Mobilehome Park Rent Stabilization Commission
Special Meeting Agenda

Monday, June 30, 2025
1:00 P.M.
City Hall - Multi-Purpose Room
23825 Stuart Ranch Road

Call to Order

Roll Call

Pledge of Allegiance

Report on Posting of Agenda – June 27, 2025

Approval of Agenda

1. Ceremonial/Presentations

A. Administration of Oath of Office to Commissioners – Recording Secretary

B. Election of Chair and Vice Chair – Recording Secretary will call the nominations for Chair; Newly elected Chair will call nominations for Vice Chair

2. Consent Calendar

A. Previously Discussed Items

None.

B. New Items

1. Approve the minutes for the March 13, 2008 Special Meeting.

Staff recommendation: Approve the minutes for the March 13, 2008 Special Meeting.

Staff contact: City Clerk Pettijohn, 456-2489, ext. 228

3. Old Business

None.

4. New Business

A. Commissioner Orientation

Staff recommendation: Receive and file commissioner orientation.

Staff contact: City Clerk Pettijohn, 456-2489, ext. 228

B. Written and Oral Communications from the Public and Commissioners

A. Communications from the Public concerning matters which are not on the agenda but for which the Commission has subject matter jurisdiction. The Commission may not act on these matters at this meeting.

B. Commissioner inquiries.

Adjournment

Guide to the City Commission Proceedings

The Oral Communication portion of the agenda is for members of the public to present items which are not listed on the agenda, but are under the subject matter jurisdiction of the Commission. Although no action may be taken, the Commission and staff will follow up, at an appropriate time, on those items needing response. Each speaker is limited to (3) three minutes. Time may be surrendered by deferring (1) one minute to another speaker, not to exceed a total of (8) eight minutes. The speaker wishing to defer time must be present when the item is heard. In order to be recognized and present an item, each speaker must complete and submit to the Recording Secretary a Request to Speak form prior to the beginning of the item being announced by the Chair (forms are available at the entrance to the meeting room). Speakers are taken in the order slips are submitted.

Items in Consent Calendar Section A have already been considered by the Commission at a previous meeting where the public was invited to comment, after which a decision was made. These items are not subject to public discussion at this meeting because the vote taken at the previous meeting was final. Resolutions concerning decisions made at previous meetings are for the purpose of memorializing the decision to assure the accuracy of the findings, the prior vote, and any conditions imposed.

Items in Consent Calendar Section B have not been discussed previously by the Commission. If discussion is desired, an item may be removed from the Consent Calendar for individual consideration. Commissioners may indicate a negative or abstaining vote on any individual item by so declaring prior to the vote on the motion to adopt the entire Consent Calendar. Items excluded from the Consent Calendar will be taken up by the Commission following the action on the Consent Calendar. The Commission first will take up the items for which public speaker requests have been submitted. Public speakers shall follow the rules as set forth under Oral Communication.

Old Business items have appeared on previous agendas but have either been continued or tabled to this meeting with no final action having been taken. Public comment shall follow the rules as set forth under Oral Communication.

Items in New Business are items which are appearing for the first time for formal action. Public comment shall follow the rules as set forth under Oral Communication.

Copies of the staff reports or other written documentation relating to each item of business described above are on file in the City Clerk Department, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, California and are available for public inspection during regular office hours which are 7:30 a.m. to 5:30 p.m., Monday through Thursday, and 7:30 a.m. to 4:30 p.m., Friday. Written materials distributed to the Commission within 72 hours of the Commission

meeting are available for public inspection immediately upon distribution (Government Code Section 54957.5(b)(2). Copies of staff reports and written materials may be purchased for $0.10 per page. Pursuant to State law, this agenda was posted at least 72 hours prior to the meeting.

The City Hall phone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Environmental Sustainability Director Yolanda Bundy, (310) 456-2489, ext. 229. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II].

I hereby certify under penalty of perjury, under the laws of the State of California, that the foregoing agenda was posted in accordance with the applicable legal requirements. Dated this 27th day of June 2025 at 12:30 p.m.

Kelsey Pettijohn, City Clerk

Mobilehome Park Rent Stabilization Commission Meeting 06-30-2025
Item 2.B.1.

Mobilehome Park Rent Stabilization Commission Agenda Report

To: Members of the Mobilehome Park Rent Stabilization Commission

Approved by: Kelsey Pettijohn, City Clerk

Date prepared: June 25, 2025 Meeting date: June 30, 2025

Subject: Approval of Minutes – March 13, 2008

RECOMMENDED ACTION: Approve the minutes for the March 13, 2008 Special Meeting.

DISCUSSION: Staff has prepared draft minutes for the Mobilehome Park Rent Stabilization Commission meeting on March 13, 2008.

ATTACHMENTS:
March 13, 2008 Special Meeting

MINUTES
MALIBU MOBILEHOME PARK RENT STABILIZATON COMMISSION
SPECIAL MEETING
MARCH 13, 2008
MALIBU CITY HALL
6:00 P.M.

CALL TO ORDER

City Attorney Hogin called the meeting to order at 6:02 p.m.

ROLL CALL

The recording secretary noted the following persons in attendance:

PRESENT: Commissioners Bruce Gordon, Sam Hall Kaplan, Les Moss and Peter Tompkins

ABSENT: Commissioner Kathy Greco

ALSO PRESENT: Jim Thorsen, City Manager; Christi Hogin, City Attorney; and Mary Linden, Recording Secretary

PLEDGE OF ALLEGIANCE

Recording Secretary Linden led the Pledge of Allegiance.

REPORT ON POSTING OF AGENDA

Recording Secretary Linden reported that the agenda was properly posted on March 7, 2008.

ITEM 1 CEREMONIAL/PRESENTATIONS

A. Administration of Oath of Office to Commissioners

Recording Secretary Linden administered the oath of office to Commissioners Gordon, Hall Kaplan, Moss and Tompkins.

B. Election of Chair and Vice Chair

Recording Secretary Linden called the nominations for Commission Chair.

MOTION Commissioner Moss moved and Commissioner Gordon seconded a motion to nominate Commissioner Moss as Chair. The motion carried 4-0, Commissioner Greco absent.

MOTION Chair Moss moved and Commissioner Tompkins seconded a motion to nominate Commissioner Hall Kaplan as Vice Chair. The motion carried 4-0, Commissioner Greco absent.

APPROVAL OF AGENDA

MOTION Vice Chair Hall Kaplan moved and Commissioner Tompkins seconded a motion to approve the agenda. The motion carried 4-0, Commissioner Greco absent.

ITEM 2 PUBLIC COMMENTS

Mikke Pierson, Paradise Cove resident, discussed the law regarding trees in Paradise Cove. He stated trees in the park were not maintained and posed a safety threat. He stated he had discussed the issue with Steve Dahlberg, Paradise Cove Mobilehome Park Manager.

In response to Chair Moss, City Attorney Hogin provided clarification of the Commission confirmed that the Commission's jurisdiction.

Vice Chair Kaplan disagreed with City Attorney Hogin. He stated rental agreements should reflect services provided in the agreement.

City Attorney Hogin suggested the Commission reorder the agenda to hear Public Comment after Item 5.A., Commissioner Orientation.

Chair Moss agreed with City Attorney Hogin.

Vice Chair Kaplan stated he was eager to hear the City's interpretation of the Commission's role.

ITEM 3 CONSENT CALENDAR

None.

ITEM 4 OLD BUSINESS

None.

ITEM 5 NEW BUSINESS

A. Commissioner Orientation

Recommended action: No action required.

City Attorney Hogin presented the staff report. She explained the history of mobilehomes in the City. She explained the process for developing the ordinance. She stated the ordnance was challenged in court. She discussed the settlement agreements between the City and park owners. She explained that mobilehome parks were unique because of the homeowner and landlord tenant relationship in the same location. She explained that government attempts to level the playing field between the park owner and homeowners. She stated the City saw it as way to keep housing affordable. City Attorney Hogin explained that the principles of the ordinance were to allow a fair return on investment for the park owner. She stated mobilehome residency law protects residents by limiting the grounds on which the park owner can evict and sets procedural rules. She described the role of the State's mobilehome ombudsman. She stated the City ordinance stabilized rents to the rates of the consumer price index (CPI) for the past 15 years.

City Attorney Hogin explained that the purpose of the commission was to act on rent adjustment applications or relocation impact reports. She stated it was an adjudicatory body. She stated the commission was to look at the ordinance and the facts presented by the parties. She stated the commission, like judges, has no investigative authority. She explained that the commission has not met prior because no applications had been filed with the City, which is the only reason to call a meeting.

City Attorney Hogin explained the Brown Act, due process and noticing requirements. She explained that commissioners could not own space in a mobilehome park nor be a park owner. She reiterated that decisions of the commission must be based only on evidence.

Vice Chair Kaplan asked if any resident could apply for rent decrease. City Attorney Hogin said they could as long as the application met the required criteria.

Vice Chair Kaplan asked if the commission could request staff to investigate on its behalf. In response to Vice Chair Kaplan, City Attorney Hogin explained that the City is involved in dealing with issues at the park that do not affect the commission.

In response to Vice Chair Kaplan, City Attorney Hogin stated the commission could request staff assistance only after an application was received and determined to be complete.

Chair Moss discussed the vacancy increase allowance in the ordinance. City Attorney Hogin stated there were also a sublease surcharge and absentee owner surcharge.

Mei Meimandi discussed his space rent increases that had gone from $450 to $650 to $952 to $1613 to $1936.

Becky Christensen stated she read many housing regulations. She stated any resident could apply for rent reduction. She stated the Constitution guaranteed a fair return. She stated the Kissel Company, Paradise Cove park owner, was receiving a 55% return. She discussed lawsuits from 2001 that had been settled. She presented a package entitled Paradise Cove Mobile Home Park Overview from the Paradise Cove Homeowners Association (PCHOA). She stated Mr. Dahlberg, Paradise Cove manager, threatened homeowners with rent increases. She discussed sewer problems at Paradise Cove.

Emmet Pierson thanked the commissoiners. He discussed annual rent increases. He discussed unsafe street road conditions.

Jill Nani stated her rent had risen from $374 to $976. She discussed septic overflows that occurred approximately once per week for five years. She stated park management was not reachable in the mornings when the overflows occurred.

Dane Sartoriuc discussed trash cans near the beach removed after the summer. He stated he walked across trash and animal waste on his way to surf. He recommended new trash cans be installed.

Kagey Dahlquist congratulated the commissioners on their appointments. She stated upper Paradise Cove was treated better than lower Paradise Cove. She stated management discriminated against them. She discussed parking difficulties. She stated service was inequitable, but rent increases were straight. She discussed issues related to the handicapped.

Rick De Marco stated Paradise Cove was about to incur an increase for the new septic system. He discussed the smell of methane gas for which the Gas Company cannot find a cause. He stated it came from the septic system.

In response to Chair Moss, Mr. De Marco confirmed it was a pass-through, not a rent increase.

Ray Sheehan stated he discussed the septic system odor with the Los Angeles Regional Water Quality Control Board (RWQCB). He stated CPI was increased illegally in Year 1. He discussed the agreement between Kissel and the City. He discussed difficulty dealing with Paradise Cove management.

Craig Nathan discussed emails regarding a septic problem that took 4½ years to resolve. He stated the management was notified 4½ years ago by a contractor that a cap was dropped.

John Tindall discussed Proposition 98 on the June ballot. He stated it would infringe on residents' rights. He stated it prevented eminent domain for big box stores. He stated it also took away rights of cities to govern rents. He recommended voting against Proposition 98.

Chair Moss stated the City Council had passed a resolution at its last meeting on March 10, 2008 opposing Proposition 98 and urging residents to vote no.

Eddie Daffin thanked the commissioners for taking the job. He thanked the City for calling the meeting. He discussed changes in management. He discussed the settlement agreement. He stated residents were told they were not party to the agreement. He stated his rent has doubled in 7 years and had quadrupled since moving in 1973. He stated the agreement was supposed to cover septic and road improvements. He discussed sewage problems. He stated any increase or pass-through would be unfair.

Diane Johnston stated not all could meet individually with Kissel. She stated some could not afford attorneys. She discussed security at Paradise Cove. She stated both entrance and exit gates were broken for the past two weeks. She discussed thefts in the park.

Sandie Haverick stated her rent had increased from $335 to $844. She discussed septic problems. She stated it took 4 years and 16 days to fill one hole. She discussed spills and health issues. She stated there was no response from management to cover the sand. She stated some residents were advised by their doctor to leave their homes for up to three months due to airborne pollutants.

Wayne Ribenick stated cost was an issue only in absence of value. He questioned the justification of CPI. He discussed driveway maintenance problems. He stated promises were made but not kept.

Harry Starus donated his time to Becky Christensen.

Becky Christensen discussed leases. She discussed State and City laws regarding leases.

Leslie Starus, former PCHOA board president, stated the board had been optimistic. She stated obligations had not been met. She stated she discussed the issues with Councilmember Jennings. She stated septic system odors in her home disturbed her health issues. She stated she had

spoken to the RWQCB, which forced Kissel to resolve the issues or be fined. She confirmed the problem had been resolved near her home.

Marty King discussed non-replacement of laterals when the septic system was installed. He discussed haphazard speed bumps and inadequate parking. He stated the City sent parking enforcement to issue parking tickets.

Matt Johnston discussed the letter he wrote to City Manager Thorsen. He discussed sewage spills, dust and the lack of parking. He stated he was shocked park owners were allowed to incur a CPI increase. He recommended residents continue to be involved. He asked the commission to direct staff to follow up on accusations.

Charles Gondell, Point Dume resident, stated issues at Point Dume paled in comparison to Paradise Cove. He stated what he heard tonight was horrifying. He discussed how mobilehome owners had different expectations than apartment renters. He stated rent was for commons. He questioned what the Kissells did with rent money.

Henry Zinman discussed the fire road to the ocean. He stated the fire road was badly maintained and created a safety hazard.

Lisa Halotek stated the only access to the beach was on an eroded pathway. She expressed concern about emergency services gaining access if someone was hurt on beach.

Charlotte Amborne discussed her permit application to put in a garage. She stated she had presented the plan to management. She discussed changes she was told had to be made. She stated her second permit request was denied until she removed the eave from the garage.

Lon Porter stated residents have not had a forum to bring these complaints for years. He asked what criteria went into Commission judgment. He stated Kissel Company had not lived up to its duties as a landlord. He asked if a residential relocation report would come before the commission if Kissel attempted to sell or convert the mobilehome park. City Attorney Hogin stated it would. Mr. Porter stated Mr. Dahlberg threatened residents with the sale of the park so it could be converted to another use. He asked the commission to consider the climate of intimidation when making any decision.

Mac Humphries stated rent increases had been added seven years ago for a septic system that was not done until this year. He asked if those seven years of rent increases could be rolled back.

Chair Moss thanked the residents for coming and for their input.

In response to Mr. Humphries, City Attorney Hogin stated a rent reduction must be based on diminution of housing service, such as trash cans, roads not resurfaced or access road blockage. She explained the ordinance gives homeowners rights to exercise by putting together an application, which would give the commission jurisdiction. She stated homeowners associations had been helpful in the past.

City Attorney Hogin stated a dysfunctional septic system was the purview of RWQCB and the State Department of Housing and Community Development (HCD). City Manager Thorsen stated every time a homeowner called about a spill, the City investigates the spill, documents it and reports it to RWQCB. He requested residents call the Building Safety Department to report any spills and call back the following day to follow-up.

City Attorney Hogin stated the City Manager would follow up with HCD on issues raised tonight to request better attention for Malibu's parks.

City Manager Thorsen stated mobilehome parks were controlled by the State. He stated septic was supposed to be handled by the State. He stated the City volunteered to review plans and help with inspection because the State did not have the necessary expertise. He stated he would request the State's mobilehome ombudsman come to Malibu.

Vice Chair Kaplan stated he was heartened by the City's response. He stated this meeting was a healthy response.

Commissioner Gordon thanked City Attorney Hogin for her input. He thanked the residents for coming.

Commissioner Tompkins stated he was there during the agreement negotiations. He asked if large increases were related to the settlement. He encouraged residents to use the means at their disposal to address issues.

B. Annual Formula Rent Increase

Recommended action: Review Malibu Municipal Code Section 5.16.090(A) which allows for annual rent increases based on changes in the Consumer Price Index (CPI).

City Manager Thorsen read M.M.C. 5.16.090(a) regarding formula rent increases. He explained the CPI percent change on which the increases were based.

Leslie Starus questioned the miscalculation of CPI by Kissel Company. She stated they received two increases per year.

ADJOURNMENT

MOTION At 8:10 p.m., Commissioner Tompkins moved and Commissioner Gordon seconded a motion to adjourn. The motion carried 4-0, Commissioner Greco absent.

_____
_____, Chair

ATTEST:

_____
KELSEY PETTIJOHN, City Clerk

Mobilehome Park Rent Stabilization Commission Meeting 06-30-2025

Item 4.A.

Mobilehome Park Rent Stabilization Commission Agenda Report

To: Members of the Mobilehome Park Rent Stabilization Commission

Prepared by: Trevor Rusin, Interim City Attorney

Approved by: Kelsey Pettijohn, City Clerk

Date prepared: June 27, 2025 Meeting date: June 30, 2025

Subject: Commissioner Orientation

RECOMMENDED ACTION: Receive and file commissioner orientation.

DISCUSSION: The City of Malibu's Municipal Code (the "City Code" or "MMC") Section 5.16.010 calls for the establishment of the Malibu Mobilehome Park Rent Stabilization Commission (the "Commission"). The Commission is a quasi-judicial body of five appointed commissioners with the following roles and responsibilities:
Role of a Commissioner Generally:

- Receive and Hear Applications: The Commission conducts public hearings on rent increase applications and evaluates evidence submitted by both landlords and tenants.
- Ensure Fair Process: Commissioners must ensure all parties have the opportunity to present relevant material and are treated with respect and impartiality.
- Deliberate and Decide: The Commission deliberates in public (or closed session when legally permitted), votes on matters within its jurisdiction, and issues final decisions.
- Follow Procedures: Meetings and hearings are conducted according to the adopted Rules of Procedure, emphasizing fairness, order, and compliance with the Brown Act.

Commissioner Powers and Duties under the MMC:

- Receive, investigate, hold hearings on, and pass upon all issues relating to mobilehome park rent stabilization as set forth in MMC section 5.16 limiting commission jurisdiction to review of requests for rent increases and adjustments;

- Make or conduct independent hearings or investigations as may be appropriate to obtain information necessary to carry out its duties;

- Adjust space rents either upward or downward upon completion of its hearings and investigations; and

- Adopt, promulgate, amend and rescind administrative rules to effectuate the purpose and policies of MMC section 5.16, within the limitations provided by law or rules adopted by the Malibu City Council. Examples of administrative rules include hearing decorum, guidelines and procedures. The Commission's role in this regard does not to opine on council legislation or policy but rather to administratively implement council's direction.

THE LEGAL LANDSCAPE:

California's first local rent control laws began emerging in the late 1970s, in response to inflation, a housing shortage, and rising tenant displacement. In 1976, California enacted the California Mobile Home Residency Law[1], which was enacted to protect the rights of mobile home park residents and establish basic legal protections. Ever since, numerous cities across California, including Malibu, have adopted different variations of mobile home rent control ordinances "to address the unique attributes of mobile home ownership and mobile home park management."[2]

Mobilehome parks offer a hybrid of home ownership and home rental. A tenant in a mobilehome park owns the trailer or mobilehome itself and often rents the space on which it sits. The park provides access and sometimes other amenities such a recreation room, a swimming pool, landscaping and security.

"Mobilehome" is really a misnomer because the structures, as a practical matter, are not really mobile. They are manufactured homes which do not have traditional foundations. They are constructed in a factory and delivered to the site, whole or in parts; however, after delivery, their traveling days are pretty much over. Most mobilehomes lose value with age (like a car would) and few older mobilehomes could withstand relocation. There is a shortage of available park spaces in most communities; so, even if a mobilehome physically could be moved, it is unlikely to have a place to go (at least not to another park).As a practical matter, if someone elects to sell his mobilehome, it is sold in place

[1] Civ. Code § 798 et seq.
[2] *Stardust Mobile Ests., LLC v. City of San Buenaventura* (2007) 147 Cal.App.4th 1170, 1180.

and the new owner assumes the lease or acquires a right to rent the space in the park where the mobilehome sits. Because spaces are in short supply, tenants are in certain respects at the mercy of the park owner.

California State Law

As a result, state law extensively regulates mobilehome occupancy and mobilehome parks. There are five statutory schemes that are presently in effect: (1) Mobilehome Residency Law (Civil Code §§ 798 *et seq.*); (2) Mobilehome Residency Law Protection Act (Health and Safety Code §§ 18800 *et seq.*); (3) Manufactured Housing Act of 1980 (Health and Safety Code §§ 18000 *et seq.*); (4) Mobilehome Parks Act (Health and Safety Code §§ 18200 *et seq.*); and (5) Special Occupancy Parks Act (Health and Safety Code §§ 18860 *et seq.*). In addition, the California Department of Housing and Community Development enacts regulations for mobilehomes and is the enforcement agency for health and safety violations where local government has not assumed enforcement.[3]

The Mobilehome Residency Law ("MRL") regulates the landlord-tenant relationship between mobilehome park owners and park residents and does not expressly provide for statewide rent control for mobilehome parks. The California Supreme Court has held that the MRL is not a rent control law that restricts how much rent that a mobilehome park owner may charge its residents.[4] Importantly however, the MRL exempts certain mobile home spaces and leases from local rent control measures:

- New construction is exempt from local rent control measures for a period of fifteen years from the date upon which the space is initially held out for rent. *New construction* is defined to mean "newly constructed spaces initially held out for rent after January 1, 1990."[5] Newly constructed mobilehome parks are exempt from local rent control measures for 15 years from the date upon which 50 percent of the spaces in the new mobilehome park are initially held out for rent.[6]

- Any mobile home space lease that meets all of the following criteria is also exempt from local rent control measures: (1) The mobile home is not the principal residence of the homeowner and (2) the homeowner has not rented the mobile home to another party.[7]

[3] California Department of Housing and Community Development, https://www.hcd.ca.gov/manufactured-and-mobilehomes (last accessed Dec. 30, 2024); *see also* Title 25, Division 1 of the California Code of Regulations.
[4] *Cacho v. Boudreau*, 40 Cal. 4th 341, 350-51 (2007) (holding that the MRL does not prohibit local governments from imposing rent control in mobilehome parks); *Palo Verdes Shores Mobile Estates, Ltd. v. City of L.A.*, 142 Cal. App. 3d 362, 374 (1983) (holding that the MRL is not a general and pervasive legislative scheme for the regulation of all aspects of mobilehome parks and residents); *Griffith v. Cnty. of Santa Cruz*, 79 Cal. App. 4th 1318, 1323 (2000) (stating that "it is settled . . . that mobilehome park rent controls are not preempted by the MRL [and] . . . the MRL . . . is not, nor was intended, to be a rent control measure.").
[5] Civ. Code, §§ 798.7, 798.45.
[6] *Id.*
[7] Civ. Code § 798.21(a).

- Even where a mobile home space lease is not exempt from a local rent control measures, the relevant local jurisdiction must allow the landlord to charge the tenant certain specified fees. The fees include: (1) any fee first imposed by a city, a county, a city and county, the state, or the federal government on or after January 1, 1995, on the space rented by the homeowner; (2) any fee increase in a fee imposed by any governmental entity on the space rented by the homeowner on or after January 1, 1995; and (3) any fee on the space that is first imposed or increased on or after January 1, 1993, under any state or locally mandated program related to housing contained in the Health and Safety Code.[8]

State law previously included another exemption from local rent control, which applied to any mobile home space lease that (1) was for a term greater than 12 months, (2) was between a management and a homeowner for residence of the homeowner, and (3) afforded the homeowner at least 30 days from the offer of the lease to accept or reject the lease. This exemption from local rent control was removed as of January 1, 2025 by the operative provisions of AB 2782.

Fair Rate of Return

To meet constitutional requirements, all ordinances must allow the property owner to obtain a fair rate of return. The California Supreme Court has stated that an ordinance need not contain a specific formula as long as it provides a method of regulating rents that avoids confiscatory results.[9] Cities have identified various relevant factors in determining whether the rent increase is reasonable so as to protect the mobile home owner's right to an affordable rent and to protect the park owner's right to a just and reasonable return. Ordinances are generally not considered unconstitutionally vague for simply listing relevant factors without stating how they should be considered.[10] If an ordinance provides the landlord with adequate procedures for obtaining a timely rent adjustment, and if the adjustment mechanism is flexible enough to authorize a sufficient increase to provide a fair return, the courts are unlikely to strike down an ordinance merely because its language limits rent increases.

Vacancy Control

State law governing mobilehome parks and recreational vehicle parks provides no restriction on an owner's right to rent a vacant space at any price. As a result, many jurisdictions have enacted some form of "vacancy control" in their local ordinances. These provisions acts as a further control on when mobile park owners can increase the rent for

[8] Civ. Code § 798.49(a).
[9] *Fisher v City of Berkeley* (1984) 37 Cal.3d 644, 680, aff'd (1986) 475 U.S. 260.
[10] See *Carson Mobilehome Park Owners' Ass'n v City of Carson* (1983) 35 Cal.3d 184; *H.N. & Frances C. Berger Found. v City of Escondido* (2005) 127 Cal.App. 4th 1.

a mobile home space by dictating the specific circumstances when a park owner can or cannot establish a new base rent or when a park owner can increase rent.

The inclusion of vacancy decontrol helps minimize risk of challenges regarding fair rate of return, potentially at the expense of allowing for greater rental increases. Some rent stabilization ordinances provide that rent may be raised to "market rates" whenever a mobilehome is sold; other ordinances, like Malibu's, provide that the rent-controlled rate carries over to the buyer. The City's purpose in maintaining vacancy control is to keep rents affordable and limit increases to keep with inflation. However, there is an unintended affect that has been the source of considerable litigation and controversy in this area of law. Park residents/homeowners benefit when the controlled rents carry over to the subsequent tenant. Although a mobilehome itself may have depreciated as a physical asset, the right to occupy a rent-controlled space positively influences the value of the sale. Thus, the homeowner is able to sell both the mobilehome and its right to be on the rent-controlled space for considerably more than the mobilehome alone might fetch on the open market. Park owners bitterly complain that this unfairly transfers the value of their land to the tenant. Park owners assert that in the purchase price the tenant is in essence receiving value for the land, which he does not own. Park owners also argue that this phenomenon (tenants being able to sell their mobilehomes for enhanced prices due to rent control) undermines a city's objective of maintaining affordable housing because rent control increases the price of the mobilehome and makes the park less affordable to low income families to buy a home there. On balance, the Malibu City Council determined that rent stabilization contributed significantly to maintaining affordable housing but to balance the issues the City allows for an increase in rent of 15% upon vacancy.

THE ORDINANCE:

The City's rent stabilization ordinance is set forth at Chapter 5.16 of the Municipal Code and a copy is attached to this report. (Attachment 1) As described above, the Commission is charged with processing applications for rent increases or rent decreases. Under the ordinance, a space rent for those spaces governed by the ordinance (e.g. those not subject to a long term lease that complies with state law) may be automatically adjusted annually by CPI up to 5% (ceiling) and at least by 2% (floor). This is called a "formula Increase" in the ordinance.

In addition to the annual CPI, the ordinance provides that space rent may be increase up to an additional 15% upon the sale of the mobilehome. This is referred to as a "vacancy increase." There are a few other situations in which a space rent may be increased should the park owner be required by the government to provide services beyond those provided at the time the ordinance was enacted and where the space is being subleased, although the ordinance allows for a hardship exemption.

The Commission's role is to conduct hearings and reach decisions on applications by the park owner for rent increases to achieve a fair return or applications by mobilehome owners for decreases when housing services have been eliminated.

Consistent with its function, the Commission meets when an application is filed with the City under the ordinance. In accordance with governing law, the City is subject to specific time periods in which to act on a rent increase application.

In addition to processing rent adjustment applications, should a park seek to close or convert its use, the City has adopted an ordinance that implements the provisions of state law addressing the adverse impacts on the residents and homeowners in a park which is converted, closed or where the park's use is changed or ceased. Under these circumstances, park owners are required to prepare a conversion impact report and a relocation plan, which this Commission will review for compliance.

Should a rent adjustment application be filed, additional training will be provided on analyzing evidence and otherwise discharging you duties as an adjudicatory body.

ATTACHMENTS:

1. Malibu Municipal Code Chapter 5.16

City of Malibu, CA
Thursday, October 10, 2024

Title 5. Business Licenses and Regulations

Chapter 5.16. MOBILEHOME PARK RENT CONTROL REGULATIONS

§ 5.16.010. Purpose of provisions.

A. When the county of Los Angeles adopted Chapter 8.57 of the Los Angeles County Code (Ordinance No. 87-0228) to regulate mobilehome parks in the unincorporated areas of the county, the county found that there was within the county of Los Angeles a shortage of spaces for the location of mobilehomes. The area that is now the city of Malibu was previously part of the unincorporated area of the county and was subject to Chapter 8.57 of the Los Angeles County Code. The city of Malibu incorporated on March 28, 1991. There continues to be a shortage of mobilehome spaces in the area that is now the city of Malibu. Because of this shortage, there is a low vacancy rate and rents are presently rising and causing concern among a substantial number of mobilehome park residents. Because of the high cost of moving mobilehomes; the potential for damage resulting therefrom; the requirements relating to the installation of mobilehomes, including permits, landscaping and site preparation; the lack of alternative homesites for mobilehome residents; and the substantial investment of homeowners in such homes, a virtual monopoly exists in the rental of mobilehome park spaces, creating a situation where park owners have unbridled discretion and ability to exploit mobilehome park residents and homeowners.

B. Homeowners are in the unique position of having made a substantial investment in a mobilehome that is situated on land that is rented or leased. In this situation both the park owner and the homeowner have a financial stake in the relationship.

C. Additionally, because park space is virtually unavailable and relocating difficult and costly, the closure of a mobilehome park or its change of use has disastrous implications or results for homeowners, who may find it impossible to relocate to a comparable park.

D. For these reasons, among others, the city council finds and declares it necessary to protect the owners and occupiers of mobilehomes from unreasonable rent increases, while at the same time recognizing the need of park owners to receive a fair return on their property. In addition, the city council finds that it is necessary to provide for the preparation and approval of reports evaluating the impact of changes of use of the parks and provide for measures to mitigate the impact on residents of these changes of use.

(Prior code § 6700; Ord. 48U § 1, 1991)

§ 5.16.020. Definitions.

"Allowable legal expenses" means attorney's fees and costs incurred in connection with successful good-faith attempts to recover rents owing, and successful good-faith unlawful detainer actions not in derogation of applicable law, to the extent same are not recovered from homeowners. Attorney's fees and costs incurred in proceedings before the commission, or in connection with civil actions against the commission, are not allow-able as operating expenses.

"Base rent" means: (1) for spaces not subject to a long term lease that complies with the provisions of **Civil Code** Section 798.17, the space rent charged on March 28, 1991; and (2) for spaces subject to valid long term leases on March 28, 1991, which leases comply with the provisions of **Civil Code** Section 798.17, the last space rent charged under the long term lease.

"Capital improvements" means the park owner's cost of constructing new improvements or replacing old improvements in the mobilehome park, subject to the following limitations:

1. The improvement must: have a life expectancy of five years or more and must be treated as capital improvements for federal and state income tax purposes, and may not be deducted for such tax purposes as expenses.
2. Normal routine maintenance and repair are not capital improvements.
3. Insured repairs and replacement are not capital improvements.
4. The improvements must be permanently fixed in place or relatively immobile.
5. Those improvements that the park owner intends to pass through to the homeowner through special and limited rent increases, except for necessary infrastructure improvements, must be approved by 50% plus one of the homeowners.

"Capital improvements" include construction, installation or replacement of all or a portion of a club-house, laundry facility or other common area facilities a swimming pool, sauna, hot tub or other recreational amenities, streets, security gates, outdoor or common area lighting, retaining walls, sewer, electrical, plumbing, water or television reception systems, sprinkler systems, or any addition to or upgrade of existing improvements.

"Commission" means the mobilehome park rent stabilization commission, as established by this chapter.

"CPI" means the Consumer Price Index (All Items) prepared by the Bureau of Labor Statistics for the Los Angeles-Anaheim-Riverside area relating to all urban consumers. If the method of calculating the CPI is substantially revised after the adoption of the ordinance codified in this chapter, the method in effect upon adoption of such ordinance shall continue to be used, or the revised CPI shall be adjusted by the city to correspond to that method.

CPI Adjustment Period. The city shall calculate and furnish a figure constituting the CPI change for use as the basis of rent increases. Such figure need only be based upon available data. This figure shall be based on the changes in the CPI during the last available 12-month period for which information is available from the Bureau of Labor Statistics prior to the effective date of the base rent or current space rent.

"Gross income" means and includes the following:

1. Gross rent, computed as gross rental income at 100% paid occupancy; plus
2. Interest from rental deposits, unless directly paid by the park owner to the homeowner (interest shall be imputed at the rate of five and one-half percent of all deposits, unless such deposits earn greater interest); plus
3. Income from laundry facilities, cleaning fees or services, garage and parking fees attributable to mobilehome spaces; plus
4. All other income or consideration received or receivable for, or in connection with the housing services; minus
5. Uncollected rents due to vacancy and bad debts, to the extent that the same are beyond the owner's control. Uncollected rents in excess of three percent of gross rents shall be presumed to be unreasonable, unless proven otherwise. Where uncollected rent must be proven, the average of the preceding three years' experience shall be used, or other comparable method.

"Homeowner" means any person entitled to occupy a mobilehome which is located within a mobilehome park in the city.

"Housing services" means services provided by the park owner related to the use or occupancy of a mobilehome space, including, but not limited to, water and sewer, natural gas, electricity, refuse removal, management and administration (including employee salaries and fringe benefits), maintenance and repairs, supplies, advertising, recreation facilities, laundry facilities, parking, security services, insurance, property taxes, governmental assessments, and other costs reasonably attributable to the operation of the mobilehome park. The term "housing services" shall not include legal fees or mortgage payments, whether for principal, interest, or both.

"Mobilehome" means a structure designated or designed for human habitation, transported over the high-ways to a-permanent occupancy site, and installed on the site either with or-without a permanent foundation. "Mobile-home" includes a manufactured home, as defined in the Health and Safety Code, but does not include either a recreational vehicle or a commercial coach, as they are defined in the Health and Safety Code.

"Mobilehome park" means an area of land where two or more mobilehome spaces are rented or leased for mobilehomes used as residences. "Mobilehome park" does not include developments which sell lots for mobilehomes or which provide condominium ownership of such lots, even if one or more homes in the development are rented or leased out.

"Mobilehome park owner" or "park owner" means the owner, lessor, operator or manager of a mobilehome park in the city.

"Necessary infrastructure improvements" means maintenance (such as replacement of a necessary component of a system or improvement, and other than normal maintenance or repair which constitute "operating expenses" pursuant to this section of streets, electrical, gas, plumbing, sewer or water systems, except that costs of replacement or repair incurred or required as a result of the park owners negligence.

"Operating expenses" shall include the following:

1. Real property taxes;
2. Utility costs;
3. Management expenses (contracted or park owner-performed), including necessary and reasonable advertising, accounting, insurance, and other managerial expenses, and allowable legal expenses. Management expenses are presumed to be five percent of gross income, unless established otherwise;
4. Normal repair and maintenance expenses, including painting, normal cleaning, fumigation, landscaping, and repair of all standard services, including electrical, plumbing, carpentry, furnished appliances, drapes, carpets and furniture;
5. Park owner performed labor, which shall be compensated at a reasonable hourly rate, based upon documentation being provided, showing the date, time and nature of the work performed;
6. License and registration fees required by law, to the extent same are not otherwise paid by homeowners;
7. Capital expenses with a total cost of less than $100 per year, benefited unit, and the amortized portion of other capital expenses otherwise allowed by regulation.

"Operating expenses" shall not include:

1. Avoidable and unnecessary expenses since the base year, including refinancing costs;
2. Mortgage principal and interest payments;

3. Any penalty, fees or interest assessed or awarded for violation of this or any other law;
4. Legal fees, except allowable legal expenses as defined in this section;
5. Depreciation of the property;
6. Any expense for which the park owner has been reimbursed by any security deposit, insurance settlement, judgment for damages, settlement or any other method;
7. Land lease payments;
8. Cost of replacement or repair incurred or necessary as a result of the park owner's negligence or failure to maintain.

"Space rent" means the consideration on a monthly basis, including any bonuses, benefits or gratuities, demanded or received in connection with the use and occupancy of a mobilehome space in a mobilehome park, or for housing services provided, but exclusive of:

1. Any amount paid for the use of a mobilehome;
2. Security deposits and special and limited rent increases;
3. User fees for services or facilities which may be utilized at the option of the homeowners and are not included in monthly space rent; and
4. Utility charges for those mobilehome parks which bill homeowners separately whether or not the mobilehomes are individually metered.

(Prior code § 6701; Ord. 48U § 1, 1991; Ord. 75 § 2, 1992; Ord. 115U §§ 2, 3, 1994; Ord. 116 § 2, 1994; Ord. 121 §§ 5—7, 1994)

§ 5.16.030. Exemptions.

The provisions of this chapter shall not apply to the following tenancies in mobilehome parks located in the city, except that all tenancies in mobilehome parks shall be subject to the registration provisions of Sections **5.16.060** and **5.16.070**:

A. Mobilehome park spaces rented for nonresidential uses;

B. Mobilehome parks managed or operated by the United States Government, the state of California, the county of Los Angeles or the city of Malibu;

C. Tenancies which do not exceed an occupancy of 20 days and which do not contemplate an occupancy of more than 20 days;

D. Tenancies for which any federal or state law or regulation specifically prohibits rent regulations;

E. Tenancies subject to rental agreements exempt from local ordinances pursuant to **Civil Code** Section 798.17; and

F. Tenancies covered by leases or rental agreements existing at the effective date of the ordinance codified in this chapter which are not exempt pursuant to subsection **E** of this section, but only for the duration of such leases or rental agreements. Upon the expiration or other termination of such lease or rental agreement, this chapter shall immediately be applicable to the tenancy, unless that lease or rental agreement immediately succeeded by a lease or rental agreement referred to in subsection **E** of this section.

(Prior code § 6702; Ord. 48U § 1, 1991)

§ 5.16.040. Mobilehome park rent stabilization commission—Establishment and organization.

A. There is established a commission to be known as the "Malibu Mobilehome Park Rent Stabilization Commission." The commission shall be comprised of five residents of the city. A member of the commission shall be appointed to a vacant position by four-fifths vote of the city council and serve at the pleasure of the city council. In no event shall any member of the commission be or, at any time during the immediately five years have been, a park owner or homeowner.

B. The city manager shall provide all administrative staff necessary to serve the commission. The city clerk shall serve as secretary of the commission and shall be responsible for the maintenance of all records of the commission. The secretary shall keep a record of its proceedings, which shall be open for inspection by any member of the public. The city attorney or the designee of the city attorney shall act as legal counsel to the commission.

(Prior code § 6703; Ord. 48U § 1, 1991)

§ 5.16.050. Mobilehome park rent stabilization commission—Powers and duties.

Within the limitations provided by law, the, commission shall have the following powers and duties:

A. To receive, investigate, hold hearings on, and pass upon all issues relating to mobilehome park rent stabilization, as set forth in this chapter;

B. To make or conduct such independent hearings or investigations as may be appropriate to obtain such information as is necessary to carry out its duties;

C. To adjust space rents either upward or downward upon completion of its hearings and investigations; and

D. To adopt, promulgate, amend and rescind administrative rules to effectuate the purposes and policies of this chapter, within the limitations provided by law or by rules adopted by the city council.

(Prior code § 6704; Ord. 48U §1, 1991)

§ 5.16.060. Registration.

A. Registration Required. Within 60 calendar days after the effective date of the ordinance codified in this chapter, park owners shall register all mobilehome park spaces with the city clerk. No park owners shall be eligible to receive any rent increases as provided for in this chapter unless current registration information is on file with the city clerk.

B. Initial Registration. The initial registration shall include the names, business addresses, and business telephone numbers of each person or legal entity possessing an ownership interest in the park and the nature of that interest, and all lienholders, (no later than 30 days after acquiring such interest); the number of mobilehome spaces within the park; the name and address of each resident; a rent schedule reflecting space rents within the park on December 31, 1984, for all spaces not exempt from this chapter pursuant to Section **5.16.030**; a listing of all other charges, including utilities, now included in space rent, paid by homeowners and the approximate amount of each such charge; a list of all spaces exempt from this chapter pursuant to Section **5.16.030** and the reason for the exemption and, for those exempt pursuant to leases or rental agreements, the date of the expiration of the lease or rental agreement and the amount of the rent; and the name and address to which all required notices and correspondence may be sent.

C. Determination of Rents. The city manager or his or her designee shall determine the base rent. The decision of the city staff may be appealed to the commission. The decision of city staff, or the commission on appeal, shall be final. The city manager may promulgate regulations necessary to effectuate the purpose of this section.

D. Re-registration.

1. The city manager or his or her designee may require re-registration as deemed necessary and may promulgate regulations to effectuate the purpose of this section.

2. The registration requirements provided in this section or which may be established by the city shall apply to all mobilehome parks and mobilehome park spaces, including those exempted from the provisions of this chapter by reason of the existence of a valid rental agreement.

(Prior code § 6705; Ord. 48U § 1, 1991; Ord. 75 § 3, 1992)

§ 5.16.070. Registration and administrative fees.

A. Establishment of Registration Fee. At the time of initial registration or any subsequent registration, park owners shall pay to the city such registration fee for each mobilehome rental space within the park as may be established by resolution of the city council (not to exceed the reasonable and necessary costs of administration of this chapter). The city council may also provide that up to two-thirds of that fee may be passed through to homeowners as special and limited rent increases if apportioned equally among the spaces and charged in 12 equal consecutive installments.

   Notwithstanding any other provision of this section, where the total annual amount of the fee to be passed through to each homeowner is less than $48, the park owner may elect to recover the fee from the homeowners in one lump sum rather than in equal monthly installments.

B. Late Charge. If a park owner does not pay the fee provided for in subsection **A** of this section within the time period established by the city council, a late charge shall be assessed in an amount established by resolution. No late charges may be passed through as special and limited rent increases to homeowners.

C. Unpaid Fee. No hearing or other proceedings shall be scheduled to take place, and no rent increase will be granted or will take effect for any mobilehome park for which there are unpaid registration fees.

D. Purpose of the Fee. The registration fee provided for by this section is intended to defray the reasonable and necessary costs associated with the administration of this chapter and the regulations promulgated pursuant thereto.

E. Other Administrative Fees. The city council may set by resolution other administrative fees to cover the reasonable costs of processing various requests and appeals, as it deems necessary.

(Prior code § 6706; Ord. 48U § 1, 1991; Ord. 91 § 1, 1993; Ord. 116 § 2, 1994; Ord. 168 § 1, 1997)

§ 5.16.080. Rent increases—Commission approval.

On or after March 28, 1991, no increase in space rents in excess of the amounts permitted pursuant to Section **5.16.090(A)** and **(B)** shall be effective unless approved by the commission as set forth in this chapter.

(Prior code § 6707; Ord. 48U § 1, 1991)

§ 5.16.090. Rent increases—Computation and determination.

A. Formula Increases. Space rents may be increased automatically and annually by no more than the total percentage change in the CPI for the applicable CPI adjustment period as determined by the city, except that space rent shall not be increased by more than five percent and may be increased by up to two percent. Calculation of the one-year limitation on formula increases shall be from the date the last formula increase became effective for that particular space.

B. Vacancy Increases. Notwithstanding the provisions of subsection **A** of this section, upon vacancy, space rent may be increased up to fifteen percent of the then current maximum allowable rent permitted by this chapter prior to the vacancy.

C. Special and Limited Rent and Rent Increases.

1. Government Required Services. The homeowner shall pay to the parks owner, on the herein described terms, no less than 60 days after the park owner has notified the homeowner in writing, the increased costs to the park owner of government required services, which are to be included as part of the homeowner's rent but separately listed items on the monthly statement.

   a. For the purposes of this chapter, "government required services" shall be defined as services required by governmental agencies which are new or in addition to those services legally required to be provided by the park owner to homeowners or to the mobilehome park on March 28, 1991.

   b. Such services include fees and charges legally levied by an agency of federal, state or local government upon the park owner. Such services do not include predictable expenses for operation of the mobilehome park, such as common-area utilities expenses or expenses which maintain the safe and healthful use of mobilehome park facilities.

   c. The park owner's actual out-of-pocket costs of providing government required services may be charged to the homeowner upon 60 days' written notice, using the following formula: Amount actually paid by the park owner, divided by the total number of spaces in the mobilehome park, divided by 12 months, equals the sum for government-required services to be charged to the homeowner. Notwithstanding the formula described above, only those costs of providing governmental required services in the 12 months immediately preceding the proposed charge shall be reimbursed to the park owner by the homeowner in the manner herein described. The park owner shall charge the homeowner only those costs for government required services which are not reimbursed to the park owner by insurance or other sources.

2. Capital Improvements.

   a. (i) Necessary infrastructure improvements subject only to the provisions of subsection (C)(2)(d) of this section; and (ii) subject to the vote requirements and the capital improvement limitations set forth in Section **5.16.020**, and also subject to review by the commission pursuant to Section **5.16.110**, the actual net costs of a capital improvement plus an interest charge to compensate the park owner for the use of money in making the improvement, as described below, may be charged to the homeowners upon 60 days' written notice, using the following formula: net amount actually paid by the park owner for the capital improvement, plus an interest charge as described below, divided by the total number of spaces in the mobilehome park affected by the improvement, divided by the amortization period for the capital improvement allowed by the Internal Revenue Service, equals the monthly sum for capital improvements to be charged to the homeowners and billed separately from space rent.

   b. The interest charge that may be added to the costs of materials and labor is the current rate derived from the then-current prime interest rate, computed on a declining balance over a five-year period with equal monthly payments (the five-year period represents the amount of time allowed for fully amortizing the cost of capital improvements).

   c. Notwithstanding the provisions of subsection (C)(2)(a) of this section and Section **5.16.100**, the city manager may approve special and limited rent increases for necessary infrastructure improvements upon a showing by the park owners that the proposed improvement meets the requirements of Section **5.16.020** and that the park owner obtained a minimum of three bids from qualified persons/entities to perform the work, if possible, and that the park owner selected the person/entity submitting the lowest responsible bid to perform the work for the proposed necessary infrastructure improvement. No commission review is required or permitted.

D.

1. Sublease Surcharge. Notwithstanding the provisions of subsection **A** of this section, upon sublease of a space and/or lease of a mobilehome, the space rent may be increased up to

15% of the rent otherwise permitted under this chapter. This rent surcharge shall be effective only for the duration of the sublease and shall be eliminated when and if the sublease is terminated. A sublease surcharge shall not become effective until 12 months after the last vacancy increase pursuant to subsection **B** of this section. The sublease surcharge rent amount shall be calculated separately and shall not be included in the maximum allowable rent for the purposes of calculating formula increases pursuant to subsection **A** of this section. The provisions of this subsection shall not apply to those spaces granted hardship exemptions pursuant to subsection F of this section for as long as the space is eligible for such exemption.

2. Absentee Owner Surcharge. Notwithstanding the provisions of subsection **A** of this section, in the event that a homeowner does not use his or her mobilehome at a mobilehome park as a primary or principal residence and the homeowner is not otherwise subject to subsection (D)(1) of this section, the homeowner's space rent may be increased up to 15% of the rent otherwise permitted under this chapter. This rent increase shall be effective only until the homeowner occupies his or her mobilehome at the mobilehome park as a primary residence or the homeowner subleases his or her space or mobilehome and becomes subject to subsection (D)(1) of this section. For purposes of this chapter, a primary residence is a residence where the homeowner resides for over 185 days during a calendar year.

E. Sublease Hardship Exemption. Upon application, the city manager may grant a hardship exemption in connection with the sublease surcharge, which exemption shall last for a term of one year. At the expiration of any particular term of the exemption, the applicant may apply to renew the one-year term by again establishing qualification for the exemption. The application and renewal application shall be in the forms provided by the city manager with a copy to the park owner and, shall include sufficient evidence to establish whether the applicant qualifies for an exemption pursuant to this section and shall be signed by the applicant under penalty of perjury. The city manager shall grant the exemption for any qualified applicant.

1. Qualification. To qualify for the sublease hardship exemption, the applicant must satisfy all of the following criteria:

   a. The applicant must own a mobilehome at the applicable park, and must have occupied the mobilehome as his or her primary residence for a minimum of three years prior to applying for this exemption.

   b. The applicant must present adequate evidence that he or she would qualify for the Low Income Rate Payer Assistance Program for Submetered Households.

   c. The combined value of assets owned by the applicant must not exceed $150,000 excluding the value of the mobilehome itself.

   d. No person other than the applicant can declare the applicant as a dependent for purposes of federal or state taxes.

   In the event that the applicant, after receiving the hardship exemption, at any time ceases to satisfy all of the foregoing criteria, from that point on, the applicant will not be qualified to receive, and shall not receive, the hardship exemption.

2. Effect of Exemption. Each applicant who qualifies for the hardship exemption shall be exempt from the sublease surcharge provided in subsection **D** of this section.

(Prior code § 6708; Ord. 48U § 1, 1991; Ord. 74 § 3, 1992; Ord. 115U § 3, 1994; Ord. 121 §§ 2—4, 8, 9, 1994)

§ 5.16.100. Rent adjustments—Commission review.

A.

1. In order to implement a rent increase as permitted under Section **5.16.090** of this chapter or a rent decrease based on a reduction of housing services, the applicant must file with the

commission a proposed rent schedule on the form provided by the commission. Any proposed capital improvement to be passed through to homeowners must be approved by the commission after the park owner files an application showing the amount of the expense, the amount to be passed through and proof of a majority vote in favor of the special and limited rent increases.

2. Where the park owner is the applicant, the park owner shall serve each affected homeowner, either personally or by mail, with written notice of the proposed increase, in accordance with state law, and with notice that a request for approval of same is being filed with the commission. Where a homeowner (or homeowners) is the applicant, the homeowner shall serve the affected park owner by mail or personally at the address and to the person designated in the registration form submitted by the park owner to receive notices on behalf of the park owner. The applicant shall file proof of such service with the commission concurrent with the filing of the rent increase or decrease application. Copies of the rent schedule, request for increase and supporting documentation shall be available to any homeowner requesting same at the park owner's office in the affected mobilehome park.

B. If the city determines that the application is not complete, accurate, or not in compliance with this chapter, within 21 days of the date on which the application was filed, the city shall give written notice of the deficiencies to the applicant.

C. The city shall set a hearing on any request complying with the requirements of this chapter no sooner than 50 days and no later than 70 days after the application is accepted as complete. The city shall send written notice to the park owner, who shall post such notice in a conspicuous place, of the time and place set for the hearing. If the commission approves an increase as requested, or lower than requested, the same shall take effect as noticed by the owner or as the commission may otherwise direct.

D. In the application for rent adjustment under this chapter, the park owner shall indicate which, if any, of the mobilehome spaces are covered by leases or contracts which provide for more than a month-to-month tenancy, together with expiration date of each such lease or contract. Any rent increase approved by the commission under this chapter shall not be applicable to spaces covered by such leases or contracts during the term of such leases or contracts.

E. Homeowner(s) in a mobilehome park may initiate commission review of a proposed land rent increase by filing with the city clerk a written petition. The petition shall be in substantially such form and contain such information as may be required by the commission.

(Prior code § 6710; Ord. 48U § 1, 1991; Ord. 116 § 2, 1994)

§ 5.16.110. Review hearings.

A. All review hearings conducted by the commission shall be open to the public.

B. All parties to the hearing may have assistance from an attorney or such other person as may be designated by the parties in presenting evidence or arguing their position. All witnesses shall be sworn in and all testimony shall be under penalty of perjury.

C. In the event that either the park owner or the homeowner(s) should fail to appear at the hearing at the specified time and place, the commission: may hear and review such evidence as may be presented and make such decisions as if both parties had been present.

D. All review hearings shall be tape-recorded. Tapes shall be preserved for six months, or longer, if requested by either party affected by the hearing.

E. The commission may promulgate regulations to effect the purpose of this section and to assure fair hearings.

(Prior code § 6711; Ord. 48U § 1, 1991)

§ 5.16.120. Rent adjustments—Commission decision authority.

A. The commission's decision shall be based on the preponderance of the evidence at the hearing. All parties to the hearing shall be advised of the commission's decision and given a copy of the findings upon which the decision is based.

B. Consistent with its findings, the commission may:

1. Permit the requested increase to become effective, in whole or in part;

2. Deny the increase;

3. If circumstances justify, order a reduction in rent to a rate determined by the commission; or

4. Order that the park owner reimburse the applicant(s) the full amount, or any part of the amount, of the application fee where: (a) the applicant for a rent reduction was successful; (b) the park owner has not proven that the rent reduction ordered or the award of costs would deprive the park owner of a fair return as defined in this chapter; and (c) circumstances otherwise warrant the award of costs to the applicant.

C. If the commission finds that an increase that went into effect, or any portion thereof, is not justified, the park owner shall refund the amount found to be unjustified to the homeowner within 60 days after the decision of the commission is announced.

D. If the commission finds that a proposed increase, or any portion thereof that was previously inoperative, is justified, the homeowner shall pay the amount found justified to the park owner within 60 days after the decision of the commission is announced.

E. The conclusions and findings of the commission shall be final.

F. Any party disputing the final conclusions and findings of the commission may seek review of the commission's actions pursuant to Sections 1094.5 and 1094.6 of the California **Code of Civil Procedure**.

(Prior code § 6713; Ord. 48U § 1, 1991; Ord. 135 § 1, 1995)

§ 5.16.130. Hearing—Evidence and procedural irregularities.

Formal rules of evidence or procedure which must be followed in court shall not apply to commission proceedings, except to the extent that the commission shall determine. No action of the commission hereunder shall be held void or invalid or be set aside by any court on the grounds of any improper admission or rejection of evidence, or by reason of any error, irregularity, informality, neglect or omission (hereinafter called "error") as to any matter pertaining to applications, notices, findings, records, hearings, reports, recommendations, or any matters of procedure whatever, including but not limited to those included in this section, unless after an examination of the entire case, including the evidence, the court shall be of the opinion that the error complained of was prejudicial, and that by reason of such error the party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error had not occurred or existed. There shall be no presumption that error is prejudicial or that injury was done if error is shown.

(Prior code § 6714; Ord. 48U § 1, 1991)

§ 5.16.140. Implementation guidelines.

After a noticed-public hearing, as it deems necessary, the city council may adopt by resolution guidelines to aid in the implementation of this chapter.

(Prior code § 6715; Ord. 48U § 1, 1991)

§ 5.16.150. New and prospective homeowners.

A. Prior to or at the time of agreeing to rent spare to a new homeowner in a mobilehome park, the owner shall provide each new homeowner or prospective homeowner with a copy of the mobilehome park rent stabilization ordinance, as currently in force.

B. No owner may require, directly or indirectly, that any resident or prospective resident sign a lease or rental agreement that provides that it shall be exempt from local rent control or provides for space rent in excess of that permitted by this chapter as a condition of tenancy in the park and no owner may deny a tenancy to a prospective purchaser of a mobilehome in the park on the ground that the prospective purchaser will not sign such a lease or rental agreement.

C. The notice shall contain a place for the homeowner to acknowledge receipt of the notice. The park owner shall sign an acknowledgment that the required notice has been given to the homeowner and provide the homeowner with a copy of the executed acknowledgment.

(Prior code § 6716; Ord. 48U § 1, 1991; Ord. 74 § 1, 1992)

§ 5.16.160. Homeowner's right of refusal.

A homeowner may refuse to pay any increase in rent which is in violation of this chapter. Such refusal to pay shall be a defense in any action brought to recover possession of a mobilehome space or to collect the rent increase.

(Prior code § 6717; Ord. 48U § 1, 1991)

§ 5.16.170. Retaliatory eviction.

Notwithstanding Section **5.16.160**, in any action brought to recover possession of a mobilehome space, the court shall consider as grounds for denial any violation of any provision of this chapter. Further, the determination that the action was brought in retaliation for the exercise of any rights conferred by this chapter shall be grounds for denial. Any action brought within one year of a petition or complaint filed with the commission by the homeowner pursuant to this chapter shall be presumed to be retaliatory; this presumption affects the burden of proof, and is rebuttable by the park owner.

(Prior code § 6718; Ord. 48U § 1, 1991)

§ 5.16.180. Violation—Civil remedies.

If any park owner demands, accepts, receives or retains any payment of rent in excess of the maximum lawful space rent, as determined under this chapter, then the homeowners in such mobilehome park affected by such violation, individually or by class action, may seek relief in a court of appropriate jurisdiction for injunctive relief and damages. The prevailing party will recover costs and reasonable attorneys' fees as part of any court judgment.

(Prior code § 6719; Ord. 48U § 1, 1991)

§ 5.16.190. Violation—Penalty.

Any person violating any provision, or failing to comply with any requirement of this chapter shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this chapter shall be punished by a fine of not more than $500 or by imprisonment for a period of not more than six months, or by both. Each violation of any provision of this chapter, and each day during which any such violation is committed, permitted or continued, shall constitute a separate offense.

(Prior code § 6720; Ord. 48U § 1, 1991)

§ 5.16.200. Just and reasonable return.

A park owner may file a rent adjustment application for one, some or all the spaces in a mobilehome park in order to establish the maximum allowable rent or to achieve a fair and reasonable return. Homeowners may file a rent adjustment application based on reduction in services or other grounds established by this-chapter or regulations promulgated pursuant thereto. Nothing in this chapter shall be construed to prevent the grant of a rent adjustment upon application by a park owner when required to permit a fair and reasonable return to the park owner. The city shall receive relevant evidence, in accordance with applicable regulations, demonstrating that a landlord is not receiving a fair and reasonable return in determining these applications.
(Prior code § 6721; Ord. 48U § 1, 1991; Ord. 115U § 4, 1994)

§ 5.16.210. Mobilehome park relocation impact reports.

A. Statement of Purpose. The purpose of this section is to implement the provisions of state law addressing the adverse impacts on the residents and homeowners in a park which is converted, closed or where the park's use is changed or ceased.

B. Definitions. For purposes of this section, the following definitions shall apply in addition to those listed in Section **5.16.020**.

"Advisory agency" means the planning department, commission, or hearing officer as designated by the city council.

"Change of use" means a use of a mobilehome park for a purpose other than the rental, or the holding out for rent, of two or more mobilehome sites to accommodate mobilehomes for human habitation. "Change of use" includes, but is not limited to, a change of the park or any portion thereof to a condominium, stock cooperative, or any form of ownership wherein spaces within the park are to be sold, and the cessation of use of all or a portion of the park, whether immediately or on a gradual basis, or the closure of the park. "Change of use" shall not include mere purchase of the park by its existing homeowners.

"Comparable housing" means housing which is comparable in floor space area, deck and lot size, and number of bedrooms and other relevant factors to the mobilehome to which comparison is being made, which housing meets the minimum standards of the State Uniform Housing Code.

"Comparable mobilehome park" means any other mobilehome park substantially equivalent in terms of park condition, amenities, ocean views and beach access and other relevant factors.

"Date of application for change of use" means the date of filing of an application for rezoning, general plan amendment, use permit, site development permit or other discretionary development approval under this code, which application seeks approval of a change of use of a mobilehome park or the date of the closure or cessation of use.

"Eligible homeowner" means a homeowner whose mobilehome or manufactured home was located in a mobilehome park on the date of the application for a change of use.

C. General Requirements.

1. Any person who files an application for a rezoning, general plan amendment, subdivision map, use permit, site development permit or for any other discretionary development approval, for the purpose of a change of use of a mobilehome park or closure, shall file with the advisory agency a report on the impact of the conversion, closure, or cessation of use (hereinafter "closure") upon the residents of the mobilehome park who will be displaced, no later than the filing of the first such application necessary to authorize such closure.

2. No application shall be considered or deemed completed or processed for consideration and approval unless and until such conversion impact report shall have been filed as required by this subsection.

3. Use of a property as mobilehome park shall not be terminated for the purpose of conversion to another land use or cessation of use until approval by the advisory agency and the city council, or appeal, has been received.

4. No building permit shall be issued on property occupied by a mobilehome park at the effective date of this chapter or hereinafter for uses other than those associated with the mobile home park use and allowed under the special use permit, until approval under this section has been received.

D. Conversion Impact Report.

1. The conversion impact report shall address the availability of adequate replacement housing in mobilehome parks and the cost of relocating displaced residents.

2. In order to evaluate adequately and address those issues, the conversion impact report shall contain the following information:

a. The names, addresses and mobilehome site identification numbers of all persons owning mobilehomes within the mobilehome park and of all mobilehome residents on the date of application for change of use;

b. The age, including date of manufacture, of each mobilehome within such park, including the type of mobilehome, width characteristics, size, and number identifying the mobilehome site being occupied;

c. A list of vacant mobilehome sites in comparable mobilehome parks within a 50 mile radius of the park which is the subject of the application or request;

d. The list shall contain a schedule of site rental rates for each park listed and the criteria of the management of each park for acceptance of new homeowners and used mobilehomes;

e. The names, addresses and telephone numbers of one or more housing specialists from the list compiled by the advisory agency, and the names, addresses and telephone numbers and fee schedules of persons qualified as mobilehome movers and of persons who are qualified appraisers of mobilehomes and an explanation of the services the housing specialists will provide;

f. The applicant may designate other housing specialists, and mobilehome movers and appraisers; provided, that use of any such persons pursuant to this chapter shall be subject to approval by the advisory agency;

g. A relocation plan which will include:

i. Timetable for implementing the physical relocation of mobilehomes,

ii. Implementation of relocation assistance,

iii. Payment of relocation costs, and

iv. Conversion of the park to one or more other uses.

3. The application shall include within the conversion impact report the steps proposed to mitigate any adverse impact on the ability of displaced homeowners to find adequate housing in a mobilehome park, including the reasonable costs of relocation.

a. All eligible homeowners and all mobilehome tenants of eligible homeowners shall be provided with the services of one or more housing experts to assist them in relocating to

available and adequate housing upon their request. Any such experts shall be those approved pursuant to this section.

i. A factor to be considered is that the conversion will not result in the displacement of low-income individuals or households who cannot afford rents charged in other parks.

ii. A factor to be considered is it the conversion is to another residential use, the homeowners have first opportunity to occupy and the construction schedule will not result in long-term displacement.

b. No benefits shall be provided to any person who is renting a mobilehome from the owner of the mobilehome park where such person shall have executed a written agreement with such mobilehome park owner waiving his or her rights to any such benefits. No such waiver shall he valid unless it contains the text of this section, and unless such person shall have executed a written acknowledgment that he or she has read and understands his or her rights pursuant to this chapter and knowingly agrees to waive them.

c. In order to facilitate the intentions of the homeowners or tenants and an applicant for a change of use with regard to a change of use, the parties may agree to mutually satisfactory relocation assistance. To he valid such an agreement shall be in writing, shall include a provision stating that the homeowner is aware of the provisions of this chapter, shall include a copy of this chapter as an attachment, shall include a provision in at least 10 point type which clearly states the right to seek and the importance of obtaining an attorney's advice prior to signing the agreement, and shall be drafted in form and content otherwise required by applicable state law. Any person signing such an agreement may rescind it in writing within 10 business days of final approval of change of use. Any such agreement which is procured by fraud, misrepresentation, coercion or duress of any kind shall be void and unenforceable.

E. Hearing and Notice.

1. Upon the receipt of an impact report, within 30 days the advisory agency shall examine the same and advise the applicant whether it is complete. When a complete impact report has been filed and accepted by the advisory agency, within 30 days the advisory agency shall set a time, place and date for a hearing.

2. At least 30 days prior to the hearing, the advisory agency shall mail notice to the applicant and the homeowners of the date, time and place of the meeting.

3. At least 15 days prior to the scheduled public hearing before the advisory agency on the conversion impact report, the applicant shall provide the homeowner and all other persons described with a copy of this chapter, a copy of the conversion impact report, and date and time for an informational meeting pursuant to subsection (E)(4) of this section.

4. Not less than 10 days prior to the date of the scheduled public hearing before the advisory agency, the applicant shall conduct an informational meeting for the residents of the mobilehome park regarding the status of the application, the timing of proposed relocation of residents, proposed relocation costs and assistance, and the contents of the conversion impact report. The meeting shall be conducted on the premises of the mobilehome park. The housing specialist(s) designated in the impact report shall be present at such meeting.

5. Within five days prior to the public hearing, the applicant shall file with the advisory agency a statement made under penalty of perjury that all requirements pursuant to subsections (E)(3) and (4) of this section have been complied with and include date, time, and place where such meeting as required by subsection (E)(4) of this section occurred.

F. Findings and Decision. At the conclusion of the hearing, the advisory agency shall render its decision. The advisory agency shall approve, conditionally approve or disapprove the relocation impact report. The advisory agency shall approve the relocation impact report if it finds that the relocation impact report contains the information required pursuant to this section. In approving the

relocation impact report, the advisory agency may impose such conditions as it finds necessary to mitigate the adverse impacts on the residents; however, any steps required to be taken by the park owner pursuant to this section shall not exceed the reasonable costs of relocation. Notice of the advisory agency action shall be mailed to the park owner, to all homeowners and to all persons who have filed written request therefor.

G. Request for Appeal. The park owner or any homeowner may appeal the advisory agency's decision to the city council. The appeal shall be filed with the city on a form provided for that purpose within 10 days after the action of the advisory agency. When an appeal is filed, it shall be accompanied by a fee in an amount determined according to Section **5.16.070**. The city shall, within 45 days, set a time and date for a hearing, and shall mail written notice of such hearing to the park owner, all homeowners, the person requesting the hearing, the advisory agency and all persons who have filed written request therefor, at least 15 days prior to the hearing.

For all requests for hearing, the city council may sustain, modify, reject or overrule any recommendations or rulings of the advisory agency and may make such findings as are not inconsistent with the provisions of this section.

H. Extensions. Any of the time limits specified in this section may be extended by mutual consent of park owner and the advisory agency, or the city council, on appeal, with notice to affected homeowners, except where prohibited by state law.

I. Expiration and Extension of Relocation Impact Report. The approval of a relocation impact report shall become null and void after 36 months from the date of the mailing of the final approval of the relocation impact report. Thereafter, the park owner shall not convert, close or cease the use of the park until such time as a new relocation impact report is approved. However, upon application of the park owner, filed with the advisory agency on or before the date of expiration, the relocation impact report may be extended by the advisory agency up to an additional 36 months. An application for an extension shall be subject to the notice and hearing procedures of this section.

J. Conditions. In the approval of a mobilehome park conversion, the city may attach conditions deemed reasonable in order to mitigate the impacts associated with the conversion. Such conditions shall not be limited to, but may include, the following:

1. If the land occupied by the park is to be sold, the homeowners shall be given the right of first negotiation (from the seller) and matching rights (right of last refusal) for the purchase of the park and all the improvements.

2. The homeowners be given the option of a long-term lease of the land and purchase of the improvements.

3. The city may attach an effective date upon their approval of the conversion. This date will provide sufficient time for the relocation of the mobilehome to other parks.

K. Revocation and Amendment. Any time prior to the closure of the mobilehome park, the advisory agency may, in its discretion, and upon good cause shown, initiate proceedings for the revocation or amendment of an impact report. Good cause may include, but is not limited to, change of circumstances which render the conditions or requirements of the relocation impact report no longer necessary or appropriate, negligent or fraudulent misrepresentation of fact relating to the relocation impact report, or noncompliance with the conditions of the impact report. Prior to revoking or amending a relocation impact report, the advisory agency shall conduct a hearing in accordance with the applicable procedures set forth in subsection **E** of this section. Upon revocation, the park owner shall not convert, close, cease or change the use of the park until such time as a new relocation impact report is approved. Such revocation or amendment is subject to the same request for hearing as is provided in subsection **G** of this section.

L. Evictions Pending Compliance with Relocation Impact Report. Termination of a tenancy of any resident pursuant to **Civil Code** Section 798.56 or any other provision of law shall not relieve the park owner of its obligation to comply with the conditions or requirements of the relocation impact report applicable to that resident. However, if the termination of tenancy is based on subdivisions

(a), (b), (c), (d), (e) or (f) of Section 798.56 of the **Civil Code**, the advisory agency, upon request by the park owner, may grant to the park owner extensions of time within which to comply with the conditions of the relocation impact report.

M. Additional Authority of the Advisory Agency. If, notwithstanding the fact that the park owner has not served a six months' or 12 months' notice on the residents, the advisory agency finds that the park owner is attempting to close or convert a park, then the advisory agency shall require the filing of a relocation impact report.

N. Obligations of Applicant After Approval of Conversion Impact Report. After the date of determination that the conversion impact report complies with the requirements of this chapter, the applicant shall undertake or be responsible for performance of the following obligations:

1. Not later than 30 days from the date of such determination, the housing specialist or specialists shall make personal contact with each homeowner of the mobilehome park and commence consultations to determine the applicable costs and assistance to be provided. The housing specialist or specialists shall give each homeowner and former resident eligible to receive relocation assistance written notice of his or her rights to relocation assistance as determined by the city under this chapter.

2. Not less than 120 days prior to the date any homeowner is required to vacate the mobilehome park, any cash or monetary relocation costs required by this chapter shall be paid to such homeowner, to any former resident eligible for such costs, or to any person, firm or corporation performing relocation related services for the homeowner, as the homeowner may direct. If the applicant purchases the mobilehome the homeowner shall be required to promptly submit to the applicant all documents necessary to transfer complete title and ownership of such mobilehome to the applicant, free and clear of all security interest, liens, or other encumbrances.

3. The date upon which any resident of the mobilehome park is required to vacate such park, or upon which any mobilehome is required to be removed from the mobilehome park, shall be not less than six months from the date of notice of termination of tenancy pursuant to **Civil Code** Section 798.56(f)).

4. If the owner of the mobilehome park, the applicant homeowner or tenant specifically requests that any of the time limitations required by this section be modified, the city shall consider any such modification and evidence relating to the need therefor at the public hearing on the conversion impact report. The city shall have the power to make modification in such time limits, both in response to a request and on its own motion, in conjunction with any approval of a conversion impact report, as the city may deem just and reasonable.

O. Payment of Relocation Assistance Benefits—Prerequisite to Issuance of Building Permit to Redevelop Park. No building permit shall be issued for the development of any real property which has been or is being converted from a mobilehome park pursuant to this chapter unless and until the applicant or the owner of the property, as the case may be, who is responsible for payment of any required monetary relocation assistance, shall have filed with the advisory agency a verified statement made under penalty of perjury that relocation assistance payments required pursuant to this chapter have been paid. Such statement shall specify in itemized form each payee, the amount paid, the date of payment, and the type of relocation or other assistance for which each such payment was made.

P. Violations. Violations of this section shall constitute a misdemeanor. In addition, any park owner or applicant who violates any rights of any homeowner or mobilehome tenant established under this chapter shall be liable to the person for actual damages caused by such violation, plus costs and reasonable attorneys' fees. No park owner shall take any wilful action to threaten, retaliate against or harass any park resident with the intent to prevent such residents from exercising his or her rights under this chapter.

(Prior code § 6723; Ord. 48U § 1, 1991; Ord. 74 §§ 4—9, 1992)