

## CHAPTER 152: MOBILE HOMES AND MOBILE HOME PARKS

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### Section

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#### **Cross-reference:**

*Use of mobile homes as dwellings, see § 156.027*

*Required architectural features of single-family dwellings, see § 156.028*

#### **Statutory reference:**

*Mobile homes, see Cal. Health & Safety Code §§ 18200 et seq.*

### **RENT STABILIZATION**

#### **§ 152.01 PURPOSE.**

(A) The conditions which caused the city to adopt previous ordinances of the municipal code regulating rent increased for spaces in mobile home parks continue to exist. Mobile home owners, unlike apartment tenants or residents of other rental stock, are in the unique position of having made a substantial investment in a mobile home for which they must rent a space in a mobile home park. Many have also made investments in landscaping and exterior improvements to the mobile home and the rental space on which it is located. Alternative sites for the relocation of mobile homes are difficult to find due to the shortage of vacant spaces, the restriction on the age, size or style of mobile homes

permitted in many parks and requirements related to the installation of mobile homes, including permits, landscaping and site preparation. Thus, if mobile home owners are unable to pay the rent, or relocate for other reasons, they must sell their homes. Excessive rents or uncertainty as to the rent impairs the ability to sell a mobile home and recover the investment, as well as fair return on the homeowner's investment, in the mobile home. At the present time, the cost of moving a mobile home is \$10,000 or more and the risk of damage in moving is significant. Typically, mobile homes may not be moved more than once in their lifetime. The creation of mobile home parks and mobile home park spaces require approvals and permits by local government. Neither the city nor any other local political entities in the county have approved the creation of any new mobile home parks or a substantial number of new spaces in many years. In fact, since 1985 a number of mobile home parks in the county have closed, resulting in a dwindling number of mobile home park spaces in the county available for rent. The result of these conditions is the creation of a captive market of mobile home owners and tenants. Consequently, the rental of spaces by mobile home park owners to mobile home residents is a noncompetitive business venture in which, in the absence of price regulation, price gouging is likely to and has occurred. Also, the immobility of mobile homes and the shortage of spaces, in turn, contributes to the imbalance in the bargaining relationship between park owners and mobile home park tenants. Because mobile homes are often owned by senior citizens, persons on fixed incomes, and persons of low and moderate income, exorbitant rent increases fall upon these individuals with particular harshness.

(B) It is the purpose of this subchapter to protect residents of mobile home parks from excessive rent increases, to regulate the size of an allowable space rent increase upon the vacation, either by sale or otherwise, of a resident from a mobile home space in a park, while at the same time providing a just and reasonable return to park owners.

(C) Previous ordinances enacted by the City Council have not been sufficiently protective in terms of the conditions described above. This has resulted in a lack of uniformity in terms of space rent increases as between mobile home parks, lack of a clear standard in determining fair return to the park owner, and price gouging on increasing rents when a resident vacates the space by sale or otherwise.

('81 Code, § 8.48.010)

## **§ 152.02 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CAPITAL IMPROVEMENTS.** The installation of new improvements and facilities and/or the replacement or reconstruction of existing improvements and facilities which consist of more than ordinary maintenance or repairs and have a useful life of at least five years. Keeping the streets and common areas in good repair and/or replacing them shall not be considered capital improvement.

**CONSUMER PRICE INDEX (CPI).** The CPI published by the Bureau of Labor Statistics for the Los Angeles-Anaheim-Riverside Metropolitan Area, All Urban Consumers.

**HOUSING SERVICES.** Services connected with use or occupancy of a rental space in a mobile home park which are provided to residents for the rent charged for a space including, but not limited to, utilities, ordinary repairs, replacement and maintenance, laundry facilities, recreational facilities, a resident manager, refuse removal, parking street cleaning and maintenance, and other benefits, privileges, facilities or terms and conditions of the tenancy.

**MANUFACTURED HOME or MOBILE HOME.** A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width, or 40 body feet or more in length, or when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained

therein; except that such term shall include any structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established herein. **MANUFACTURED HOME** includes a mobile home subject to National Manufactured Housing Construction and Safety Act of 1974 (42 USC 5401 et seq.).

(Cal. Health & Safety Code § 18007)

**MOBILE HOME PARK.** Any area of land within the city where two or more spaces are rented, or held for rent, to accommodate mobile homes used for human habitation, but shall not include parks which rent spaces exclusively to recreational vehicles as that term is defined in Cal. Civ. Code § 799.29.

**OWNER.** A person or entity who receives or is entitled to receive rent for the use or occupancy of a mobile home park space or an agent or representative authorized to act on behalf of such person or entity.

**RENT.** The consideration paid for use or occupancy of a mobile home space and the provision or related housing services.

**RENT ADMINISTRATOR.** The person designated by the City Manager to administer the provisions of this subchapter.

**RESIDENCY.** The right to entitlement of a mobile home owner to use, occupy and place a mobile home on a rental space in a mobile home park and to related housing services.

**RESIDENT.** An owner of a mobile home who has a residency.

**VACANCY.** A vacant space, or the sale by a resident of a mobile home in place in a mobile home park to a new owner.

('81 Code, § 8.48.020)

### **§ 152.03 EXEMPTIONS.**

The rent regulation provisions in §§ 152.04, 152.07 and 152.08 of this subchapter shall not apply to:

(A) Mobile home spaces in parks constructed after the effective date of the initiative codified in this subchapter;

(B) This subchapter shall not apply to the rent for a space while the space is subject to a lease which exempts that space from rent regulation pursuant to the California Mobile Home Residency Law, Cal. Civ. Code §§ 798 et seq.

('81 Code, § 8.48.030)

### **§ 152.04 MAXIMUM PERMITTED RENT.**

(A) An owner shall not charge, demand, accept or retain rent for a mobile home space exceeding the lawful rent in effect on December 31, 1991, except as hereinafter provided. Any rent increases, other than one authorized by state law, charged between the dates of January 1, 1992, and the effective date of the initiative codified in this subchapter shall be rolled back to rent existing on December 31, 1991. No notice of a rent increase may be given by a park owner to the residents until the rent increase has been approved pursuant to this subchapter and no rent increase approved pursuant to this subchapter shall be charged, demanded, accepted or retained until lawful notice of that increase has been given to the affected residents by the park owner.

(B) No owner shall reduce the housing services provided for the rent paid on the effective date of the initiative codified in this subchapter or under any previous ordinance. Any reduction in such

housing services shall be deemed a rent increase in violation of this subchapter.

(C) A resident may refuse to pay rent in excess of a maximum rent permitted by this subchapter. The fact that such unpaid rent is in excess of the maximum rent permitted by this subchapter shall be a defense in any action brought to recover possession of a mobile home space and for nonpayment of rent to collect the illegal rent.

('81 Code, § 8.48.040) Penalty, see Ch. 13

### **§ 152.05 RESIDENT REPRESENTATIVES.**

The residents of each mobile home park in the city shall annually elect by majority vote, with one vote per space, a resident representative to receive all notices required by this subchapter. The residents shall advise the rent administrator of the name, address and telephone number of the elected resident representative, in writing, no later than January 31 of each year.

('81 Code, § 8.48.050)

### **§ 152.06 MOBILE HOME RENT REVIEW COMMISSION.**

(A) *Composition and compensation.* There is established a Mobile Home Rent Review Commission (Commission) consisting of three members who, along with their alternates, shall be appointed by and serve at the pleasure of the City Council.

(1) The City Council shall appoint three regular members and may appoint two alternate members to serve in the absence of the regular members.

(2) The three members of the Commission and their alternates shall be persons who are not tenants of mobile home parks, and are not owners of rental property. The members and alternates shall file with the City Clerk a financial statement reflecting the absence of any financial interest.

(3) All members and alternates shall be residents of the city.

(4) Commission members and their alternates shall be compensated for their services in an amount established by resolution of the City Council and may receive reimbursement as provided by the City Council for traveling and other expenses incurred while on official duty.

(5) Terms of Commission members shall be two years, or until a successor has duly qualified and been appointed.

(6) Commissioners appointed to fill vacancies arising during the term shall serve only for the remainder of the term of the Commissioner replaced.

(B) *Powers and duties.* The Commission shall have the following powers and duties:

(1) To meet from time to time as required by the rent administrator of the city;

(2) To review and determine rent adjustment applications pursuant to the provisions of this subchapter, to adjust maximum rents either upward or downward or maintain rents upon completion of its hearings and investigations;

(3) To render annually a written report to the City Council generally concerning its activities;

(4) To adopt, promulgate, and amend and rescind administrative rules to effectuate the purposes of this subchapter.

('81 Code, § 8.48.060) (Am. Ord. 1029, passed 7-19-99)

### **§ 152.07 RENT ADJUSTMENTS.**

(A) *Annual adjustment based on the CPI.* On February 1 of each year, the rent may be increased to an amount equal to the rent in effect on January 31 of the prior year adjusted by 75% of the increase in the CPI. The increase in the CPI shall be equal to the percentage increase between the CPI last reported as of October 30 of the most recent year and the CPI last reported as of October 30 of the year prior to that year. However, the increase shall not exceed seven percent of existing rent. The increase shall be annually calculated by the rent administrator and posted by December 1 of each year. The amount of the increase shall be rounded to the nearest one quarter of one percent. In the event that the CPI decreases, no increase or decrease shall be authorized pursuant to this section. It shall not be necessary for an owner to apply or submit an application for a CPI increase. Across-the-board rent increases allowed pursuant to this section may be accumulated and implemented by the owner at any future time but not in excess of 12 months after the date so permitted and subject to the maximum limitation on increases set forth in § 152.10.

(B) *Rent adjustment based on capital improvements.*

(1) An application for a rent increase based on the cost of a completed capital improvement may be filed with the rent administrator. It shall be approved if it satisfies the definition of a capital improvement set forth in § 152.02 of this subchapter and any criteria for capital improvements adopted pursuant to regulations; provided, that any increase granted shall be amortized over the useful life of the improvement and apportioned equally among all rental spaces in the mobile home park. Any increase granted under this division shall remain in effect only during the useful life of the improvement.

(2) A rent increase application filed under this division shall be granted or denied within 30 days of receipt of a complete application and written notice of the determination by the rent administrator shall be mailed to the applicant and affected residents within that time. Written notice that an application has been determined incomplete and the reasons for that determination shall be given to the applicant within 30 days of receipt of the application. A written determination to grant a requested increase or a modified increase shall specify the duration and amount of the monthly rent adjustment granted. If a modified increase is granted, the written determination shall specify the reason for the modification. If an increase is denied, the written determination that the application shall be denied shall specify the reasons for the denial.

(3) A park owner may, but need not submit an application to the rent administrator for a determination whether a proposed improvement would qualify as a capital improvement adjustment under this section upon its completion. The determination by the rent administrator shall be limited to the issue of whether the work proposed constitutes a capital improvement and shall not address the amount of rent adjustment which would result from completion of the improvement. If an improvement is determined to qualify as a capital improvement under this division, the only issue to be determined when the improvement has been completed and an application for a rent adjustment is received shall be the amount of the adjustment provided that the improvement constructed conforms to the proposed improvement submitted to the rent administrator. Written notice of the rent administrator's determination shall be mailed to the applicant and affected resident within 30 days of receipt of a complete application. Written notice that an application has been determined incomplete shall be mailed to the applicant within 30 days of receipt of the application and shall specify the respects in which the application is incomplete.

(C) *Vacancy rent adjustment.* Each time a space becomes vacant or a mobile home is sold on site in a mobile home park the new mobile home park resident may be charged a one-time administrative fee of \$25 upon moving into the park.

(D) *Rent reduction based on discontinuance or reduction of a service or amenity.*

(1) A park owner may reduce or discontinue a service or amenity upon a commensurate decrease in rent provided the service or amenity is not required by other laws or to maintain health

and safety and habitability standards. A park owner may not discontinue an amenity such as, but not limited to, laundry facilities if doing so would unduly burden the residents.

(2) The rent administrator shall grant, deny or modify the requested rent decrease and discontinuance or decrease in the service or amenity within 30 days of receipt of a completed application therefore. Written notice of the determination shall be mailed to the applicant and affected residents within that time and shall specify the reasons for the determination. If an application is incomplete, written notice thereof and the respects in which the application is incomplete shall be mailed to the applicant within 20 days of receipt of the application.

(E) *Appeal.* Any decision of the rent administrator pursuant to this section may be appealed to the Commission by filing an application for appeal within 15 days of the date the rent administrator's written determination is mailed to the affected park owner and residents. Appeals shall be processed, heard and determined pursuant to the procedures in § 152.09.

('81 Code, § 8.48.070)

### **§ 152.08 RENT INCREASE BY APPLICATION TO THE COMMISSION.**

A park owner may seek a rent increase in addition to those permitted by § 152.07 on the ground that it is required to permit a just and reasonable return and maintain net operating income (NOI) in accordance with the following criteria:

(A) **NOI** means gross income less operation expenses.

(B) **GROSS INCOME** includes rents computed as gross rental income at 100% paid occupancy, plus interest from security deposits which shall be imputed at the rate of six percent of all deposits or actual interest, whichever is greater, plus late fees, fees collected for services and amenities not included in space rent including but not limited to, fees for recreational vehicle storage, cable TV, security, use of recreational facilities, income from coin-operated facilities, collections for utility services in excess of that paid by the park to the utility company, and any other income received in connection with use, occupancy or operation of the park, minus 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 established otherwise. Where uncollected rents must be estimated, the average percentage of the preceding three years experience shall be used or some other comparable method.

(C) **OPERATING EXPENSES** includes license fees, real property, taxes, assessments, utility costs, except to the extent charges for utilities are not deemed rent and are passed through to residents, insurance, management expenses (owner performed or contracted), including reasonable advertising, accounting and managerial expenses, normal repair and maintenance and allowable legal expenses as set forth below. **NORMAL REPAIR AND MAIN-TENANCE** includes, but is not limited to, painting, cleaning, landscaping, repair of all standard services including plumbing, carpeting, electrical, furnished appliances and recreational facilities. Owner-performed labor shall be set out separately, documented and computed as compensated at the average hourly rate for such work. **OPERATING EXPENSES** shall not include:

- (1) Avoidable and unnecessary increases since the base year;
- (2) Mortgage principal, interest payments, and payments by the owner under any ground lease;
- (3) Any penalties, fees, sanctions or interest assessed or awarded for this or any other law;

(4) Allowable legal fees include attorney's fees and costs incurred in connection with successful actions to evict residents or recover back rent and matters pertaining to the title of the mobile home park, but do not include fees in actions filed against the city, the Commission or in proceedings brought under this initiative except as follows: reasonable legal fees are allowable for successfully defending an NOI rent increase in court successfully defending a vacancy rent adjustment in court, or

defending a rent increase in court approved by the Commission, whether successful or not. However, such legal fees allowable for litigation under this initiative must be amortized over a five-year period. No other attorney's fees are allowable. Park owners shall bear the burden of production and proof of the amount and purpose of such fees including reasonable rate per hour and hours spent and, should they fail to produce such evidence, all such fees shall be disallowed;

(5) Depreciation of the property and fees charged to the residents for capital improvements;

(6) Any expense for which the owner has been reimbursed for any security deposit, insurance settlement, judgement for damages, settlement or any other method;

(7) Reserve accounts.

(D) Park owners shall be entitled to increase the park's current NOI by 75% of the increase in CPI since 1984 which shall be the base year. Base year operating expenses and gross income for purposes of these rent adjustment provisions shall mean operating expenses and gross income in the year January 1, 1984 to December 31, 1984. For the purposes of this division, the 1984 CPI shall be 100 and the current CPI utilized in reviewing a rent increase application shall be the CPI last reported as of the date of the application. Gross income and operating expenses shall be adjusted to reflect the portion of the mobile home park that is subject to the initiative. Net income from spaces that are exempted from the initiative shall not be considered.

(E) Method of determination.

(1) To determine the net operating income during the base year, there shall be deducted from the base year gross income a sum equal to the actual base year operating expenses unless the owner demonstrates to the satisfaction of the Commission that some other 12-consecutive-month period is justified by exceptional reasons independent of the purpose of this subchapter, provided that in all cases, February 1, 1984 shall fall within the 12-month period utilized herein except as provided in subdivision (2) of this division.

(2) In the event that the owner did not own the subject park on January 1, 1984, the operating expenses for January 1, 1984, shall be determined in one of the following manners, whichever the Commission determines to be more reliable in the particular case:

(a) The previous owner's actual operating expenses as defined above, or where proven to be not available;

(b) Actual operating expenses for the first calendar year of ownership discounted by the formula set forth in subdivision (4) of this division.

(3) It may be determined that the base year net operating income yielded other than a fair return in which the base year net operating income yielded other than a fair return in which the base year net operating income may be adjusted accordingly. In order to make such determination, at least one of the following determinations is required:

(a) The owner's operating and maintenance expenses in the base year were unusually high or low in comparison to other years. In such instances adjustments may be made in calculating such expenses so the base year of operating expenses reflects average expenses for the property over a reasonable period of time. The following factors shall be considered in making this decision:

1. The owner made substantial capital improvements during the base year which were not reflected in the rent level;

2. Substantial repairs were made due to damage caused by natural disaster or vandalism;

3. Other expenses were unreasonably high or low, notwithstanding prudent business practices.

(b) The gross income during the base year was significantly lower than normal because of destruction of the premises and/or temporary eviction of construction or repairs, or other special circum-stances.

(4) Where the schedule of rent increases, or other calculations require projections of a prior year's income and expenses, it shall be presumed, subject to rebuttal, that operating expenses, exclusive of property taxes and management expenses, increased at the CPI, that property taxes increased at two percent per year, and that management expenses are five percent of gross income.

(5) The rent administrator shall grant an increase to an owner, in excess of that allowed by § 152.07(A) and (B), if it finds and determines that it is necessary to provide the owner with a net operating income, after adjustment for 75% of the increase in the CPI, equal to the net operating income, after adjustment of 75% of the increase in the CPI, equal to the net operating income realized for the park during the base year. The percentage rent increase needed to cover increases in operating expenses shall be calculated in the following manner:

Minimum %      Base Year      Current Year

Increase = Net Oper. — Net Oper.

Required      Income      Income

(Adj by CPI)

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Current Year Gross Rent

('81 Code, § 8.48.080)

### **§ 152.09 HEARINGS AND PROCEDURES.**

(A) All applications pursuant to this section and appeals of decisions of the rent administrator shall be filed on an application form provided by the rent administrator reflecting the various categories of information specified in this initiative that would justify a rent increase. The rent administrator shall have 30 days to determine the completeness of an application and shall notify the applicant in writing within that period of any deficiency in the application.

(B) Written notice of the application or appeal shall be mailed to the affected residents or park owner on the date on which it is determined to be complete. The notice shall inform the affected residents or park owner of the right to submit written, documentary and photographic responses to the application or appeal to the rent administrator within 30 days of the date notice of the application is mailed. One copy of the application shall be furnished to the resident representative of the affected residents or the park owner (whichever is not the applicant or appellant) by the rent administrator together with the notice of the application. Other copies of the application may be obtained by residents or other interested parties upon payment of a reasonable charge. The Commission shall hold a public hearing on the application no later than 75 days after the application is determined to be complete and shall render its decision in writing, including findings of fact, within 90 days after the date the application is determined to be complete.

('81 Code, § 8.48.081)

### **§ 152.10 MAXIMUM INCREASE IN 12-MONTH PERIOD.**

Notwithstanding any other provisions of this initiative, space rent may not be increased in excess of 12% in any 12-month period.

('81 Code, § 8.48.085) Penalty, see Ch. 12

## § 152.11 REGISTRATION, POSTING AND FEES.

(A) Every mobile home park shall file an annual registration statement on a form provided by the rent administrator, which sets forth the rent charged for each space in the park, the services included in that rent, and each space that is subject to a long-term lease pursuant to Cal. Civ. Code § 798.17, specified therein and any provisions for periodic increases in rent in such lease no later than February 15 of each year.

(B) The City Council shall adopt fees for the following by resolution:

(1) Annual registration fees not to exceed \$2 per space per month based on the number of spaces in the mobile home park to be used for the cost of administering this subchapter. Such fees shall be paid by each park owner to the city at the time the initial and annual statements are filed. The fee may be apportioned equally among the spaces in the mobile home park and charged by the park owner to the residents according to such apportionment in 12 equal monthly installments which may be included with the monthly statement of rent due, but must be separately itemized. This fee shall not be included in the rent base when calculating rent adjustments;

(2) Application fees to cover the costs of processing an application on appeal, including but not limited to, mailing and notice costs, duplication costs, and the cost of an audit by a certified public accountant.

(C) A copy of this subchapter shall be posted in the office of every mobile home park and in the recreation building or clubhouse of every mobile home park. A copy of this subchapter shall be shown to every prospective resident of a mobile home park before the resident agrees to any rental agreement or lease. Verification that each prospective resident has reviewed this subchapter prior to agreeing to any rental agreement or lease shall be provided to the rent administrator by filing with the rent administrator a city certification form signed by the resident.

('81 Code, § 8.48.090) Penalty, see Ch. 13

### **Editor's note:**

*Pursuant to Res. 5416, passed 2-5-01, the annual registration fee shall be \$1.00/month.*

## § 152.12 RULES AND GUIDELINES.

The rent administrator may adopt rules and procedures to implement the applications, notices, definitions and other provisions of this subchapter, including any forms required in connection therewith, and for the review of rent increase applications and the conduct of hearings. Such rules and guidelines shall be submitted to the Commission for review and approval.

('81 Code, § 8.48.100)

## § 152.13 AGREEMENTS.

Nothing in this subchapter shall operate to restrict the right of the resident or management to enter into a agreement in accordance with Cal. Civ. Code § 798.17. Pursuant to Cal. Civ. Code § 798.17(c), the resident shall have the option to reject the offered rental agreement and accept a rental agreement for a term of 12 months or less, including a month to month agreement. No owner may require, directly or indirectly, that any resident or prospective resident sign a lease or rental agreement with a term in excess of 12 months or that provides that it shall be exempt from local rent control as a condition of residency in the park, and no owner may deny a tenancy to a prospective purchaser of a mobile home in the park on the ground that the prospective purchaser will not sign such a lease or rental agreement.

('81 Code, § 8.48.105)

## **§ 152.14 REMEDIES.**

(A) Any person who demands, accepts or retains any rent in excess of the maximum rent permitted by this subchapter shall be liable in a civil action to the person from whom such payment is demanded, accepted or retained in the sum of the amount by which the payments demanded, accepted or retained exceed the maximum rent permitted by this subchapter together with reasonable attorney's fees and costs determined by the court. In the case of wilful violation, such person shall be liable for three times the amount together with reasonable attorney's fees and costs. An affected park resident may bring a civil action for declaratory and injunctive relief as well as damages for any violation by a park owner of this subchapter, and the affected park resident shall be awarded attorney's fees and costs if he prevails.

(B) The City Council may institute a civil action to compel compliance with this subchapter. The city shall be vigorous in defense of any and all litigation directed toward this initiative.

(C) If the owner retaliates against the resident because of the exercise by the resident of any rights under this initiative the owner shall be liable for actual damages, punitive damages in the sum of up to \$1,000, costs, and reasonable attorney's fees.

('81 Code, § 8.48.110)

## **§ 152.15 CONFLICTING PROVISIONS.**

In the event the provisions of this chapter conflict with any code, ordinance or regulation of the city, the provisions of this chapter shall govern.

('81 Code, § 8.48.120)

## **§ 152.99 PENALTY.**

(A) Any person who violates any provision of this chapter for which no penalty is otherwise provided shall be subject to the penalty provided in Chapter 13 of this code.

(B) Any person violating any of the provisions of §§ 152.25 through 152.39 of this chapter shall be guilty of an infraction and shall be punishable by a fine of not more than \$500. Each violation of §§ 152.25 through 152.39 of this chapter and each day during which any such violation is committed or continued shall constitute a separate offense.

('81 Code, § 8.48.110(B))