

TOWN OF WEST BRIDGEWATER

RULES AND REGULATIONS OF THE

MOBILE HOME PARK RENT CONTROL BOARD

(As revised, amended and made effective on February 24, 2012)

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SECTION 1: PURPOSE. These rules and regulations are adopted by the Mobile Home Park Rent Control Board under the provisions of Chapter 393 of the Acts of 1986 and the provisions of the Mobile Home Park Rent Control By-Law adopted by the Special Town Meeting held on December 9, 1986.

SECTION 2: DEFINITIONS. For the purposes of these rules and regulations, the following words shall, unless the context otherwise requires, have the following meanings:

- a. "Board:" the Mobile Home Park Rent Control Board established under the provisions of said By-Law.
- b. "Capital improvements:" any substantial rehabilitation, addition or improvement which appreciably adds to the value of the property or prolongs its life or both, but not including ordinary repairs and maintenance.
- c. "Fair market value:" the assessed valuation of the property or such other valuation as the Board, on the basis of evidence presented before it, deems more appropriate to the circumstances of the case.
- d. "Fair net operating income:" the income which will yield a return, after all reasonable operating and maintenance expenses as defined in subsection i below, on the fair market value of the property equal to the debt service rate generally available from institutional first mortgage lenders or such other rates of return as the Board, on the basis of evidence presented before it, deems more appropriate to the circumstances of the case.
- e. "Housing services:" services or facilities provided by an owner or required by law or by the terms of a rental housing agreement to be provided by an owner to a tenant in connection with the use and occupancy of any mobile home park accommodation, which may include without limitation: services, furniture, furnishings and equipment; repairs, decorating and maintenance; provisions of light, heat, hot water, cold water, and telephone; kitchen, bath and laundry facilities and privileges; use of yard and other common areas; janitor service and refusal removal; parking facilities; and any other benefit, privilege or facility connected with the use or occupancy of any mobile home park accommodations. Housing services to a mobile home park accommodation shall include a proportionate part of services provided to common facilities of the mobile home park in which the accommodation is contained.
- f. "Mobile home:" a dwelling unit built on a chassis or frame and containing complete electrical, plumbing and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.
- g. "Mobile home park:" a park licensed by the Board of Health pursuant to Massachusetts General Laws Chapter 140, Section 32B.
- h. "Mobile home park accommodations:" the lot or space in a mobile home park upon which is located a mobile home not owned by the holder of the license of the park and used and occupied as a one-family dwelling unit; and a mobile home owned by the licensee of the mobile home park and used and occupied by a tenant as a one-family dwelling unit.
- i. "Operating and maintenance expenses:" the expenses of reasonable and necessary services to a mobile home park including, but not limited to, maintenance, repair, management fee, real estate broker's commission to someone other than the owner, insurance, and utilities not included within the rent. The following items shall not be included as operating and maintenance expenses as they do not provide reasonable and necessary

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services to a mobile home park: (1) mortgage interest and amortization or an allowance for obsolescence or depreciation; (2) late fees or interest charges incurred on expenses of reasonable and necessary services to a mobile home park; (3) the filing fee for a petition seeking an adjustment of maximum rent; and (4) attorneys' fees and/or costs incurred in any proceedings before the Board, or in connection with any legal proceedings against the Board or challenging the Town of West Bridgewater Rent Control bylaw or the Board's Rules and Regulations.

- j. "Owner:" the individual who holds a license granted pursuant to Massachusetts General Law Chapter 140, Section 32B, to conduct, manage or operate directly or indirectly a mobile home park in any manner including, but not limited to, a partnership, corporation or trust. As construed herein, the rights and duties of the owner hereunder shall be the obligation of anyone who manages, controls or customarily accepts rent on behalf of the owner.
- k. "Rent:" the consideration, including any bonus, benefit, gratuity or charge contingent or otherwise, demanded or received for or in connection with the use or occupancy of a mobile home park accommodation or for housing services or for the transfer of a lease of a mobile home park accommodation, exclusive of the tax collected by the owner and paid to the Town under Massachusetts General Laws Chapter 140, Section 32G.
- l. "Rental housing agreement:" an agreement between an owner and tenant for use and occupancy of a mobile home park accommodation and/or housing services.
- m. "Tenant:" a tenant, subtenant, lessee, sublessee or other person entitled under the terms of a rental housing agreement to the use and occupancy of any mobile home park accommodation.

SECTION 3: MAXIMUM RENT. The maximum rent of a mobile home park accommodation, unless adjusted upward in the manner herein provided, shall be the rent charged as of the date of March 19, 1987. If the mobile home park accommodation was unoccupied at the time, the maximum rent shall be the rent charged for a similar accommodation on March 19, 1987. No rent adjustment of any mobile home park accommodation shall be effective without prior approval of the Board after proceeding as set forth in Sections 5 and 6 herein.

SECTION 4: REGISTRATION. The Board shall require registration of all mobile home park accommodations on forms approved by it within ninety (90) days of the approval of these regulations. Any new or additional accommodations must be registered prior to occupancy thereof. No petition for an upward adjustment of maximum rent shall be accepted by the Board until all statements and information required to be filed under this Section 4 have been filed and any such petition prior to such filing shall not be entertained by the Board. The registration forms shall be signed by the owner under the penalties of perjury.

SECTION 5: ADJUSTMENT OF MAXIMUM RENT.

- a. The Board shall, by order or regulations as provided in Section 6, make such individual or general adjustments, either upward or downward, of the maximum rent established by Section 3 for any mobile home park accommodation as may be necessary to remove hardships or correct inequities for both the owner and tenant, and in so doing shall observe the principal of maintaining rents at levels which will yield to owners a fair net operating income for such mobile home park accommodations.
- b. The Board by regulation may establish further standards and rules consistent with the foregoing. The Board may promulgate a schedule of standard rental increases or decreases for improvement or deterioration in specific services and facilities.
- c. Notwithstanding any other provision of this Section, the Board may refuse to grant an upward adjustment of maximum rent if it determines (a) that the affected mobile home park accommodation does not comply with the state sanitary code or the rules and regulations of the Board of Health of the Town or any other applicable code, by-law or state law regulating the conditions of housing accommodations, and if it determines that such

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lack of compliance is due to the failure of the owner to provide normal and adequate repairs and maintenance; or (b) that the park owner is an inefficient operator. The Board may refuse to make a downward adjustment of maximum rent if it determines that the tenant is more than sixty (60) days in arrears in payment of rent, unless such arrearage is due to a withholding of rent under the provisions of Section 8A of Chapter 239 of the Massachusetts General Laws, or if the tenant is in substantial violation of any enforceable rules of the mobile home park, or if the tenant is in substantial violation of any laws or by-laws which protect the health and safety of other mobile home park residents.

SECTION 6: RENT ADJUSTMENT PROCEEDINGS.

- a. **Individual Adjustment of Maximum Rent.** The Board shall consider an adjustment of rent for a mobile home park or an individual mobile home park accommodation upon receipt of a petition for adjustment filed by the landlord or tenant of such mobile home park or mobile home park accommodation or upon its own initiative. Such petition shall be made on a form approved by the Board. Such petition, along with all documents and materials submitted in support thereof, shall be verified by the petitioner with his/her affidavit in a form approved by the Board. No petition for a rent adjustment will be scheduled for a hearing in the absence of such affidavit. Such affidavit shall include among its averments that the filing requirement set forth in subsection (h) below has been met. At the time of the filing, the petitioner shall file an original petition as well as a copy for each member of the Board as well as a copy for Town Counsel. Each copy provided will contain all of the accompanying documentation or other materials submitted in support thereof. In addition the petitioner, if a park owner, shall provide a copy of a summary of the operating expenses set forth in the petition to the President of the park's Tenants' Association. The Board shall notify the landlord, if the petition was filed by a tenant, or the Board shall notify the tenant, if the petition was filed by the landlord, of the receipt such petition. A public hearing will be held within 120 days from the date of the filing of the petition subject to the Board completing its review of the petition within the first ninety (90) days thereof. If during the ninety (90) day review period, deficiencies are found with either the petition and/or its accompanying documentation, the Board will notify the petitioner of the specific deficiencies found and of the documentation and/or information necessary to correct the deficiencies. Once the deficiencies are corrected by the petitioner, the Board will notify the petitioner of a date for the public hearing on the petition. In the Board's discretion, it may provide notice of such date for the public hearing at the time the petitioner receives notification of any deficiencies that must be corrected. If during the ninety (90) day review period, no deficiencies are found in either the petition or its accompanying documentation, the Board shall notify the petitioner of the date for the public hearing on the petition. The filing of supplemental documentation during the first sixty (60) days of the ninety (90) day review period may delay the scheduling of the public hearing. Notification as to the time and place of such public hearing shall be provided by the Board to the landlord and tenants and the hearing shall be conducted before the Board. The Board may consolidate petitions and actions taken under its own initiative relating to mobile home park accommodations in the same mobile home park, and all such petitions and actions may be considered in a single hearing.
- b. **General Adjustment of Maximum Rent by Regulation.** On its own initiative, the Board may make a general adjustment by percentage or otherwise of the rental levels for mobile home park accommodations subject to such conditions, if any, as the Board shall determine. Prior to making such adjustment, a public hearing shall be held before the Board. Notice of the time, place, and purpose of such hearings shall be published at least once in a newspaper having a general circulation in the Town, and posted in the Town Hall, both not less than seven (7) days prior to such hearings. Likewise, the owner or a tenant may petition the Board for a similar-type general adjustment in which event the foregoing procedures shall be utilized by the Board.
- c. **Limitations on Petitions for Adjustment of Maximum Rent.** Notwithstanding any other provision of this section, the Board may, without holding a hearing, refuse to adjust the maximum rent for a mobile home park or an individual mobile home park accommodation and may dismiss any petition for adjustment, if said petition is filed sooner than twelve (12) calendar months from the date of the last written rent adjustment decision of the Board for such mobile home park or such individual mobile home park accommodation, or if the Board finds that the petition for adjustment is filed for purposes of harassment or for other purposes not intended herein.

- d. Hearings. Hearings conducted, pursuant to Section 6(a) and 6(b) above, shall be conducted as adjudicatory hearings in accordance with the provisions of Massachusetts General Laws Chapter 30A, Sections 10, 11, and 12. Rules and procedure for the conduct of said hearings shall be those rules and regulations outlined in 801 CMR 1.00 et seq. for the conduct of adjudicatory hearings before State administrative agencies, which the Board hereby adopts and shall implement as its own rules and regulations for the conduct of adjudicatory proceedings. As soon after the filing of a petition as is practical, the Board shall meet and determine whether to proceed on such petition pursuant to the formal or informal rules as outlined in 801 CMR 1.00 et seq. or under other procedure and shall indicate its determination as to which rules and procedures shall be followed in its notice of Board action to affected parties, and in the public notice of said hearing.
- e. Stenographic Records of Hearings. Should any petitioner utilize the services of a stenographer during any Public Hearing or Meeting of the Rent Control Board, a copy of such stenographic record shall be made available forthwith to the Board, at no cost to the Board. The Board reserves the right to comment upon such record.
- f. Decisions. All decisions made by the Board under this Section shall be rendered in writing within thirty (30) days from the date of final hearing or as soon thereafter as is practical or may be accomplished by the concurrence of the parties. Any adjustment of the maximum rent, whether upward or downward, shall become effective on the first day of the next month that follows thirty (30) days after the date of the Board's written decision.
- g. Filing Fee. The Board shall levy a filing fee upon any and all parties that make application to request a rent adjustment for a mobile home accommodation or a mobile home rental unit. The filing fee for any individual rent adjustment requested pursuant to section 6(a) of these rules and regulations shall be \$25.00. The filing fee for a general rent adjustment pursuant to section 6(b) of these rules and regulations shall be \$15.00 per unit for which a general adjustment is requested. These filing fees will be reviewed every 2 years by the Rent Control Board. The filing fee will be paid by check or money order made payable to the Town of West Bridgewater at the time of the filing of the petition. A petitioner may withdraw a petition within the first 21 days after having filed it without penalty. When a petition is withdrawn beyond the 21 day limit, the filing fee is forfeited and, should the petitioner thereafter resubmit the petition, the petitioner must pay a second filing fee with it.
- h. Outstanding Bills/Debt Owed to the Town of West Bridgewater. All outstanding bills/debt owed to the Town of West Bridgewater must be paid prior to the filing of a petition and a statement to this effect must appear in the affidavit required to be filed with the petition as stated above in subsection (a).

SECTION 7: INCORPORATION OF STATE ADMINISTRATIVE PROCEDURE ACT AND REGULATIONS PROMULGATED

THEREUNDER. The provisions of Massachusetts General Laws Chapter 30A, the State Administrative Procedure Act, including those provisions giving agencies the power to issue, vacate, modify, and enforce subpoenas, shall be applicable to the Board as if said Board were an agency of the Commonwealth as well as those provisions relating to judicial review and agency order. The rules and regulations, 801 CMR 1.00, adopted, pursuant to such Act, by the Secretary of Administration for Massachusetts for application and use by state agencies for the conduct of both formal and informal adjudicatory hearings shall be the rules and regulations and procedures adopted for the hearing of all petitions for rent adjustment and for eviction, unless at the time of the filing of the petition and before the notice of Board action shall be published, the Board shall by vote determine to use an alternative procedure which nonetheless shall be consistent with the provisions of Massachusetts General Laws Chapter 30A, Sections 10, 11 and 12.

SECTION 8: JUDICIAL REVIEW.

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- a. The Brockton Division of the District Court Department shall have original jurisdiction, concurrently with the Superior Court Department of the Trial Court, Plymouth County, of all petitions for review brought pursuant to Section 14 of Chapter 30A of the General Laws.
- b. The Superior Court shall have jurisdiction to enforce the provisions of Chapter 393 of the Acts of 1986 and the West Bridgewater Mobile Home Park Rent Control By-Law and may restrain violations thereof.

SECTION 9. INFORMATION TO BE SUPPLIED IN CONNECTION WITH ACTIONS FOR RENT ADJUSTMENT. In connection with a petition for adjustment of maximum rent, or by action initiated by the Board for adjustment of maximum rent, all operating expenses submitted to the Board for review shall be indexed alphabetically and all documents or other information within each operating expense shall be organized chronologically. Further, should there be a written demand by the Board for additional information, the petitioner shall furnish such additional information to the Board within fifteen (15) days after said written request has been made and, if required, on forms approved by the Board. With regard to any petition, for an upward adjustment of rent, the Board may request the following documents and any other information it deems necessary:

- a. Only actual expenses for the year(s) in review will be considered by the Board. The Board will not consider expenses that are estimations for a future year. The Board also will not consider expenses that were not paid in the year(s) being petitioned for. The Board may consider such expenses as part of a future petition after such expenses have in fact been paid.
- b. Financial statements for the three (3) years preceding the filing of the petition. Such statements shall clearly set forth income, sources of income, and a detailed breakdown of operating expenses.
- c. An interim updated financial statement showing income and operating expenses for the current year.
- d. A complete and current balance sheet.
- e. A statement of the number of employees employed by the mobile home park, setting forth their job titles, job descriptions and salaries.
- f. Current capital improvements and dates of completion.
- g. Proposed capital improvements and proposed dates of completion.
- h. Proposed budget for the year in which the increase is to be effective.
- i. A statement of the rate of return sought and the assessed valuation of the property.
- j. Where mileage of a vehicle(s) is sought to be included within the petition, a mileage log for the year(s) of operating expenses to be reviewed by the Board is required to be filed as a part of the petition for rent adjustment. The mileage log filed with the Board shall be compliant with IRS guidelines for the deduction of business miles on a federal tax return. Mileage approved by the Board will be calculated based on the IRS regulations and guidelines for the calculation of such mileage that are current at that time.

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After the original petition has been filed, supplemental documentation may be filed within sixty (60) days thereafter. After the sixty (60) day filing period for supplemental documentation, additional documentation or other materials in support of the petition may only be filed at the commencement of the public hearing on the petition. Copies of documentation filed at the commencement of the public hearing by a petitioner must be provided to either a representative of any Intervenor or any counsel retained by said Intervenor. Prior to the completion of the public hearing, a Summary of Expenses requested shall be filed and said Summary must be organized in the same manner as the original petition. Said Summary shall include the original petition amount(s) and the changes in said amount(s). Supporting commentary must be provided about why the changes in the amount(s) were made.

In any case where the owner seeking an upward adjustment in rent owns and operates more than one mobile home park, all financial documentation submitted shall pertain solely to the operation of the mobile home park for which the upward adjustment is sought.

SECTION 10: EVICTIONS.

- a. Pursuant to the provisions of Massachusetts General Laws Chapter 140, Section 32J, no owner shall bring an action to recover possession of a mobile home park accommodation unless:
 - (1) the tenant has failed to pay the rent to which the owner is entitled; or
 - (2) the tenant is in substantial violation of any enforceable rule of the mobile home park; or
 - (3) the tenant is in violation of any laws or by-laws which protect the health or safety of other mobile home park residents; or
 - (4) there is a discontinuance in good faith by the owner of the use of part or all of the land owned and licensed by the owner as a mobile home park, subject to any existing contractual rights between the owner and the tenants located in the mobile home park. No such discontinuance shall be valid for any mobile home park sold by the owner and for which a mobile home site was made available at the time of the said sale by the owner for a period of five (5) years from the date of said sale.
- c. The owner must provide the Board with satisfactory evidence that written notice of the reason or reasons for the proposed termination of the tenancy has been given to the tenant in a timely manner and that the tenant has failed to cure the alleged violation in a timely manner, all as is provided for in said Section 32J of Chapter 140.
- d. An owner shall file an application in duplicate for obtaining a certificate of eviction with a filing fee of \$25.00 for each unit for which eviction is sought. The fee shall be paid by check or money order, made payable to the Town of West Bridgewater, at the time of the filing of the application. The application shall be signed by the owner under the pains and penalties of perjury and shall describe in detail the proposed reason or reasons for the proposed eviction. A copy of the lease and the rules and regulations of the mobile home park shall be submitted with the application where the tenant is claimed to have violated either the lease or the park regulations.
 - (1) An application for certificate of eviction which fails to comply with the foregoing provisions of subparagraph c shall not be processed until such defects have been corrected or removed.
 - (2) The Board shall by certified mail, return receipt requested, forward to the tenant or tenants listed on the application for a certificate of eviction and to the park owner a copy of the application, together with a notice of the date, time and place of the hearing.

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- (3) An application or an amended application for eviction shall be scheduled for a hearing not less than ten (10) days or more than twenty-one (21) days from the date on which the notice of hearing is mailed by the Board to the parties. Hearings shall be conducted by the Board in accordance with the procedures set forth in Massachusetts General Laws Chapter 30A.
 - (4) A request for postponement of the hearing will be granted for good cause shown.
 - (5) At the hearing, the owner shall have the burden of establishing the facts and basis for the eviction. Testimony shall be taken under oath, and any party shall have the right to cross examine witnesses of the other party and to introduce evidence in support of its position.
 - (6) A written order granting or denying a certificate of eviction shall be issued by the Board within thirty (30) days of the date of the final hearing, and its order denying a certificate of eviction shall be a defense in any summary process action commenced by the owner against the tenant or tenants named on the application for a certificate of eviction.
- e. An owner, who seeks to recover possession of a mobile home park accommodation without a certificate of eviction, shall be deemed to have violated the Mobile Home Park Rent Control By-Law.
- f. The provisions of this Section shall be construed as additional restrictions on the right to recover possession of a mobile home park accommodation. No provision of this Section shall entitle any person to recover possession of such a mobile home park accommodation. Upon a decision of said Board concerning the granting or withholding of a certificate of eviction, either party concerned may appeal to the Brockton Division of the District Court Department, or Superior Court Department of the Trial Court, Plymouth County, within thirty (30) calendar days after such decision.

SECTION 11: SEVERABILITY. If any provision of these rules and regulations or the application of such provision to any person or circumstance shall be held invalid, the validity of other provisions or the application of such provision to other persons or circumstances shall not be thereby affected.