinance, or the settlement agreements entered into in those matters bearing docket numbers OCN-L-856-23 and OCN-L-826-23.

§ 326-17. New Homes or New Spaces.

This Ordinance shall not apply to new homes or new spaces.

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.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Council of the Township of Manchester on first reading at a meeting held on the 23rd day of October, 2023 at 6:00 pm. The Ordinance will be considered for second and final reading at a meeting of the Township Council which is scheduled for the 27th day of November, 2023, at 6:00 pm or as soon thereafter as the matter may be reached, at the Municipal Building located at 1 Colonial Drive, Manchester, New Jersey 08759, at which time the public is invited to ask questions, raise objections, or provide public comment with regard to the proposed adoption of this Ordinance.

TERI GIERCYK, RMC/CMC
Municipal Clerk