

Chapter 15.20

MOBILEHOME PARK RENT STABILIZATION PROGRAM

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15.20.010 Purpose and findings.

A. Findings. Complaints concerning excessive rents by tenants of mobilehome parks led the City Council to conduct a study of the situation in the mobilehome parks in the city. As a result of that study, staff investigation and testimony at public hearings held by the city, the city found an extremely low vacancy rate and a pattern of excessive rent increases beginning as early as 1983, when rent control was first sought from the county board of supervisors for the Yucaipa area. Excessive rent was an issue in the 1986 incorporation campaign, which resulted in the filing of a petition with the Local Agency Formation Commission

("LAFCO") on December 18, 1986 and again in the 1989 incorporation petition filed with LAFCO on March 2, 1989, which resulted in the incorporation of the city on November 27, 1989. The forty-three (43) mobilehome parks in the city contain approximately four thousand one hundred (4,100) spaces and provide approximately thirty (30) percent of the thirteen thousand eight hundred (13,800) dwelling units in the city. Mobilehome owners, unlike apartment tenants or residents of other rental stock, are in the unique position of having made a substantial investment to purchase a mobilehome for which they must rent a space in a mobilehome park. They have also made investments in maintaining and improving those homes as well as landscaping and exterior improvements to the mobilehomes and the rental spaces on which they are located. Alternative sites for the relocation of mobilehomes are difficult to find due to the shortage of vacant spaces, the restrictions on the age, size or style of mobilehomes permitted in many parks, and requirements related to the installation of mobilehomes, including permits, landscaping and site preparation. Additionally, the cost of moving a mobilehome is substantial and the risk of damage in moving is significant. Thus, moving a mobilehome is not a feasible option if rent becomes excessive. The result of these conditions is the creation of a captive market of mobilehome owners and tenants. Their immobility and the shortage of spaces, in turn, creates an imbalance in the bargaining relationship between park owners and mobilehome park tenants. Because mobilehomes are often owned by senior citizens, persons on fixed incomes, and persons of low and moderate income, excessive rent increases fall upon these individuals with particular harshness.

On January 28, 1991, the City Council enacted Ordinance No. 63

(amended). This ordinance established a comprehensive scheme for the regulation of space rents in mobilehome parks in the city, and limits the rent increases that may be charged by park owners.

B. On November 25, 1991, the City Council enacted Ordinance No. 87, (as amended on February 13, 1992, by Ordinance No. 91), which prohibits park owners from requiring prospective residents from signing long-term leases as a condition of moving into a mobilehome park.

C. On September 18, 1992, the City Council enacted Ordinance No. 113, which amended Ordinance No. 63 (amended) to allow the de-regulation, or de-control of space rents upon specified vacancies of a mobilehome park space, and provided for the re-imposition of rent control upon the imposition of the rent first charged after such vacancy. At the time of the adoption of Ordinance No. 63 (amended), the City Council determined that the rent stabilization provisions of Ordinance No. 63 (amended), would provide sufficient protection for park residents against excessive rent increases without the need for control of rents upon vacancies.

D. Since the enactment of Ordinance No. 63 (amended), residents of mobilehome parks in the city have presented instances of park owners requiring prospective residents to sign long-term leases as a condition of moving into the park which such long-term leases exempt such persons from the protection of Ordinance No. 63 (amended). In addition, residents of mobilehome parks in the city have presented the city with instances of park owners raising rents several fold for new residents. As a result, these park residents have been unable to sell their coaches and move out of the park, and prospective residents have been forced to look for housing elsewhere. In some instances, park residents have been forced to sell their coaches to the park owner

at minimal or no cost, such that the coach itself has little or no value, and the park owner has assumed the role of landlord on the specific coach as well.

E. As a result of these repeated problems, and the unnecessarily oppressive and harsh rent increases which have occurred, this City Council finds and declares that it is necessary to facilitate and encourage fair bargaining between the prospective residents and park owners, as well as current residents and park owners, from excessive and unreasonable conditions imposed upon vacancies in mobilehome parks, and from unreasonable rent increases in an area of housing shortage. The City Council finds that control of rents upon vacancy will not prevent park owners from realizing a fair and just return on their property when seen in the context of mobilehome rent control, which has been established in the city.

F. In order to facilitate the above-stated policies, the City Council, by Ordinance No. 104, adopted provisions limiting the rent that a park owner may charge upon a vacancy in a park. Ordinance No. 104, amended by Ordinance No. 113 provides for complete vacancy control, where it is believed that Ordinance No. 63 (amended) and other mobilehome rent control provisions adopted by the City Council adequately protect the rights and interest of park owners. The ordinance codified in this chapter is intended to apply to any transfer of any mobilehome, as well as any change in occupancy of a mobilehome.

G. On March 28, 1994, the City Council approved the annual report with respect to certain definitions and ministerial actions, and thereafter enacted Ordinance No. 126, which incorporated all previous amendments to Ordinance No. 63 (amended) and does not intend to make any substantive changes to Ordinance No. 63 as it was

amended by Ordinance Nos. 104 and 113 other than those minor nonsubstantive amendments authorized by City Council on March 28, 1994.

H. On December 11, 1995, the City Council approved the annual report with respect to certain revisions and additions to Ordinance No. 126. The ordinance codified in this chapter incorporates all existing provisions of Ordinance No. 126, Ordinance No. 140 and Ordinance No. 152, except as modified in light of issues identified in the annual report.

I. On September 8, 1997 the City Council approved the annual report with respect to certain revisions and additions to Ordinance No. 161. This ordinance incorporated all existing provisions of Ordinance No. 161, except as modified in light of issues identified in the annual report.

J. On November 8, 1999, the City Council approved the biennial report with respect to certain revisions and additions to Ordinance Nos. 161/170. This ordinance incorporates all existing provisions of Ordinance No. 161 and Ordinance No. 170, except as modified in light of issues identified in the biennial report.

K. 1. On August 2, 2001 and November 20, 2001, the mobilehome rent review commission conducted a noticed public hearing, received testimony and made recommendations to the City Council on proposed language amendments to the rent stabilization ordinance and administrative rules.

2. On September 24, 2001, at a noticed public hearing the City Council received testimony and considered the recommendations of staff and the mobilehome rent review commission with respect to certain revisions and additions to this chapter of the Yucaipa Municipal Code

(the “municipal code”), and administrative rules.

3. Based on the record presented, which is incorporated herein, the City Council found and determined that the following amendments to this chapter were necessary in order to provide sufficient protection for park residents against excessive rent increases and to preserve the comprehensive scheme for the regulation of space rents in mobilehome parks.

4. On January 28, 2002, the City Council approved the biennial report with respect to certain revisions and additions to Chapter 15.20 of Title 15 of Yucaipa Municipal Code and enacted Ordinance No. 214

L. 1. On August 25, 2003, and October 7, 2003, the mobilehome rent review commission conducted a noticed public hearing, received testimony and made recommendations to the City Council on proposed language amendments to the rent stabilization ordinance and administrative rules.

2. On November 24, 2003, at a noticed public hearing the City Council received testimony and considered the recommendations of staff and the mobilehome rent review commission with respect to certain revisions and additions to this chapter of the Yucaipa Municipal Code (the “municipal code”), and administrative rules.

3. Based on the record presented, which is incorporated herein, the City Council found and determined that the following amendments to this chapter of the municipal code were necessary in order to provide sufficient protection for park residents against excessive rent increases and to preserve the comprehensive scheme for the regulation of space rents in mobilehome parks. (Ord. 226 § 1, 2003: Ord. 214 § 1, 2002: Ord. 193 § 1, 1999: Ord.

170 § 1, 1997: Ord. 161 § 1, 1996: Ord. 126 § 1, 1994)

4. On December 8, 2003, the City Council approved the biennial report with respect to certain revisions and additions to Chapter 15.20 of Title 15 of Yucaipa Municipal Code and enacted Ordinance No. 226.

M. On September 27, 2004, the City Council approved the addition of subsection E to Section 15.20.110 of Yucaipa Municipal Code and enacted Ordinance No. 234.

N. On August 8, 2005, the City Council approved the repeal of Section 15.20.117 of Yucaipa Municipal Code and enacted Ordinance No. 245.

O. 1. On February 22, 2006 the Mobilehome Rent Review Commission conducted a noticed public meeting, received testimony and made recommendations to the City Council on proposed amendments to Chapter 15.20 of Title 15 of the Yucaipa Municipal Code (“Chapter 15.20 of the YMC” also referred to sometimes as the “Rent Stabilization Ordinance” or the “Ordinance”) and Administrative Rules.

2. On April 24, 2006, at a noticed public meeting, the City Council conducted the biennial review and received testimony and considered the recommendations of staff and the Mobilehome Rent Review Commission with respect to proposed amendments to Chapter 15.20 of the YMC, and Administrative Rules.

3. Based on the record presented, which is incorporated herein, the City Council found and determined that the following amendments to Chapter 15.20 of the Municipal Code were necessary in order to adequately protect the interests of park owners and park residents and to preserve the comprehensive scheme for the regulation of space rents in mobilehome parks.

15.20.020 Definitions.

“Amortizable capital expenses” means expenses for improvements and replacements, which have a useful life of at least five years and can be depreciated pursuant to the U.S. or California income tax codes but do not qualify for a capital improvement increase pursuant to the definition of “capital improvement” set out in this section and Section 15.20.080(B).

“Annual” shall be defined to mean calendar year.

“Capital improvement” means 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, have a useful life of at least five years and satisfy the requirements of Section 15.20.080(B).

“Consumer Price Index (CPI)” means the CPI published by the Bureau of Labor Statistics for the Los Angeles-Riverside-Orange County Areas, All Urban Consumers.

“Housing services” means services connected with use or occupancy of a rental space in a mobilehome 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 residency.

“Mobilehome” means a vehicle, designed or used for human habitation, including a camping trailer, travel trailer, motor home and slide-in camper, when used as the principal place of habitation for the occupants thereof, as well as mobilehomes as defined by Civil Code Section 798.3.

“Mobilehome park” means any area of land within the city where two or more

spaces are rented, or held out for rent, to accommodate mobilehomes used for human habitation, but shall not include parks which rent spaces exclusively to recreational vehicles as that term is defined in Civil Code Section 799.30.

“Owner” means a person or entity who receives or is entitled to receive rent for the use or occupancy of a mobilehome space or an agent or representative authorized to act on behalf of such person or entity.

“Rent” means the consideration paid for use or occupancy of a mobilehome space and the provision of related housing services.

“Rent Administrator” means the person designated by the city administrator to administer the provisions of this chapter.

“Residency” means the right or entitlement of a mobilehome owner of a mobilehome, or subtenant of a mobilehome owner, to use, occupy and place a mobilehome on a rental space in a mobilehome park and to related housing services.

“Resident” means an owner of a mobilehome who has a residency. “Resident” shall also mean any tenant or subtenant of a mobilehome owner who has a residency.

Resident, Prospective. “Prospective resident” means a prospective purchaser of a mobilehome in a mobilehome park who has applied for a park residency. “Prospective resident” shall also mean a prospective subtenant of a prospective purchaser of a mobilehome park who has applied for a park residency.

“Vacancy” means any of the following:

1. The existence of any space on which no mobilehome is located;
2. Any transfer of ownership of a mobilehome which remains in a park; or

3. Any change in occupancy of any mobilehome space. (Ord. 193 § 2, 1999: Ord. 161 § 2, 1996: Ord. 126 § 2, 1994)

15.20.030 Exemptions.

A. This chapter shall not apply to:

1. Newly constructed mobilehome spaces first held out for rent on or after January 1, 1990;

2. Any mobilehome park, which has signed and is in compliance with a mobilehome accord and agreement approved by resolution of the City Council. This exemption shall apply during the term of the agreement including any extensions or renewals thereof, provided that upon its expiration, the mobilehome park shall again be subject to this chapter and the base rents in the mobilehome park shall be the rents last charged pursuant to the agreement.

B. The rent regulation provisions of this chapter shall not apply to any space while that space is subject to a lease which exempts that space from rent regulation pursuant to the California Mobilehome Residency Law, Civil Code Section 798 et seq. (Ord. 193 § 2, 1999: Ord. 161 § 3, 1996: Ord. 126 § 3, 1994)

15.20.040 Maximum permitted rent.

A. The base rent in effect on December 31, 1987, plus any increase imposed between that date and the effective date of the ordinance codified in this chapter which do not exceed eighty (80) percent of the increase in the CPI between that date and the effective date of said ordinance.

B. An owner shall not demand, accept or retain rent for a mobilehome space exceeding the base rent for a space, except as hereinafter provided. No notice of a rent increase may be given by a park owner to residents until the rent increase has been approved pursuant to this chapter and no rent increase approved pursuant to this

chapter shall be demanded, collected or retained until lawful notice pursuant to the Mobilehome Residency Law, Civil Code Section 798, et seq. of that increase has been given to the affected residents by the park owner. Retroactive increases shall not be permitted pursuant to this chapter. In the event that the city-approved annual rent increase has not been implemented by the effective increase date, the twelve (12) month period prior to the next increase shall begin at the actual date of implementation.

C. No owner shall reduce the housing services provided for the rent paid on the effective date of the ordinance codified in this chapter. Any reduction in such housing services shall be deemed a rent increase in violation of this chapter unless the reduction has been approved pursuant to Section 15.20.090.

D. A resident may refuse to pay rent in excess of the maximum rent permitted by this chapter. The fact that any such unpaid rent is in excess of the maximum rent permitted by this chapter shall be a defense in any action brought to recover possession of a mobilehome space and for nonpayment of rent or to collect the illegal rent. (Ord. 226 § 2, 2003; Ord. 193 § 4, 1999; Ord. 161 § 4, 1996; Ord. 126 § 4, 1994)

15.20.050 Maximum permitted rent upon space vacancy.

A. Upon “vacancy,” as defined in Section 15.20.020, subsection (2) or (3) under “vacancy,” the park owner shall be prohibited from raising the space rent for that space. No park owner shall impose any space rent in excess of the current rent in effect immediately preceding the vacancy of the space.

B. Upon vacancy, as defined in Section 15.20.020, subsection (1) under “vacancy,” the rent for the vacant space may be increased once every twelve (12) months

in accordance with the provisions of Section 15.20.080(A), and the provisions of this section provided that space rents can be verified by information required on and/or documentation submitted with the Annual Registration Application. If space rent information is not provided, no vacant space increase shall be provided. Any such approved annual adjustment shall constitute the new base rent for that space. At the time of rental of that space following a vacancy, no park owner shall impose any space rent in excess of the last rent in effect immediately preceding the vacancy of the space, as modified by any annual adjustment approved by the city for that vacant space.

1. In the event that there is no prior rent for that vacant space, the initial base rent shall be the average of all space rents for comparable occupied spaces in the park which were in effect on December 31, 1987, as modified by any annual adjustments granted for any comparable occupied spaces as of the date of filing of a complete application. In the event that a space has been vacant for more than one year, the new base rent shall be determined as follows: The last rent charged for the space shall be modified by any annual adjustments granted for comparable occupied spaces as of the date of filing of a complete application. Space rents shall be verified by using information required on, and/or documentation submitted with the Annual Registration Application. If space rent information is not provided, no vacant space increase shall be approved. The initial base rent for that vacant space shall be used in determining any subsequent rent adjustments authorized under this chapter.

2. Park Owned Mobile Home sold to a resident. In the event that a park owned coach is sold to a resident (through a rent-to-own agreement or straight purchase) and the coach remains in the park, the base rent shall be either the last regulated space rent

charged for the space, if the space was previously subject to the YMC, increased by the annual CPI increases properly charged by the Park and any other applicable Commission-approved rent increase for the spaces in the Park; or if the space was never subject to the YMC, the average of the rents charged for comparable spaces in the park subject to rent control.

3. Abandoned Mobile Homes. In the event a resident abandons his/her coach and the park owner gains title, if the park owner decides to sell the coach to a new resident, the space would become subject to the YMC. The base rent shall be the last regulated space rent charged for the space, if the space was previously subject to the YMC, increased by the annual CPI increases properly charged by the Park, and any other applicable Commission-approved rent increase for the spaces in the Park. If the space was never subject to the YMC, the base rent shall be the average of the rents charged for comparable spaces in the park subject to rent control. [Note: If a lease was in place prior to the abandonment of the initial resident, the original lease is null and void and the new owner shall not be bound by the previous lease].

4. Spaces Previously Exempt. In the event a space was previously exempt under a lease pursuant to California Civil Code Section 798.17, the base space rent, for purposes of calculating the Annual Adjustment, shall be the rent in effect as of the date of expiration of the lease, provided that space rents can be verified by information required on, and/or documentation submitted with the Annual Registration Application.

C. Upon occupancy of a vacant space, the park owner shall be prohibited from increasing the space rent, except in compliance with the provisions of Sections 15.20.080 through 15.20.100, concerning annual adjustments, capital improvement

rent adjustments, net operating income adjustments and adjustments based on discontinuance of services or amenities.

D. No park owner shall require that a prospective resident sign a lease exempt from the YMC as a condition of tenancy.

15.20.060 Resident representatives.

A. The residents of each mobilehome 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 chapter. The residents shall advise the Rent Administrator of the name, address and phone number of the elected resident representative in writing no later than January 31st of each year and shall promptly notify the Rent Administrator of any change of representative. (Ord. 193 § 6, 1999; Ord. 161 § 5, 1996; Ord. 126 § 5, 1994)

15.20.070 Mobilehome Rent Review Commission.

A. Composition and Compensation. There is established a mobilehome rent review commission ("commission") consisting of five members who shall be appointed by and serve at the pleasure of the City Council, and may be removed only by a four-fifths vote of the City Council.

1. The members of the commission and the alternate members shall be persons who are neither residents nor park owners who have no financial interest (as defined by state law) in any mobilehome or mobilehome park and have no parents, children, spouses or siblings with any such interest. The members and alternates shall file a declaration to this effect with the Rent Administrator.

2. All members shall be residents of the city.

3. Commission members may 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.

4. Terms of commission members shall be two years or until their successors are appointed. If a member is absent from five consecutive meetings, they shall be removed from the commission and their position posted as a vacancy and filled in accordance with city and state policy.

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;

2. To review, hear and determine rent adjustment applications pursuant to the provisions of this chapter and to adjust maximum rents or maintain rents upon completion of its hearings and investigations;

3. To render biennially a written report to the City Council concerning its activities, holdings, actions, results of hearings, and all other matters pertinent to this chapter which may be of interest to the City Council;

4. To adopt, promulgate, amend and rescind administrative rules to effectuate the purposes of this chapter, subject to the approval of the City Council. (Ord. 214 § 2, 2002; Ord. 193 § 7, 1999; Ord. 170 § 3, 1997; Ord. 161 § 6, 1996; Ord. 152 (part), 1996; Ord. 126 § 6, 1994)

15.20.080 Rent adjustments by administrative application.

A. Annual Adjustment Based on the CPI. The rent for a mobilehome space may be increased once every twelve (12) months by the lesser of either five (5) percent of the current space rent as of the date of the complete application, or eighty (80) percent of the increase in the CPI during the preceding twelve (12) months,

provided that this increase may not be imposed until twelve (12) months after that space comes under the regulations and shall not have had an Annual Adjustment under this section or an adjustment under Section 15.20.100 in the preceding twelve (12) months. Regulations for implementing this section shall be as set forth in the Administrative Rules adopted by Resolution of the City Council, including but not limited to application procedures, and dissemination of CPI to park owners.

B. Rent Adjustments 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 capital improvement set forth in Section 15.20.020 and the criteria set forth in the capital improvement guidelines and as set forth in the Administrative Rules adopted by Resolution of the City Council; the park owner has provided documentation to demonstrate that prior to the completion of the proposed capital improvement, the park owner met with the park residents and considered input from the park residents regarding any proposed capital improvement; the park owner held a Capital Improvement Ballot Election (see sample "Election Ballot Form" - Exhibit A), in an attempt to gain fifty-one percent (51%) approval of the occupied rent controlled spaces, with one vote per space having consented to the proposed capital improvement in one of the following methods: (1) At the noticed resident meeting; or (2) Ballot mailed via Certified Mail/Return Receipt Requested to each rent controlled space. Documentation of the meetings with the park residents shall include, but is not limited to, notice of meeting between the park owner(s) and residents, resident attendance sign-in sheets,

and official minutes from the meeting and election ballot form(s). An increase application which meets all other requirements of this subsection but has not been consented to by fifty-one (51) percent of the occupied spaces may be granted when the improvement is necessary to protect the health and safety of the park, its residents or its neighbors. Any increase granted under this subsection shall remain in effect only during the useful life of the improvement. Any such increase shall not be included as part of the monthly space rent but shall be itemized as a separate charge either on the residents' monthly rent statement or on a separate statement. Regulations for implementing this section shall be set forth in the Administrative Rules adopted by Resolution of the City Council.

2. A rent increase application filed under this subsection shall be granted or denied within thirty (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 thirty (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 has been denied shall specify the reasons for the denial.

C. Appeal. Any decision of the Rent Administrator pursuant to subsection B of this section may be appealed to the commission by filing an application for appeal within ten (10) 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 Section 15.20.100(D) and as set forth in the Administrative Rules adopted by Resolution of the City Council. (Ord. 214 § 3, 2002; Ord. 193 § 8, 1999; Ord. 161 § 7, 1996; Ord. 152 (part), 1996; Ord. 140, 1995; Ord. 126 § 7, 1994)

15.20.090 Rent adjustments based on discontinuance or reduction of a service or amenity.

A. Application By Park Owners. 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. The application to do so shall be filed on a form supplied by the Rent Administrator. If an application is incomplete, written notice thereof and the respects in which the application is incomplete shall be mailed to the applicant within thirty (30) days of receipt of the application. The Rent Administrator shall give mailed notice to the affected residents of the application when it is complete. A copy thereof shall be furnished to the residents' representative. Residents shall have thirty (30) days after the notice is mailed to file any opposition in writing. The application shall be processed, heard and determined by the commission pursuant to Section 15.20.100(D).

B. Applications by Residents. A resident or group of residents may apply for a rent decrease based on a discontinuance or reduction in services or amenities. At least thirty (30) days before filing such an application the resident(s) seeking the adjustment shall make a written request to the park owner that the service or amenity be restored. The application shall be filed on a form supplied by the Rent Administrator.

If an application is incomplete, written notice thereof shall be mailed to the applicant within thirty (30) days of receipt of the application. Notice of the application shall be mailed to the affected park owner as soon as the application has been determined to be complete. The park owner shall have twenty (20) days to file written opposition to the application and shall be required to provide information concerning the cost of the service or amenity alleged to be discontinued or reduced within that time. Any rent decrease granted pursuant to this subsection shall be equal to the cost to the park owner of providing the service, maintenance or amenity. The resident(s) shall have the burden of proving that the service or amenity has been removed or decreased. The application shall be processed, heard and determined by the commission pursuant to Section 15.20.100(D). (Ord. 193 § 9, 1999; Ord. 161 § 8, 1996; Ord. 126 § 8, 1994)

15.20.100 Rent increases by application to the commission.

A park owner may seek a rent increase in addition to those permitted by Section 15.20.080 pursuant to subsections A, B and C of this Section. The park owner shall bear the burden of proof and provide the evidence to justify a rent increase based on any application submitted under subsections A, B, and/or C of this Section. Subsection A provides for increases under a maintenance of net operating income (“MNOI”) formula and it is presumed in the absence of evidence to the contrary that the MNOI formula provides a fair or just and reasonable return. An application pursuant to subsection C cannot be filed unless an MNOI application (also known as an NOI application) has also been filed and the two applications can be heard together. However, an application can be filed under subsection A without filing an application

under subsection C. Subsection B provides for modifications of the base year net operating income (“NOI”) used in the MNOI formula under specified circumstances.

The Applicant for a special adjustment under this Section shall provide documentation of its income and expenses in the base year and of its income and expenses in each of the last five (5) years or since its last special adjustment and such other information and documentation as is necessary to properly determine an MNOI calculation under Section 15.20.100(A) and (B) and/or a fair return application under Section 15.20.100(C). An application cannot be deemed complete until information and documentation, as set forth in the Administrative Rules adopted by Resolution of the City Council, has been provided. An application cannot be set for hearing before it is deemed complete. The factors and methodology for the Commission to determine the gross income, operating expense and net operating income shall be set forth in the Administrative Rules adopted by Resolution of the City Council.

A. It shall be presumed in the absence of evidence to the contrary, presented pursuant to subsection B of this section, that the NOI earned by the mobilehome park in calendar year 1987 provided a just and reasonable return to the park. Except as otherwise provided in subdivision (1) of this subsection, park owners shall be entitled to increase the park’s 1987 NOI by sixty-six and sixty-seven one hundredths (66.67) percent of the increase in the CPI since December 31, 1987, to October 28, 1996, and eighty (80) percent of the increase in the CPI from October 29, 1996, to the date of the application. In the event that there has been an increase of more than three percent in the vacancy rate in the park since the base year, any rent adjustment under this subsection

shall be governed by subdivision (1) of this subsection. For the purposes of this subsection, the 1987 CPI shall be 114.80 and the current CPI utilized in reviewing a rent increase application shall be the CPI last reported as of the date the application is deemed complete.

1. In the event that there has been an increase of more than three percent in the vacancy rate in the park since the base year, the city finds that it would be contrary to the purposes of rent stabilization to authorize additional rent increases for occupied spaces in order to offset reductions in income due to increased vacancies which occur because there is not sufficient demand to fill the vacant spaces at the legal rent ceiling. In effect, allowing additional rent increases for occupied spaces because there are more vacant spaces in a park would allow park owners to obtain higher rents from existing tenants, than it is possible to obtain from the prospective tenants, whose homes are still “mobile” and whose options have not been restricted by the process of moving into the park. Therefore, in the event that there has been an increase of more than three percent in the vacancy rate in the park since the base year, rent adjustments shall be governed by the following:

a. Gross income per rented space shall be computed based on the total gross income of the park divided by the total number of rented spaces. The park owner shall be entitled to increase the base year NOI per rented space by sixty-six and sixty-seven hundredths (66.67) percent of the increase in the CPI since December 31, 1987, to October 28, 1996, and eighty (80) percent of the increase in the CPI from October 29, 1996.

b. Calculations of base year and current year operating expenses may be adjusted by the commission so that a reasonable comparison of the expenses and charges associated with rented spaces is

obtained for the purpose of comparing base year and current year operating expenses and to adjust for variations in operating expenses due to the increased vacancy rate.

2. In the event a park has received a special adjustment since the base year, the income and expense year on which the special adjustment was based shall be deemed the base year for the purposes of evaluating a rent adjustment application.

B. A park owner may rebut the presumption that the park’s 1987 NOI provided a just and reasonable return at that time by presenting evidence as set forth in the Administrative Rules adopted by Resolution of the City Council.

C. A park owner may rebut the presumption that the increased calculations provided in subsection A of this section and modified calculations provided by subsection B of this section are sufficient to provide a just and reasonable return by presenting evidence that the rate of return being earned by the mobilehome park is not just and reasonable as set forth in the Administrative Rules adopted by Resolution of the City Council. The park owner shall have the burden of proving the park is not earning a just and reasonable return.

D. Hearing Procedures.

1. All applications pursuant to this section, and appeals of decisions of the Rent Administrator, shall be filed on an application form or appeal form provided by the Rent Administrator. A total of eight (8) copies of the completed application or appeal and any additional back-up documentation submitted prior to the hearing must be provided to the City in order for the application to be deemed complete by staff. At the time the application or appeal is filed, the applicant or appellant shall also post in three conspicuous places in the park, a notice advising the park residents or park owner that an application or appeal has been filed

with the Rent Administrator. The applicant or appellant shall also provide any resident representative or park owner with any copies of the complete application, as required by the Administrative Rules adopted pursuant to this Chapter.

2. 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 twenty (20) days of the date notice of the application is mailed by the city. The affected residents or park owner shall provide the applicant or appellant with copies of any response or opposition in accordance with the requirements of the administrative rules adopted pursuant to this chapter. One copy of the application shall be furnished to the resident representative of the affected residents by the Rent Administrator together with the notice of the application.

3. Capital Improvement Applications.

a. The Rent Administrator shall have thirty (30) days in which to decide or declare a capital improvement application incomplete.

b. Any decision of the Rent Administrator pursuant to Section 15.20.080, subsection (B) of this chapter may be appealed to the commission by filing an appeal within ten days of the date the Rent Administrator's written determination is mailed to the affected park owner and residents.

c. The Rent Administrator shall have ten days in which to declare the appeal application complete.

d. A hearing of the commission shall be held not later than sixty (60) days

from the date the appeal application is determined complete.

e. The commission shall render its decision in writing, including findings of fact, within seventy-five (75) days after the date an application is determined to be complete.

f. Any decision of the rent review commission may be appealed to the City Council in accordance with Section 15.20.115 of this chapter, appeal to City Council, by filing an appeal within ten days of the date of the commission's written decision.

g. The Rent Administrator shall have ten days in which to declare the appeal application complete.

h. A hearing of the City Council shall be held not later than thirty (30) days from the date the appeal application is determined complete.

i. The City Council shall render its decision in writing, including findings of fact, within fifteen (15) days from the commencement of the public hearing. The decision of City Council is final.

4. Rent Adjustments by Application to the Commission.

a. The Rent Administrator shall have thirty (30) days in which to declare an NOI application complete.

b. A hearing of the commission shall be held not later than sixty (60) days from the date the application is determined complete.

c. The commission shall render its decision in writing, including findings of fact, within seventy-five (75) days after the date an application is determined to be complete.

d. Any decision of the rent review commission may be appealed to the City Council in accordance with Section 15.20.115 of this chapter, appeal to City Council, by filing an appeal within ten days

of the date of the commission's written decision.

e. The Rent Administrator shall have ten days in which to declare the appeal application complete.

f. A hearing of the City Council shall be held not later than thirty (30) days from the date the appeal application is determined complete.

g. The City Council shall render its decision in writing, including findings of fact, within fifteen (15) days from the commencement of the public hearing. The decision of City Council is final. (Ord. 193 § 10, 1999; Ord. 161 § 9, 1996; Ord. 152 (part), 1996; Ord. 126 § 9, 1994)

15.20.110 Registration, posting and fees.

A. Every mobilehome park, except those exempt pursuant to Section 15.20.030(A), shall file an initial registration statement, on a form provided by the Rent Administrator.

B. Annual Registration. Every mobilehome park shall file an annual registration statement, on a form provided by the Rent Administrator and in accordance with the Administrative Rules adopted pursuant to this Chapter, no later than the thirty-first day of January each year.

C. New Lease Registration. Every park owner shall file a statement on a form provided by the Rent Administrator whenever the lease terms, services and rental rate for a space changes pursuant to a new or renewed lease which is exempted from this chapter pursuant to Civil Code Section 798.17.

D. Fees. The City Council may adopt fees for the following by resolution:

1. Annual registration fees based on the number of spaces in the mobilehome park to be used for the costs of administering this chapter. Registration fees shall be paid by each park owner to the city for each space which is not exempt pursuant

to Civil Code Section 798.17 or Section 15.20.030(A) at the time the initial and annual statements are filed.

2. Application fees to cover the costs of processing an application or appeal.

E. A park owner who fails to comply with subsections A, B, C and D of this section shall not be entitled to charge, collect, retain or apply for the rent increases permitted by this chapter.

F. The 2004 paramedic special tax, enacted by the voters at the rate of twenty-eight dollars (\$28.00) per individual dwelling unit per year, may be collected, commencing on November 1, 2004, in twelve (12) monthly installments, in an amount not to exceed two dollars and thirty-four cents (\$2.34) per month, which may be included with the monthly statement of rent due, but must be separately itemized. The tax shall not be included in the base rent when calculating rent adjustments.

G. A copy of the Ordinance (YMC 15.20) shall be posted in the office of every mobilehome park and in the recreation building or clubhouse of every mobilehome park. (Ord. 234 § 1, 2004; Ord. 214 §§ 4—6, 2002; Ord, 193 § 10, 1999; Ord. No. 161 § 10, 1996; Ord. 126 § 10, 1994)

15.20.115 Appeal to the City Council.

A. Either party may, and prior to commencing any action in a court of competent jurisdiction shall, appeal any final decision or order of the commission to the City Council by filing written notice of the appeal, a written summary of the basis of the appeal and any documents supporting the appeal with the Rent Administrator not later than ten days after the decision of the commission has been deposited in the mail, addressed to the petitioner and the affected residents. 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. Such service may either be 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 cost of the appeal is deposited with the Rent Administrator. The Rent Administrator shall estimate the cost of the appeal. Proof of service shall be on a form provided by the Rent Administrator. The Rent Administrator shall set the appeal for a public hearing at a meeting of the City Council to be commenced within thirty (30) days after the appeal is filed.

B The City Council shall issue its decision in writing, including findings of fact, within fifteen (15) days of the commencement of the public hearing; provided that the City Council may extend the time limits under this subdivision for reasonable cause, and failure of the city to act within the time limit specified herein shall not result in the automatic approval of any petition. The decision of the City Council on any appeal shall be final. (Ord. 193 § 11, 1999)

15.20.120 Rules and guidelines.

The Rent Administrator may adopt rules and procedures to implement the applications, notices, registration, verification and certification required by this chapter, and for the review of rent increase applications and the conduct of hearings. Such rules and guidelines shall be submitted to the commission and City Council for review and approval. (Ord. 193 § 13, 1999: Ord. 161 § 11, 1996: Ord. 126 § 11, 1994)

15.20.130 Remedies.

A. Any person who demands, accepts or retains any rent in excess of the maximum rent permitted by this chapter shall be liable in a civil action to the person from whom such payment is demanded,

accepted or retained in the sum of three times the amount by which the payments demanded, accepted or retained exceed the maximum rent permitted by this chapter together with reasonable attorneys' fees and costs as determined by the court.

B. Any person violating any of the provisions of this chapter shall be guilty of an infraction and shall be punishable by a fine of not more than five hundred dollars (\$500.00). Each violation of this chapter and each day during which any such violation is committed or continued shall constitute a separate offense.

C. The City Council may institute a civil action to compel compliance with this chapter.

D. Any legal challenge to a determination of the commission or Rent Administrator granting, denying or modifying a rent adjustment must be filed within ninety (90) days of the date of the administrator's or commission's written determination. (Ord. 193 § 14, 1999: Ord. 161 § 12, 1996: Ord. 126 § 12, 1994)

E. Conflicts between the Administrative Rules and rules adopted pursuant to this Chapter shall be resolved in favor of this Chapter.

15.20.140 Biennial review.

This chapter shall be reviewed by the City Council in odd-numbered years to determine whether it is still appropriate and whether there should be any modifications of its provisions. (Ord. 193 § 15, 1999: Ord. 170 § 4, 1997: Ord. 161 § 13, 1996: Ord. 126 § 13, 1994)