

RENT STABILIZATION ORDINANCE

Sec. 34-400. Title; Purpose.

An Ordinance of the Town of Old Orchard Beach Adding Chapter 34, Article V to the Old Orchard Beach Municipal Code establishing rent stabilization for long-term rentals over 30 days. This Article shall be known as the “Town of Old Orchard Beach Rent Stabilization Ordinance.”

The purpose of this Ordinance is to address increasing rental costs within the Town; to stabilize and make more predictable future rent increases; and to provide Landlords with a fair and reasonable return on their investment. As the Town of Old Orchard Beach currently does not regulate rental amounts or rent increases on apartment buildings to ensure that rents remain affordable, the citizens of Old Orchard Beach enact the following:

Sec. 34-401. Definitions.

Notwithstanding any other provision of this document to the contrary, as used in this Article, the following words and phrases have the meanings ascribed to them in this Section.

Administrator means the Administrator of the Town’s Rent Stabilization Program. The Administrator shall be the Community Development Director or other such Town employee as the Town Manager may appoint to serve as Administrator.

Annual Rent Adjustment means the maximum percentage amount by which the Rent for an existing tenancy in a Housing Unit may be increased within a 12-month period.

Arbitrator refers to a person, who is appointed by the Administrator, and is neither a renter or a Landlord, nor has an interest in an Apartment Building of a nature that would require disqualification under the provisions of this Article.

Arms-Length Transaction is a deal between two parties, who are unrelated and act independently, ensuring that both negotiate terms based on their own best interests without any influence from personal relationships. For example, this type of transaction is common in the real estate industry as it helps establish fair market value and maintain market integrity.

Applicability Date means the date that the Rent Stabilization Ordinance goes into effect after being enacted by the Voters of the Town.

Base Rent means the reference point from which the Annual Rent Adjustment shall be determined. For tenancies commencing on or before January 1, 2026, which remain in effect as of the Applicability Date, the initial Base Rent is the monthly rent in effect on January 1, 2026. For tenancies commencing after January 1, 2026, that are in effect as of or after the Applicability Date, the initial Base Rent is the monthly rent as set forth in the Lease or Rental Agreement, or if there is no Lease or Rental Agreement, the amount charged by the Landlord upon the commencement of the first residential tenancy in the Housing Unit after January 1, 2026.

Capital Improvements means those new improvements, replacements, upgrades, or remodeling, which materially add to the value of a property and appreciably prolong its useful life or adapt it to new uses. Capital Improvements consist of more than ordinary maintenance and/or repairs and may be amortized over the useful remaining life of the improvement to the property. Capital Improvement costs shall include all costs reasonably and necessarily related to the planning, engineering, and construction of the improvement or replacement and shall include debt service costs, if any, incurred as a direct result of the Capital Improvement or replacement.

Consumer Price Index or "CPI" shall mean the Consumer Price Index for All Urban Consumers in the Greater Boston area equal to 100 percent of the change in the (CPI-U) for the Greater Boston Metro Area for the preceding twelve (12) months, as published in August by the United States Bureau of Labor Statistics.

Effective Date means the date that the Rent Stabilization Ordinance was approved by the voters of Old Orchard Beach and went into effect.

General Assistance Program means the service administered by a municipality for the immediate aid of persons, who are unable to provide the basic necessities essential to maintain themselves or their families as further defined in 22 M.R.S. § 4301(5), as may be amended from time to time. 22 M.R.S. § 4301(5) defines a "general assistance program" as a service administered by a municipality to provide immediate aid to individuals unable to meet their basic necessities. This program offers specific amounts and types of aid for defined needs for a limited time, rather than being a continuous welfare program. *Title 22, §4301 Definitions 3* refers to the term "Eligible person," which means a person qualified to receive general assistance from a municipality according to eligibility standards set by municipal officers. This definition excludes individuals who are fugitives from justice. For further information, please see <https://www.mainelegislature.org/legis/statutes/22/title22sec4301.html>.

Housing Services means those services that the Landlord is contractually required to provide as of the date on which the currently effective Base Rent for that Housing Unit was established in connection with a Lease Tenancy or Tenancy at Will in a Housing Unit, which may include, but is not limited to: repairs, replacement, maintenance, painting, light, heat, water, elevator service, laundry facilities and privileges, janitor service, trash removal, furnishings, appliances, telephone, parking, and any rights permitted to the Tenant under the terms of a Lease or Rental Agreement, including the right to have a specific number of occupants and the right to keep pets; and any other benefits, privileges or access to facilities.

Housing Unit means one or more rooms, including a building, physically located within the Town and that form a single unit used or intended for use as a residence under the terms of a Lease or Rental Agreement.

Landlord means the Owner(s) of a Housing Unit, or the Sub-lessor(s) of a Housing Unit, and any Person acting as an agent, representative, successor, or assignee of any such Owner or Sub-lessor with respect to the Housing Unit.

Lease means a written agreement between, and signed by a Landlord and a Tenant, or a Sub-lessor and a Subtenant, for the Lease or Sub-lease of a Housing Unit for residential purposes during a Lease Term, including any amendments to, and extensions of, that agreement, but shall not include any agreement to the extent that it creates a Tenancy at Will.

Lease Tenancy means any Tenancy, other than a Tenancy at Will, created in a Lease.

Lease Term means the period, including any extensions of the same, during which time, the Tenancy granted to the Tenant in a Lease is to run as provided in that Lease, unless earlier terminated as provided in that Lease for breach of its terms or other contingent event.

Notice to Increase Rent means a written notice provided by a Landlord to a Tenant that sets forth the amount of the increase in the monthly rent.

Owner means any Person that holds title, singly or with others, to one or more Housing Units in any manner that permits that Owner, by itself or in combination with other Owners of any such Housing Unit, to create a Lease Tenancy or Tenancy at Will in those Housing Units.

Person means an individual, corporation, business or other trust, estate, limited or general partnership, limited liability company, association, joint venture, affiliate, or any other legal or commercial organization, and also includes any employee, agent, member, manager, independent contractor, servant, or other representative of the same with respect to a Housing Unit.

Rent means the monetary payment by a Tenant to a Landlord for the use and occupancy of a Housing Unit and any other charge or fee imposed for a Housing Service in the terms of a Lease or Rental Agreement other than increases resulting from, and not exceeding, increases in costs or expenses imposed by parties other than the Landlord, but which are incurred by the Landlord and that under the terms of the Lease or Rental Agreement are to be paid by the Tenant.

Rental Agreement means any written or oral agreement that creates or extends a Tenancy at Will for residential purposes in a Housing Unit.

Tenant means any individual, other than a Landlord, who becomes entitled to possession of a Housing Unit for residential purposes as a Tenant at Will or as the holder of a Lease Tenancy.

Tenant at Will means any Person, who is in possession of, or is entitled to be in possession of a Housing Unit as a party to and under the terms of a Rental Agreement. (*Maine Title 14, §6002: Tenancy at will; buildings on land of another.*) A Landlord may terminate the victim's tenancy in a tenancy-at-will or a lease with a term of less than one year with 7 days' written notice and documentation required pursuant to *Maine Title 14, §6001, subsection 6, paragraph H*, due to an incident or threat of domestic violence, sexual assault, stalking or other criminal activity.

Tenancy at Will means a Tenancy at Will as that term is used in *Maine Title 14 §6001, §6002* pertaining to the termination of Tenancies at Will in Maine. This statute outlines the requirements for both landlords and tenants regarding notice periods and the right to contest termination, as may be amended from time to time, in or for any Housing Unit. (*Maine Title 14 §6001 addresses the availability of remedies for forcible entry and detainer actions against tenants and others, while §6002 pertains to tenancy at will and the rights of landlords and tenants regarding property on another's land.*

Special Circumstances for 7-Day Notice: In certain situations, a landlord may terminate a tenancy with a 7-day written notice if they can demonstrate specific grounds, including: 1) Substantial damage caused by the tenant or their invitees; 2) Nuisance or violation of laws affecting the premises; 3) Non-payment of rent for 7 days or more; and 4) Acts of domestic violence or threats of violence.

Service of Notice: If a landlord has made at least three good faith efforts to serve the tenant personally, they may also send the notice via first-class mail to the tenant's last known address and leave it at the tenant's usual place of residence. This statute is crucial for understanding the rights and responsibilities of both landlords and tenants in Maine regarding tenancy termination. For more information: <https://www.mainelegislature.org/legis/statutes/14/title14ch709sec0.html>

Town Information Sheet is prepared by the Town and will provide information about the Rent Stabilization Ordinance and includes the Administrator's contact information. A copy of this information sheet is to be provided by the Landlord to the Tenant prior to signing a rental lease.

Section 34-402.-Applicability.

The Town of Old Orchard Beach hereby adopts a rent stabilization ordinance pursuant to a citizen's referendum to impose a limit on the amount of an annual rent increase for a residential dwelling unit within the Municipality. This Article applies to every Apartment Building within the Town, except those to which an exemption applies, such as the following:

Sec. 34-403. Exemptions:

The following types of residential dwelling units within a Municipality that adopts the provisions of this Article are exempt from rent stabilization:

1. *Owner-occupied units:* Residential dwelling units in owner-occupied buildings with four or fewer residential dwelling units;
2. *Housing authority units:* Residential dwelling units subject to regulation by a Housing Authority as defined in *Title 30-A, Section 4702*, which provides information relevant to municipal housing authorities in Maine, and is responsible for administering housing programs, including the Section 8 program, officially known as the Housing Choice Voucher Program. This is a federal initiative designed to assist low-income families, the elderly, and individuals with disabilities in affording decent, safe, and sanitary housing.

The program, administered by local Public Housing Authorities (PHAs), enables recipients to choose housing that meets the program's requirements, including apartments, townhouses, and single-family homes. The essential component of Section 8 is the voucher system, which subsidizes rental payments, which means that participants pay a proportion of their income towards rent, and the voucher covers the remainder, easing the financial burden on families striving to find housing stability. Apartment buildings in Maine whose Renters receive a Section 8 voucher for subsidized housing are not subject to the provisions of a rent stabilization ordinance as are other renters in the same building. *Title 30-A, Section 4702 of the Maine State Constitution pertains to municipal housing authorities, granting them exclusive jurisdiction within their municipal boundaries to administer tenant-based housing choice vouchers under Section 8 of the United States Housing Act of 1937. This section outlines the authority and responsibilities of municipal housing authorities in managing housing assistance programs.*

3. *Any Housing Unit or housing accommodations* in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly and/or the disabled, or a continuing care retirement community facility; *United States Code § 1437f(o)(12) pertains to the provisions for housing assistance payments, specifically addressing the requirements and conditions under which these payments are made to assist low-income families in obtaining decent housing. It outlines the responsibilities of public housing agencies in managing these assistance programs.*
4. *Dormitories.* Dormitories owned or managed by an educational institution where sleeping accommodations are provided in single rooms or in a series of closely associated rooms.
5. *Short-term rentals* provided to short-term guests for a temporary stay of less than 30 days.
6. *Single-family Owner-occupied residences*, including a residence in which the Owner-occupant rents or leases an "authorized accessory dwelling unit.
7. *Housing Units and housing accommodations* in which the Tenant shares bathroom or kitchen facilities with an individual Owner who maintains their principal residence at the residential real property.

Section 34-404.-Stabilization of Rents.

The Town of Old Orchard Beach hereby adopts a rent stabilization ordinance pursuant to a citizens' referendum to impose a limit on the amount of an annual rent increase for a residential dwelling unit within the municipality.

A. It shall be unlawful to demand, accept, receive, or retain Rent for an Apartment in excess of the Base Rent plus any increases that are authorized by this Article, unless an exemption applies.

B. Base Rent Calculation.

1. Except as provided herein, a Landlord shall not demand, accept, or retain Rent for an Apartment exceeding the Rent in effect for that Apartment on January 1, 2026. In the event that an Apartment was not occupied on January 1, 2026, the Base Rent for that Apartment shall be the highest Apartment Rent charged by the Landlord for an Apartment in the Apartment Building on January 1, 2026, plus any Rent Increases allowed thereafter pursuant to this Article.

2. If an Apartment is exempted from the provisions of this Article because it is the subject of a rental agreement, and that agreement expires or is terminated by operation of law and is not renewed, then the Base Rent, until the next annual adjustment pursuant to this Article, shall be the average of the three highest rents of Comparable Apartments on January 1, 2026, plus any Rent Increases allowed thereafter pursuant to this Article.

3. It shall be assumed that the Base Rent yields a fair return.

C. A Landlord may seek an adjustment to the initial Base Rent if it can be clearly established that an adjustment is necessary for the Landlord to receive a fair return. In seeking an adjustment to the initial Base Rent under this section, the procedures set forth in *Section 34-408-Information Required from the Landlord* and *Section 34-409.-Rent Dispute Resolution Process* shall apply. The guidelines for determining an adjustment to the initial Base Rent are set forth in *Section 34-414.- Special Base Year NOI/Base Rent Adjustments*.

Section 34-405.-Vacancy Control – Establishment of a New Base Rent.

A. A Landlord shall be permitted to increase the Apartment Rent by up to 10 percent on a one-time basis whether or not the 5% plus the annual change in the Consumer Price Index is lower than 10 percent to cover the costs of refurbishment of an Apartment whenever a lawful vacancy occurs, and this amount shall be considered the new Base Rent for an Apartment providing the tenancy is terminated voluntarily. For the purposes of this Article, a “lawful Apartment vacancy” shall mean:

1) A vacancy occurring because of the termination of the tenancy of a Renter; 2) A vacancy occurring because of the abandonment of an apartment, and; 3) A vacancy occurring due to the sale of an Apartment Building onsite to any Landlord-approved purchaser pursuant to the Maine Statute: *M.R.S. Title 14: Chapter 710, Rental Property, §6021. Implied warranty and covenant of habitability.*¹

¹ <https://legislature.maine.gov/statutes/14/title14sec6021.html>

B. Any alleged violation of this *Section 34-405.-Vacancy Control – Establishment of a New Base Rent* shall be subject to arbitration pursuant to *Section 34-409.-Rent Dispute Resolution Process*.

A Landlord may establish a new Base Rent for a Tenant under a new Lease or Rental Agreement entered into after a Housing Unit has become completely vacant. This does not apply to partial changes in the occupancy of a Housing Unit where one or more of the occupants of the Housing Unit remains an occupant in lawful possession of the Housing Unit or where a lawful subleasee or assignee remains in possession of the Housing Unit. However, nothing herein shall be construed to enlarge or diminish an Owner's right to withhold consent to a sublease or assignment.

Section 34-406.-Anniversary Date.

The anniversary date for all Rent Increases in an Apartment Building shall be the date of the last rent increase or January 1, 2026, enacted by the Landlord or Owner. Rent Increases, if any, except as specified below, shall be enacted only on the anniversary date. The Landlord or Owner shall post the anniversary date in the building office or areas where it can easily be seen by Renters.

Section 34-407.-Rent Increase Limitations.

A. As of the effective date of this Article, no Rent Increases shall be implemented within 12 months of the effective date of the preceding Rent Increase unless otherwise authorized under this Article. The permissible annual increase shall be the lesser of:

1. 5 percent of the Base Rent plus the annual change in the Consumer Price Index or
2. 10 percent of the Base Rent, whichever is lower.

B. A Landlord shall not implement any additional Rent Increase within a 12-month period above the authorized amount pursuant to *Section 34-407(A).-Rent Increase Limitations*, unless otherwise provided in this Ordinance.

C. In the event that a Landlord wishes to implement a Rent Increase on the anniversary date or within a 12-month period more than the amount permitted in subsection (A) of this *Section 34-407.-Rent Increase Limitations*; the procedures set forth in *Section 34-408.-Information Required from the Landlord*; and *Section 34-409.-Rent Dispute Resolution Process* shall apply.

D. If the Landlord wishes to implement a rent increase higher than what is allowed under this Ordinance, the matter may be referred by the Administrator to the Town Council for adjudication. If the matter cannot be resolved by the Town Council, a professional arbitrator may be hired at the expense of the Landlord/Owner of the Apartment Building. The Arbitrator may reduce or deny the proposed Rent Increase pursuant to *Section 34-407(B) or (C).-Rent Increase*

Limitations to a figure based on the evidence submitted by the Landlord/Owner to be a fair return on their investment.

E. Any notice of a Rent Increase shall be provided in writing to Affected Renters at least 90 days before any Rent Increase is to take effect. The notice shall include: a) the amount of the rent increase; b) the amount of the new rent; c) the date on which the rent increase becomes effective.

F. The Tenant shall have at least forty-five (45) days from the date the Tenant receives a written notice of the rent increase to respond to the Landlord regarding acceptance or rejection of the rent increase.

G. Transferal of ownership does not affect rent control. All rent control rules and regulations still apply to the building. If the previous landlord already increased the rent, the new landlord will not be able to increase the rent until the 12-month period is over.

Section 34-408.-Information Required from the Landlord.

A. Within 30 days after the effective date of this Article and upon the re-renting of each Apartment thereafter, the Landlord shall supply each Affected Renter or prospective Renter with a copy of the Town Information Sheet.

B. Whenever the Landlord serves the notice of a proposed Rent Increase, except a notice of proposed Rent Increase implemented pursuant to *Section 34-407.-Rent Increase Limitations*, the Landlord shall simultaneously serve a written notice that sets forth the following:

1. The amount of the Rent Increase both in dollars and as a percentage of existing Rent and documentation supporting the proposed increase, including, but not limited to: a summary of the unavoidable increases in Maintenance and Operating Expenses; a statement of the cost, nature, amortization, and allocation among the Apartments of any Substantial Rehabilitation or Capital Improvement; a summary of the increased cost of the Landlord's debt service and the date and nature of the sale or refinancing transaction; a summary of the Landlord's Net Operating Income of the preceding 24 months; and other relevant information that supports the level of the Rent Increase desired;

2. The availability of a current listing of all the other Affected Apartment dwellers and the apartments which they rent.

3. The address and telephone number of the Administrator and a statement that the Renter is encouraged to contact the Administrator for an explanation of this Article.

4. A copy of this Ordinance prepared and provided by the Administrator that initiates the rent review process established by this Article.

5. The time and place for a mandatory meeting with the Landlord and the Renters to be held on the Apartment Building premises. The meeting shall be held within 10 days from the

service of the Notice of the proposed Rent Increase. The Landlord and the Renters shall endeavor to resolve the dispute informally.

6. In the event the dispute is not resolved informally, the Landlord shall, within 10 days of the meeting required in *Section 34-408(B)(5).-Information Required from the Landlord*, file with the Administrator two copies of the notice and summary of expenses required in *Section 34-408(B)(1).-Information Required from the Landlord*, along with two copies of all relevant financial records, bills or documents that substantiate the proposed increase. This financial information shall be verified in writing by an auditor or certified public accountant or certified in writing as true and correct under penalty of perjury by the Landlord. This information will be made available at Town Hall for inspection and copying by the Affected Renters.

C. A Landlord's failure to provide any information, documents, or notices required by this Section shall not be entitled to collect any Rent Increase that might otherwise be awarded by an Arbitrator. Such failure shall also be a defense for the Renter in any action brought by the Landlord to recover possession of an Apartment or to collect any Rent Increase from the Renter.

D. An Affected Renter, who is given notice of a Rent Increase, is entitled to file a petition for rent review as provided in *Section 34-409.-Rent Dispute Resolution Process* regardless of whether the Landlord has provided the Affected Renter with all the information, documents, and notices required by this Article.

Section 34-409.-Rent Dispute Resolution Process.

A. If a Rent Increase is proposed pursuant to *Section 34-407(B)-(C).-Rent Increase Limitations*, then after service of the Rent Increase notice and the production of the accompanying information required by *Section 34-408.-Information Required from the Landlord and Section 34-409.-Rent Dispute Resolution Process*, the Landlord shall set a time and place for an informational meeting with the Affected Renters on the Apartment Building premises or an alternative location with the agreement of the Affected Renters or the Affected Renters' Representative. The informational meeting shall be held within 20 days of the date from the service of the Notice of a Proposed Rent Increase. The Landlord shall give the Affected Renters or the Affected Renters' Representative, and the Administrator at least 10 days' advance written notice of this meeting.

B. Petition Procedures.

1. If discussions between the Landlord and the Affected Renters do not resolve the dispute, the Affected Renters or the Affected Renters' Representative may file with the Administrator a petition for rent review with a copy of the Notice of Rent Increase within 30 days after receipt of the Rent Increase notice.

2. As soon as possible after a petition has been filed with respect to Apartments that are within an Apartment Building, the Administrator shall, to the extent possible, consistent with

the time limitations provided herein, consolidate petitions involving similarly situated Affected Renters.

3. Upon the filing of a petition, the Rent Increase shall not be implemented until and to the extent it is awarded by an Arbitrator or until the petition is abandoned by the Affected Renters or the Affected Renters' Representative. "Abandoned" as used herein shall mean a failure to actively pursue the necessary steps to prepare the Renters' case for the arbitration.

C. Contents of Petition.

1. The petition for rent review shall: a) set forth the total number of affected Renters in the Apartment Building; b) identify the names of the Renters who occupy each Apartment; and c) state the date upon which the notice of the Rent Increase was received by the Renters.

2. After obtaining the required signatures of the Affected Renters, the Renters shall deliver the petition or mail it by certified mail to the Administrator at the following address: Town of Old Orchard Beach, 1 Portland Avenue, Old Orchard Beach, ME 04064. No petition shall be accepted unless it is accompanied by the required signatures of the Affected Renters and is received in the Office of the Administrator within the 30-day period set forth in subsection (B) of this *Section 34-409.-Rent Dispute Resolution Process*. The Administrator shall provide a copy of the completed petition to the Landlord and the Arbitrator.

D. After the Administrator has accepted a petition for rent review, the Administrator shall remit to the Landlord and the petition's Affected Renters or the Renters' Representative, an informational questionnaire in such form as the Administrator may prescribe. The completed informational questionnaire must be returned to the Administrator at least five business days prior to the date scheduled for a hearing of the petition by the Arbitrator. The Administrator shall provide copies of the completed informational questionnaire to the Arbitrator, the Landlord, and the Affected Renters or the Affected Renters' Representative.

E. Upon receipt of a petition or upon an Affected Renter's claim of a vacancy control rent increase violation pursuant to *Section 34-405.-Vacancy Control – Establishment of a New Base Rent*, the Administrator shall assign an Arbitrator. The Administrator shall set a date for the arbitration hearing. The Landlord and all Affected Renters shall be notified immediately in writing by the Administrator of the date, time, and place of the hearing either in person or by ordinary mail. Any documents to be presented at the hearing by either the Landlord or the Affected Renters, shall be served on the other party, the Administrator, and the Arbitrator at least 10 working days before the hearing by mail or in-person delivery. All financial documents submitted shall be verified in writing by an auditor or certified public accountant or certified in writing as true and correct under penalty of perjury by the Landlord.

F. Arbitration Hearing.

1. The Landlord and any Affected Renters, or their representatives, may appear at the hearing and offer oral and documentary evidence. The burden of proving that the amount of Rent Increase is reasonable shall be on the Landlord by a preponderance of the evidence. The hearing need not be conducted according to technical rules relating to evidence and witnesses.

2. Any jurisdictional or procedural dispute regarding the process as set forth herein may be decided by the Arbitrator.

3. The Arbitrator shall, within 14 days at the conclusion of the hearing, submit by mail a written statement of the decision and the reasons for the decision to the Administrator. The Administrator shall mail copies of the decision to the Landlord and the Affected Renters.

4. The decision of the Arbitrator shall be final and binding upon the Landlord and the Affected Renters, and subject to the provisions of the Maine Statute: *Title 14, Chapter 710, Rental Property*.²

G. It is the intent of the Town Council to have a final decision rendered within 90 days of the initial notice of the Rent Increase. The Administrator or the Arbitrator may, however, modify the time periods set forth herein at his or her discretion to promote the purposes of this Article.

Section 34-410.-Standards of Review.

A. The Arbitrator shall determine whether Rent Increases proposed or imposed by the Landlord are reasonable based upon the circumstances and this Article. The Arbitrator shall take into consideration that the purpose of this Article is to permit Landlords a just and reasonable return while protecting Renters from unnecessary or unreasonable Rent Increases.

B. The Arbitrator shall not allow more than one Rent Increase per Apartment over a 12-month period unless a Landlord can clearly establish that the Rent Increase is necessary to cover costs of operation, maintenance, Capital Improvements, and/or Substantial Rehabilitation not reasonably foreseeable at the time that the Notice of the preceding Rent Increase was given.

C. Maintenance of Net Operating Income.

1. It shall be presumed that the base year Net Operating Income adjusted by 75 percent of the increase or decrease in the Consumer Price Index (CPI) yields a fair return. Landlords shall be entitled to maintain and increase their Net Operating Income in accordance with this *Section 34-410.-Standards of Review*. The Arbitrator shall make a determination of whether the Landlord's Net Operating Income yields a fair return under this standard.

² <https://legislature.maine.gov/statutes/14/title14ch710sec0.html>

2. The formula for calculating the fair NOI return shall be as follows:

Fair NOI = Base Year NOI $\times$ (1 + .75) % of the preceding years' annual average change in the Consumer Price Index (CPI) for all urban consumers (CPI-U) for the greater Boston region or any successor designation of that index as reported and published by the U.S. Department of Labor of Labor Statistics.³

3. Except as provided in *Section 34-414.-Special Base Year NOI/Base Rent Adjustments*, it shall be presumed that the Net Operating Income produced by the Apartment Building during the base year provided a fair return.

4. Calendar year 2026 shall be established as the base year for purposes of determining whether a Landlord's Net Operating Income provides a fair return. If a satisfactory base year is, in the Arbitrator's opinion, not otherwise available, such as where a Landlord did not own the subject property in the base year and/or the 2026 Operating Expenses are not available, the Arbitrator may take any relevant evidence into account to construct a base year.

5. The base year Consumer Price Index shall be the CPI level in January 2026.

6. The percentage change in the CPI shall be calculated by using the preceding year's average CPI prior to the Notice of Increase.

7. The comparison NOI year shall be the most recent calendar or fiscal year, unless another period is found by the Arbitrator to be more appropriate.

D. A landlord may seek a temporary rent increase or a one-time special assessment fee, which would have to be approved by the Town Administrator and presented to the Town Council during a public hearing for their review and subsequent approval or disapproval with recommendations based upon the cost of a completed new Capital Improvement, such as major upgrades or repairs to the Apartment Building sewer system; the removal and replacement of aging rusting, leaking metal pipes as part of the delivery system of water from a nearby well and/or the municipal water supply to the Apartment Building; the removal of multiple unsafe trees and/or heavy branches due to a major storm and/or flooding event within the confines of the area of the Apartment Building as defined in *Section 34-401.-Definitions: F. "Capital Improvements"*, together with a reasonable return upon the Capital Improvement Investment, only if the Landlord has:

1. Established by written verification or other competent evidence to the satisfaction of the Arbitrator that the costs of the new Capital Improvement are factually correct as claimed.

³ https://www.bls.gov/regions/northeast/news-release/consumerpriceindex_boston.htm

2. Cost-factored and amortized the costs of the Capital Improvement over the good faith estimate of the remaining life of the improvement, but in no event for a period of less than 60 months, and;

3. Allocated the increase among Affected Renters on a per apartment basis and separately itemized such increase on the Rent bill. Such increases shall not be considered included in the Base Rent for purposes of the annual permissible Rent Increases pursuant to *Section 34-407.-Rent Increase Limitations*.

E. Mitigating Factors. In evaluating a Rent Increase, the Arbitrator shall also consider the following factors in addition to any other factors the Arbitrator deems relevant in order to determine whether there are any circumstances that may justify a reduction in the proposed Rent Increase:

1. In the event the Landlord reduces or eliminates any Housing Services, a proportionate share of the cost savings due to such reduction or elimination shall be passed on in the form of a decrease in existing Rent or a decrease in the amount of a Rent Increase otherwise proposed or permitted by this Article.

2. The physical condition of the Apartment(s) or Apartment Building of which it is a part, including the quantity and quality of maintenance and repairs performed during the preceding 12 months.

F. Notwithstanding any other provision to the contrary, no provision of this Article shall be applied to prohibit the granting of a Rent Increase that is demonstrated to be necessary to provide a Landlord with a fair and reasonable return.

Section 34-411.-Net Operating Income.

In evaluating a Rent Increase imposed by a Landlord to maintain the Landlord's Net Operating Income, "Net Operating Income" (NOI) shall mean the Gross Income as defined in *Section 34-412.-Gross Income* of the Apartment Building less the Operating Expenses as defined in *Section 34-413.-Operating Expenses*.

Section 34-412.-Gross Income.

For the purposes of calculating the Net Operating Income pursuant to *Section 412, "Gross Income"* shall mean the sum of the following:

A. Gross Apartment rents computed as gross space rental income at 100 percent occupancy; plus

B. Other income generated as a result of the operation of the Apartment Building, including, but not limited to, fees for services actually rendered; plus

C. Revenue received by a Landlord from the passing through of water, sewer, refuse collection, gas, and electricity to Renters where such utilities or services are billed individually to the Renters by the Landlord. Such revenue shall equal the total cost of the utilities or services to the Renters minus the amount paid by the Landlord for such utilities or services to the utility or service provider; minus:

D. Uncollected Apartment Rents due to vacancy and bad debts to the extent that the same are beyond a Landlord's control. Uncollected Apartment Rents in excess of three percent of gross Apartment Rents shall be presumed to be unreasonable unless established otherwise and shall not be included in computing Gross Income. If uncollected Apartment Rents must be estimated, then the average of the preceding three years' experience shall be used.

Section 34-413.-Operating Expenses.

A. For purposes of calculating Net Operating Income pursuant to *Section 34-413*, "*Operating Expenses*" may include:

1. Real property taxes and assessments.
2. Utility costs to the extent that they represent costs to the Landlord, which are not passed through to the Renters of the Apartment Building.
3. Management expenses (including the compensation of administrative personnel, including the value of any Apartment offered as part of compensation for such services), reasonable and necessary advertising to ensure occupancy, legal and accounting services as permitted herein, and other managerial expenses. Management expenses are presumed to be not more than five percent of Gross Income, unless established otherwise.
4. In addition to the management expenses listed above, if the Landlord performs managerial or maintenance services, which are uncompensated, the Landlord may include the reasonable value of such services or Operating Expenses. Landlord-performed labor shall be limited to five percent of Gross Income unless the Arbitrator finds that such a limitation would be substantially unfair in a given case. A Landlord must devote substantially all of the Landlord's time, that is at least 40 hours per week, to performing such managerial or maintenance services in order to warrant the full five percent credit as an Operating Expense. No credit for such services shall be authorized unless a Landlord documents the hours utilized in performing such services and the nature of the services provided.
5. Normal repair and maintenance expenses for the grounds and common facilities, including, but not limited to, landscaping, cleaning, and repair of equipment and facilities.
6. Operating supplies, such as janitorial supplies, gardening supplies, and stationery.
7. Insurance premiums prorated over the life of the policy.
8. Other taxes, fees, and permits, except as provided in *Section 34-418.-Fees*.

9. Reserves for replacement of long-term improvements or facilities provided that accumulated reserves shall not exceed five percent of the Gross Income.

10. A Landlord may include the cost of necessary Capital Improvement or Substantial Rehabilitation expenditures, which would exceed existing reserves for replacement. A necessary Capital Improvement shall be an improvement required to maintain the common facilities and areas of the Apartment Building in a decent, safe, and sanitary condition or to maintain the existing level of Apartment Building amenities and services. In the event that the necessary Capital Improvement or Substantial Rehabilitation expenditure is necessitated as the result of an accident, disaster, or other event for which the Landlord received insurance or other benefits, only those costs otherwise allowable and exceeding such benefits, may be calculated as Operating Expenses.

Expenditures for necessary Capital Improvements to upgrade existing facilities, together with a reasonable return upon the Capital Improvement investment made by the Landlord, shall be an allowable Operating Expense only if the Landlord has:

a. Informed the Affected Renters prior to initiating construction or implementation of the Capital Improvement regarding the nature, purpose, and estimated cost of the improvement; and

b. Established by written verification or other competent evidence to the satisfaction of the Arbitrator that the costs of Capital Improvement provided to the Renters for their general use are factually correct as claimed; and

c. Cost-factored and amortized the costs of the improvement over the good faith estimate of the remaining life of the improvement, but in no event for a period of less than 60 months; and

d. Allocated the increase amongst the Affected Renters on a per apartment basis and separately itemized, such an increase on the Rent bill. Such increases shall not be considered included in the Base Rent for purposes of the annual permissible Rent Increases pursuant to *Section 34-407.-Rent Increase Limitations*.

11. Increases in interest payments, which result from one of the following situations or the equivalent thereof:

a. Refinancing of the outstanding principal owed for the acquisition of an Apartment Building where such refinancing is mandated by the terms of a financing transaction entered into prior to January 1, 2026, for instance, termination of a loan with a balloon payment; or

b. Increased interest costs incurred as a result of a variable interest rate loan used to finance the acquisition of an Apartment Building and entered into prior to January 1, 2026.

c. In the event that the Apartment Building is financed as part of a multi-asset portfolio, the allowable increase in interest costs shall be limited to the amount reasonably attributable to the Apartment Buildings located in the Town, based on the percentage of total asset value or such allocation established in loan documents.

d. In refinancing, increased interest shall be permitted to be considered as an Operating Expense only where the Landlord can show that the terms of the refinancing were reasonable and consistent with prudent business practices under the circumstances.

B. "Operating Expenses" shall not include the following:

1. Debt service expenses, except as provided in subsection (A)(11) of this *Section 34-313.-Operating Expenses*.

2. Depreciation.

3. Any expense for which the Landlord is reimbursed; or

4. Attorneys' fees and costs except printing costs and documentation as required by *Section 34-408.-Information Required from the Landlord* incurred in proceedings before an Arbitrator or in connection with legal proceedings challenging the decision of an Arbitrator or the validity or applicability of this Article.

C. Whenever a particular expense exceeds the normal industry or other comparable standard, the Landlord shall bear the burden of proving the reasonableness of the expense. To the extent that the Arbitrator finds any such expense to be unreasonable, the Arbitrator shall adjust the expense to reflect the normal industry or other comparable standard.

Section 34-414.-Special Base Year NOI/Base Rent Adjustments.

A. The Landlord may obtain a one-time special adjustment to the base year NOI and/or Base Rent dates if the Landlord rebuts the presumption that the base year NOI and/or Base Rent date yielded a fair return. The Arbitrator shall not make such a determination unless the Arbitrator has first made at least one of the following findings:

1. That the Landlord's Operating Expenses in the base year were unusually high or low in comparison to the three years prior to the base year. The average expenses for this period shall be presumed to reflect reasonable average annual expenses, and the average of such expenses shall be used to calculate and adjust the base year NOI.

In determining whether the Landlord's Operating Expenses were unusually high or low, the Arbitrator shall consider whether:

a. The Landlord made substantial Capital Improvements during the base year, which were not reflected in the Rent levels on the Base Rent date.

b. Substantial repairs were made due to uninsured damage caused by fire, natural disaster or vandalism.

c. Maintenance and repair were below accepted standards so as to cause significant deterioration in the quality of Housing Services.

d. Other expenses were unreasonably high or low notwithstanding the following of prudent business practices.

2. That the Rent was disproportionate due to one of the enumerated factors below:

a. The Rent on the base date was exceptionally high or low due to the fact that the Rent was not established in an "Arms-Length Transaction" (see *Section 34-401.-Definitions*).

b. The Rent on the Base Rent date was substantially higher or lower than at other times of the year because of premiums being charged or rebates given for reasons unique to particular apartments.

B. If the circumstances specified in this *Section 34-414.-Special Base Year NOI/Base Rent Adjustments* are demonstrated, the Base Rent date shall be adjusted to reflect the Rent that would have been received if the Base Rent date had been set under general market conditions. In making this adjustment, the Arbitrator shall utilize the median rent in effect on the Base Rent date, or a good faith estimate of such median rent, for Comparable Apartments within the Town or, if necessary, other Comparable Towns. Comparability shall be judged based on the location of the Apartment Building, services, amenities provided, ocean views, apartment size, landscaping, and other relevant factors.

Section 34-415.-Obligations of the Parties.

A. After the Landlord's proposed effective date of a noticed Rent Increase, if the Arbitrator finds that the proposed increase or any portion thereof that was previously inoperative is justified, all of the Affected Renters shall pay the amount found justified to the Apartment Building within 30 days after the decision is made.

B. If the Arbitrator finds that an increase or any portion thereof is not justified, the Landlord shall refund any amount found to be unjustified, but that had been paid, to all Affected Renters within 90 days of the Arbitrator's decision. In the event that the tenancy of an Affected Renter is terminated for any reason prior to receipt of a refund, the balance of the credit due to the Renter shall be paid by the Landlord within 30 days from the date of the termination of the tenancy.

C. Any sum of money that under the provisions of this *Section 34-415.-Obligations of the Parties* is the obligation of the Landlord or Renter to pay, as the case may be, shall constitute a debt and, subject to the foregoing provisions of this Section, may be collected in any manner provided by law for the collection of debts.

Section 34-416. Renter's Right of Refusal.

An Affected Renter may refuse to pay any increase in Rent, which is in violation of this Article, provided a petition has been filed and either no final decision has been reached by an Arbitrator or the increase has been determined to violate the provisions of this Article. Such right of refusal to pay shall be a defense in any action brought to recover possession of an Apartment or to collect the Rent Increase.

Section 34-417.-Retaliatory Acts – Renter's Right to Organize.

No Landlord may retaliate against a Renter, Renters' Representative, or prospective Renter for the assertion or exercise of rights under this Article in any manner. This includes, but is not limited to, threatening to bring or bringing an action to recover possession of an Apartment, engaging in any form of harassment that causes a Renter to quit the premises, dissuading a prospective Renter from freely exercising the Renter's legal option to choose a tenancy of a shorter term, decreasing Housing Services, increasing the Rent, or imposing or increasing a security deposit or any other charge payable by a Renter.

Section 34-418.-Fees.

A. The Town is authorized to impose a Rent Stabilization Administration Fee ("Fee") chargeable against each Apartment in the Town subject to this Ordinance. The Administrator may recommend to the Town from time to time the amount of the Fee and the Town Council may adopt such Fee by resolution at a public hearing.

B. Within sixty (60) days of the adoption of this Ordinance, each Landlord in the Town shall register with the Town. The Landlord shall provide the name and address of the Landlord, the current rent roll for all Apartments, which shall identify:

- 1) The length of the lease term for each Apartment;
- 2) The expiration of the lease term for each Apartment;
- 3) Current rents and other fees or charges that are received by the Landlord itemized per Apartment;
- 4) The number of Apartments, including both occupied and unoccupied apartments, contained in that Landlord's Apartment Building; and
- 5) The Landlord's determination of Comparable Apartments in the Apartment Building, along with a description of how the Apartments are comparable. The provision of the information required by this *Section 34-418(B).-Fees* must also be made immediately upon change of ownership of the Apartment Building, or an increase or a decrease in the number of Apartments available at a Landlord's Apartment Building.

Section 34-419.-Remedies and Waiver of Rights.

A. In the event that a Landlord demands, accepts, receives, or retains any payment in excess of the amounts allowed under this Article, the Renter may file a civil suit against the Landlord. A Landlord who demands, accepts, receives, or retains any payment of Rent in excess of the amounts allowed under this Article shall be liable to the Renter in the amount by which the payment or payments have exceeded the allowable Rent. In such a case, the Rent shall be adjusted to reflect the lawful Rent pursuant to this Article.

B. A Landlord who willfully demands, accepts, or retains any payment of Rent in violation of the provisions of this Article shall be liable in a civil action to the person from whom payment is demanded, accepted or retained for damages in the sum of three times the amount by which payment or payments demanded, accepted or retained exceed the maximum Rent, which could lawfully be demanded, accepted or retained. A prevailing Renter in a civil action brought to enforce this Article shall be awarded reasonable attorneys' fees and costs as determined by the Court. No administrative remedy needs be exhausted prior to filing suit pursuant to Section 34-419.-*Remedies and Waiver of Rights*.

C. The remedies available in this Article are not exclusive and may be used cumulatively with any other remedies available in this Article or at law.

D. Waiver of Rights.

1. Any waiver or purported waiver by a Renter of rights granted under this Article prior to the time when said rights may be exercised shall be void as contrary to public policy, except as provided in this *Section 34-419.-Remedies and Waiver of Rights*. It shall be unlawful for a Landlord to require or attempt to require, as a condition of tenancy in an Apartment Building, a Renter, or prospective Renter, to waive in a lease or rental agreement, the rights granted to a Renter by this Article.

2. It shall be unlawful for a Landlord to deny or threaten to deny a tenancy in an Apartment Building to any person on account of such person's refusal to enter into a lease or rental agreement or any other agreement under which such person would waive the rights granted to a tenant by this Article.

3. Nothing in this *Section 34-419.-Remedies And Waiver of Rights* shall preclude a Landlord or tenant, or prospective Renter, from entering into a lease or rental agreement; provided, that such lease or rental agreement is not procured by a requirement that it be entered into as a condition of tenancy in the Apartment Building, and is not procured under a threat of denial of tenancy in the Apartment Building.

Section 34-420.-Rights of Affected Parties Reserved.

A. This Article shall not be construed to limit or curtail any other action or proceeding, which may be pursued by an Affected Renter or Landlord before any Court or other body having jurisdiction thereof.

B. Defense to Action for Recovery of Possession.

1. A Landlord's failure to comply with any of the provisions of this Article or any regulations promulgated hereunder shall serve as a complete affirmative defense in any action brought to recover possession of an Apartment.

2. A Renter's refusal to pay Rent in excess of the amount allowed under this Article shall be a complete affirmative defense in any action brought to: a) recover possession of an Apartment for nonpayment of Rent; or b) collect Rent in excess of the amount allowed under this Article.

Section 34-421.- Extension of Time Limits.

By written agreement of the parties, or for good cause shown to the Arbitrator, the timeframes provided for under this Article may be extended.

Sec. 34-411. Violations.

A Landlord's failure to comply with any requirement of this Article is a defense by a Tenant in a forcible entry and detainer or other action brought by a Landlord to recover possession of a Housing Unit to the extent that such action is based upon the refusal of the Tenant to pay an unauthorized Rent increase or other action taken by the Landlord to seek collection of a Rent increase not permitted by this Article. Other remedies may include claiming a violation of this Ordinance and pursuing remedies under *Title 5, Chapter 10, Section 209 of the Maine Unfair Trade or Deceptive Practices Act*⁴, which prohibits unfair methods of competition and deceptive acts in trade or commerce. The Maine Attorney General is authorized to bring an action against unlawful trade practices and can restrain violators through temporary or permanent injunctions.

Section 34-422.-Regulations.

The Town Council may issue rules and regulations as necessary to further the purpose of this Article. If any portion of this Article is declared invalid or unenforceable by decision of a court of competent jurisdiction or rendered invalid or unenforceable by law, the Town Council shall have the authority to enact replacement regulations consistent with the intent and purpose of the invalidated or unenforceable provisions of this Article to the extent necessary to resolve any inconsistency. The subject matter of such replacement regulations shall be limited to the matters addressed in this Article.

⁴ <https://legislature.maine.gov/statutes/5/title5ch10sec0.html>