

**CITY OF YUCAIPA
MOBILEHOME RENT REVIEW COMMISSION**

THIS IS A STAND-ALONE DOCUMENT INTENDED TO SUMMARIZE BASIC PROCEDURES OF THE YUCAIPA MUNICIPAL CODE §15.20 AND TO ESTABLISH AN ORDER FOR PRESENTATION OF WITNESSES AND GENERAL TIME LIMITS FOR ORAL TESTIMONY DURING RENT ADJUSTMENT HEARINGS. APPLICANTS AND RESIDENTS ARE ENCOURAGED TO REFER TO YUCAIPA MUNICIPAL CODE §15.20 REGARDING SUBSTANTIVE ISSUES. EXCEPT WITH REGARD TO THE ORDER OF PRESENTATION OF WITNESSES AND TIME LIMITS SET FORTH IN SECTION B, BELOW, THE YUCAIPA MUNICIPAL CODE §15.20 SUPERSEDES THIS DOCUMENT.

**RULES AND PROCEDURES FOR CONDUCT OF
MOBILEHOME RENT PUBLIC HEARINGS**

The following Rules and Procedures for Conduct of Mobilehome Rent Public Hearings are adopted pursuant to Yucaipa Municipal Code (YMC) §15.20.120 of the City's Mobilehome Rent Stabilization Ordinance and related Resolutions, to provide an orderly procedure for the review of rent adjustment applications, and for the conduct of rent adjustment hearings:

A. APPLICATION, HEARING AND APPEAL DEADLINES

1. At the time the Applicant (park owner or resident) files an application it must also post a notice in three (3) conspicuous places in the mobilehome park, advising the residents or the park owner that the application has been filed. YMC §15.20.100 (D) (1)
2. The application must include an affidavit or declaration signed by the Applicant under penalty of perjury. Resolution 2007-03, §1.0008(B)
3. The application fee for an NOI Increase Application and Capital Improvement Rent Increase Application is \$1,750 per application, which shall be paid prior to the application being declared complete. Resolution 2007-03, §4.0003, §5.0002
4. The rent administrator shall have thirty (30) days in which to declare an NOI application complete. YMC §15.20.100(D)(4)(a)
5. A hearing of the commission shall be held not later than 60 days from the date the NOI application is determined complete. YMC §15.20.100(D)(4)(b)
6. Written notice of the application must be mailed to the affected residents (if the park owner is the Applicant) or the park owner (if the resident(s) are the Applicants) on the date the application is deemed to be complete. The notice must inform the affected resident(s) or park owner of the right to submit written, documentary and photographic responses to the application to the Rent Administrator within 20 calendar days of the date notice of the application is mailed by the City. YMC §15.20.100(D)(2)

7. Eight (8) copies of any written opposition to an application must be submitted to the Rent Administrator no later than the 20th day following the date the application was declared complete by the Rent Administrator. One copy must be submitted to the Applicant at the same time, along with the notice of the application. Resolution 2007-03, §1.0008(C), YMC § 15.20.100(D)(2)

8. The Opposing Party (ies) must be personally served or mailed the written opposition to the Applicant or its representative no later than the same day as the filing of the written opposition with the Rent Administrator, and shall contain a declaration or affidavit under penalty of perjury that service was made and that all representations set forth in the opposition are true and correct to the best knowledge of the person submitting the opposition. Resolution 2007-03, §1.0008(C)

9. All reports, communications, proposed resolutions, contract documents or other matters to be submitted to the Commission in connection with its hearing on the application, shall be delivered to the Rent Administrator not later than 12:00 noon on the day which is 14 calendar days preceding the Commission hearing, except as otherwise provided in Resolution No. 2007-03, §1.0008(B) and (C). The agenda for the meeting at which the hearing is to take place shall be delivered to the Commissioners not later than the 6th calendar day preceding the meeting and shall be made available to the public at that time. Resolution 2003-07, §1.0008 (A)

10. The Commission must render its decision in writing, including findings of fact, within 75 days after the date an application is determined to be complete. YMC §15.20.100 (D)(3)(e) and (D)(4)(c) The decision shall include the determination of the maximum allowable rent for each affected mobilehome space. Resolution No. 2007, §1.0029(F)

11. The decision of the Commission may be appealed to the City Council within 10 days of the date the Commission's written decision has been deposited in the mail, addressed to the Applicant and the affected party(ies). YMC 15.20.100(D)(3)(f) and (D)(4)(d) The appeal must be made in writing, and shall include a written summary of the basis of the appeal and any documents supporting the appeal, filed with the Rent Administrator within the time required. The appellant shall serve written notice of the filing of the appeal, the written summary of the basis of the appeal and any documents supporting the appeal, on the Opposing Party, in person or by mail to the last known address of the Opposing Party. No appeal shall be considered filed until proof of service of such notice and supporting documentation are received by the Rent Administrator, and the Rent Administrator's estimate of the cost of the appeal has been deposited with the City. Proof of service shall be on a form provided by the Rent Administrator. YMC §15.20.115(A)

12. The application fee for Appeals to the Rent Review Commission of Staff Determinations and Appeals to the City Council of Rent Review Commission Determinations shall be \$1,750.00 per application, plus the costs of transcripts of any underlying proceedings from which the appeal is made. The application fee shall be paid in full and collected by the City prior to setting the appeal hearing of either the Rent Review Commission or City Council. Resolution 2007-03, §1.0030(B)

13. The rent administrator has 10 days to declare the appeal application complete. YMC 15.20.100(D)(3)(g) and (D)(4)(e)

14. A hearing of the City Council shall be held no later than 30 days from the date the appeal application is determined complete. YMC 15.20.100(D)(3)(h) and (D)(4)(f)

15. The City Council shall review the Commission's decision based on the record before the Commission, including the Commission resolution deciding the application, the verbatim transcripts of the proceedings, staff reports, and exhibits and reports, which were considered and/or approved by the Commission during its hearings. The Council may provide guidelines for the submission of briefs and may (but is not required to) permit oral argument on certain issues. On appeal, the City Council reviews the Commission's decision based on whether there was substantial evidence existing in the record to support the Commission's decision. If the City Council determines that substantial evidence is found to exist in the record, the decision of the Commission shall be upheld. If it is found lacking, the City Council may either decide the matter differently or refer it back to the Commission, with directions, for further consideration. Resolution 2007.03, §1.0030(A)

16. The City Council must render its decision on the appeal in writing, including findings of fact, within 15 days from the commencement of the hearing. The City Council may extend this time limit for reasonable cause, and failure of the City to act within the time limit shall not result in the automatic approval of any appeal. The decision of the City Council is final. YMC §15.20.100(D)(3)(i) and (D)(4)(g) and § 15.20.115(B)

17. Any legal challenge to the final decision must be filed within ninety (90) days of the date of the final determination. YMC §15.20.130(D); Code of Civil Procedure §1094.6

B. ORDER FOR AND TIME LIMITS APPLICABLE TO RENT APPLICATION HEARINGS

This procedure is established based on the fact that most of the evidence submitted in a rent increase (or decrease) application is documentary. These applications are based primarily on written financial information, appraisals, expenditure reports and similar documents. Unlimited documentary evidence may be submitted on both sides in rent review matters. There is no limitation on submittals by experts. All materials are required to be submitted and made available to the parties well in advance of the hearing. Ample opportunity for rebuttal is present. Oral presentations are permitted, allowing the Applicant and the Opposing Party to present their arguments to the Commission. The parties are each allowed full access to all information relied upon by the Commission. Under the circumstances, narrative presentations, rather than direct or cross-examination testimony, satisfies the requirements for due process if a party does not specifically request direct and/or cross-examination.

1. Introduction by Staff. (10 minutes*)

2. Presentation by Applicant. (30 minutes*)

a. Applicant is strongly encouraged to limit its presentation to a summary of the important key areas presented in its application and supporting documentation. Except in unusual circumstances (as specified in Resolution 2007-03, § 1.0029(C)(7)), all documents, reports and other written evidence must have been presented to the Commission at least 14 calendar days prior to the hearing. Resolution 2007-03, §1.0008(A)

b. All witnesses addressing the Commission must be sworn in and testify under oath, and all testimony shall be under penalty of perjury. Resolution 2007-03, §1.014(D)

3. If requested by the Opposing Party, cross-examination of the Applicant's witnesses or questions to the Applicant or its attorney by the Opposing Party and City Staff. (10 minutes each*).

4. Questioning of Applicant, Applicant's witness(es) or Applicant's attorney by the Commission, if appropriate. (10 minutes per Commissioner*)

5. Presentation by Opposing Party. (30 minutes*)

6. If requested by Applicant, cross examination of the Opposing Party's witnesses or questions to the Opposing Party or its witnesses, and/or City Staff. (10 minutes each*)

7. Questioning of Opposing Party, Opposing Party's witnesses or Opposing Party's attorney by the Commission, if appropriate. (10 minutes per Commissioner*)

8. Presentation of Staff Report and/or Staff Witnesses. (30 minutes*)

9. If requested by Applicant and/or Opposing Party, cross-examination of City Staff witness(es) or questions by Applicant and Opposing Party. (10 minutes each side*)

10. Questioning of Staff or Staff witness(es) by the Commission, if appropriate. (10 minutes per Commissioner*)

11. Closing argument by Staff, Opposing Party and Applicant:

Staff: 5 minutes*

Opposing Party: 5 minutes*

Applicant: 5 minutes*

*Time limits should be flexible to allow the introduction of relevant information if good cause is shown that a party cannot present its case in the time allotted. The Presiding Officer shall rule on any requests for additional time.

C. RULES OF EVIDENCE FOR COMMISSION HEARINGS

1. Where allowed by the Presiding Officer upon request of a party, the City, Applicant, residents and any other interested party may call and examine witnesses; introduce exhibits; discuss evidence directly with the Commission without an attorney; cross-examine opposing witnesses on any matter relevant to the issues contained in the application even though the matter was not covered on direct examination; impeach any witness regardless of which party first called the witness to testify; and rebut the evidence against him/her. Resolution 2007-03, §1.0029(C)(1)

2. The hearing is not required to be conducted according to the technical rules relating to evidence and witnesses. Evidence in the form of testimony and written documents shall be admissible, so long as it is relevant and credible, and pertains to the application being considered. Resolution 2007-03, §1.0029(C)(2)

3. Hearsay may be used to supplement or explain other evidence but is not sufficient in itself to support a finding unless it would be admissible over objections in civil actions. The rules of privilege are effective to the extent they are otherwise required by statute to be recognized at the hearing. Irrelevant and unduly repetitious evidence shall be excluded. Resolution 2007-03, §1.0029(C)(2)

4. All documentary and other written evidence to be considered by the Commission in support of or in opposition to an application must be submitted to the Rent Administrator at least 14 calendar days prior to the hearing, as part of the application review process. In the event any party presents documentary or written evidence as part of his/her testimony for consideration by the Commission, which has not been previously submitted or reviewed by the Rent Administrator, such evidence shall be excluded unless the Presiding Officer determines, in his/her discretion, that admission of such evidence would not be prejudicial to the opponents of the evidence. The Presiding Officer's determination shall be based upon the length of said document (number of pages), the nature or type of documentation (technicality) and the reasons presented by the proponent for his/her failure to submit such evidence previously. Resolution 2007-03, §1.0029(C)(7)

5. Any Commissioner or the Rent Administrator may request the attendance of witnesses and/or the production of books or other documents by proponents or interested parties if the evidence sought would be helpful or necessary to the Commission's determination or the evidence would be helpful or necessary to the Commission's exercise of its powers or duties. If any requested evidence is not available at the time of the hearing, the hearing may be continued to allow time for the production of the evidence or witnesses. Resolution 2007-03, §1.0029(C)(8)

6. Any hearing may be continued to another date by motion and upon the consent of the Applicant and opponents upon a finding of good cause. Notice of the continuance must be posted as provided by Government Code § 54955 and § 54955.1, except if it is continued to a time less than 24 hours after the time specified in the order of hearing, then the notice must be posted outside the meeting room. Resolution 2007-03, §1.0029(D)

7. The Applicant has the burden of proof. YMC §15.20.100(C); Resolution 2007-03, §1.0029(E)

8. The decision of the Commission must be supported by substantial evidence in light of the entire record. Evidence is substantial when it is relevant, credible and reliable, and provides enough information, together with the reasonable inferences from that information, to support a conclusion even though other conclusions might also be reached. No decision may be supported solely by hearsay evidence. Resolution 2007-03, §1.0029(F)

9. The Commission shall consider all evidence properly presented and shall articulate its findings of fact, reasoning and conclusions for its decision on all issues. Resolution 2007-03, §1.0029(F)

10. The Commission shall issue a written decision which includes findings of fact and conclusions based on those findings. The decision must include the determination of the maximum allowable rent for each affected mobilehome space. Resolution 2007-03, §1.0029(F)

These procedures and rules of conduct shall apply to all hearings conducted by the Commission, shall supersede any other rules previously adopted by the Commission, and shall control in the event any conflict exists with previously adopted procedures and rules of conduct for Commission hearings.

ADOPTED THIS 29th DAY OF JULY, 2004

/s/ 04/2007

This document has been revised to reflect City Council adopted modifications to YMC §15.20 and the Administrative Rules (pursuant to Resolution No. 2007.03)