

ORDINANCE NO. 2282

AN ORDINANCE OF THE CITY OF CHULA VISTA AMENDING CHAPTER 9.50 OF THE CHULA VISTA MUNICIPAL CODE RELATING TO MOBILEHOME PARK SPACE-RENT NEGOTIATION AND ARBITRATION AND DECLARING THE URGENCY THEREOF

The City Council of the City of Chula Vista does ordain as follows:

SECTION I: That the title of Chapter 9.50 of the Chula Vista Municipal Code is amended to read: MOBILEHOME PARK SPACE-RENT ~~NEGOTIATION~~ NEGOTIATION AND ARBITRATION.

SECTION II: That Chapter 9.50 of the Chula Vista Municipal Code is hereby amended to read as follows:

**Sec. 9.50.010 Applicability.**

This chapter shall apply to a mobilehome that requires a permit to be moved on a street or highway.

The procedures contained in this chapter are intended to provide a mechanism for the resolution of disputed increases in rents by making it advantageous for mobilehomes owners and mobilehome park owners to establish a better understanding for each other's positions through a negotiation process which will result in agreement on the amount of rent to be charged. If the negotiation process fails, a binding arbitration provision is imposed. The procedures of the ordinance are established with the intent of allowing a negotiation process, which can be accomplished in a timely fashion. ~~The // ordinance // would // make // that //~~ The participating parties ~~would~~ shall commit to the goal of completing ~~a~~ the negotiation and arbitration processes within sixty (60) days of the serving of a petition to the owner/manager.

**Sec. 9.50.015 Applicability of Chapter 9.50 to Recreational Vehicles.**

Recreational vehicles as defined in California Civil Code Section 799.24 are subject to the rights and duties set forth in Chapter 9.50 and shall have the right to join in the ~~negotiation~~ negotiation and arbitration

processes of Chapter 9.50 where the recreational vehicle owner/occupant has been in residency for nine or more consecutive months. Notwithstanding the above, Chapter 9.50 shall not be applicable to recreational vehicles residing in parks operated as recreational vehicle parks, where the predominant number of spaces are occupied for less than nine months.

**Sec. 9.50.020 Created.**

Each mobilehome park in the city is authorized to create its own mobilehome park negotiation commission. Interested parties may contact Community Development Department for guidelines and assistance.

**Sec. 9.50.030 Definitions.**

Words used in this chapter shall have the meaning described to them in this section:

1. "Negotiation Commission" means any mobilehome commission created within a mobilehome park in the city.
2. "Commissioners" means members of the negotiation commission created within a mobilehome park in the city.
3. "Space rent" means the consideration, including any bonus, benefits, or gratuity demanded or received in connection with the use and occupancy of the mobilehome space in a mobilehome park, or for the transfer of the lease for parkspace, services, owner-provided utilities, and amenities, subletting and security deposits, but exclusive of any amounts paid for the use of the mobilehome dwelling or of major capital improvement pass-throughs as defined in this ordinance.
4. "Mobilehome" means a mobilehome as defined in the California Mobilehome Residency Law.
5. "Mobilehome park owner" or "Owner" means the owner, lessor, operator, manager of a mobilehome park within the purview of this ordinance.
6. "Mobilehome resident" or "resident" means any person entitled to occupy a mobilehome dwelling unit by virtue of ownership thereof.
7. "Dispute" or "controversy" means a disagreement or difference between more than fifty percent of the residents of a park and the owner regarding a proposed space-rent increase.

8. "Consumer price index" shall mean the all urban consumers/all items component of the San Diego Metropolitan Area U (broader base) consumer price index.
9. "Major Capital Improvement Pass-Through" means a separately identified monthly charge to residents which represents the repayment of a cost for a major capital improvement with the following characteristics:
  - a. Said improvement shall have a cost of more than \$10,000.
  - b. Said improvement shall be exclusive of maintenance or replacement of existing facilities.
  - c. Said improvement shall have been approved in concept by more than fifty percent (50%) of the mobilehome spaces within the mobilehome park after all spaces in the park have been informed of the nature, general design, timing, and overall cost of said improvement, and the amount and duration of the related pass-through.
10. "Decision" will be defined as the majority opinion of a negotiation commission regarding resolution of the space rent dispute.

**Sec. 9.50.040 Negotiation commission-Membership.**

The mobilehome negotiation commission in each mobilehome park shall consist of five ~~members~~ commissioners. The commission shall be formed within a mobilehome park in the city in response to a particular dispute within fifteen (15) working days of the date the owner receives a written petition of the residents of more than fifty percent (50%) of the mobilehome spaces within the owner's mobilehome park requesting that the commission be formed. Said petition must be ~~given to the park owner or park manager~~ sent by registered or certified mail, return receipt requested, or by U. S. Postal Service certificate of mailing to 1) the park owner, 2) the City Clerk, 3) the Community Development Department, and 4) City Attorney within thirty (30) days after a notice of rental increase per Civil Code Sections 798.30 or 798.32 is given.

1. Two ~~members~~ commissioners shall be residents of the mobilehome park within which the commission is being formed and they shall be elected by a majority vote of the other owner/occupant residents of the mobilehome park.

2. Two ~~members~~ commissioners shall be designated by the owner of the mobilehome park.
3. Resident commissioners and park owner commissioners shall be selected within ten (10) working days.
- 3/ 4. The fifth ~~member~~ commissioner shall be appointed by the unanimous vote of the other four ~~members~~ commissioners and shall be selected from a list of candidates promulgated by the City's Mobilehome Issues Committee, who, to the knowledge of the Mobilehome Issues Committee, have no specific involvement in the mobilehome community or the mobilehome industry. It is preferable that the fifth ~~member~~ commissioner have some financial or accounting background. The four (4) commissioners shall have five (5) working days to select the fifth commissioner.
5. In the event that either party does not select the required commissioners, or in the event that the selected commissioners do not select the required fifth commissioner, within the stipulated time period, the Community Development Director of the City shall appoint the required commissioner or commissioners.
- A/ 6. A chairman shall be selected by the majority vote of the ~~members~~/of/~~the~~ commissioners.
- 3/ 7. At least two resident commissioner ~~alternatives~~ ~~may~~ shall be ~~appointed~~ elected, ~~in each classification/for/alternatives/1/2/~~ and one park owner commissioner and fifth commissioner alternate shall be appointed 1 to serve when needed and shall attend all meetings of the commission to be fully informed of the activities thereof, but shall be nonvoting observers.
- 6/ 8. Commissioners shall serve at the pleasure of the parties who elected or appointed them.
- 7 9. Three ~~members~~ commissioners shall constitute a quorum provided that one resident ~~member~~ commissioner and one owner ~~member~~ commissioner are present. Three affirmative votes are required for a ruling or a decision.

**Sec. 9.50.050 Functions of a negotiation commission.**

The functions of the negotiation commission are as follows:

1. To provide a representative forum for the purpose of facilitating and carrying out impartial and objective negotiations between the mobilehome park owner and the residents of a particular mobilehome park within which the commission has been formed. It is the objective of this chapter to create such a forum within each mobilehome park in the city whereby the persons who are actually concerned and who are knowledgeable of the actual facts relating to their particular mobilehome park can resolve their differences and concerns regarding space rent increases without the interference of government or other persons who are not residents or owners of the particular mobilehome park. By creating this forum, and the ~~mediation~~ negotiation procedures provided for by this chapter, the policies and objectives of the Mobilehome Residency Law of the State of California, specifically those of Section 798.51, which require the owner to meet and consult with residents regarding matters of concerns to residents, will be best served and implemented.
2. To make or conduct such independent hearings or investigations as may be appropriate to obtain such information as is necessary to carry out their duties. Said hearings shall be taped by city staff and the tapes of said hearings shall be delivered to the city clerk who shall maintain the tapes until any particular disputed rental increase matter has been concluded.
3. To provide written minutes by city staff to the city council concerning their activities, actions, results of hearings, and all other matters pertinent to this chapter which may be of interest to the council.
4. To maintain and keep at city hall hearing files and dockets listing the time, date and place of hearings, the parties involved, the addresses involved and the final disposition of the matter.

**Sec. 9.50.060 Powers of a negotiation commission.**

The negotiation commission shall have the following powers:

1. To ~~mediate~~ negotiate all disputes regarding rental rate adjustments, ~~including the mediation of the amount due to mobilehome residents where appropriate,~~ and to make its recommendation to the residents and owner after appropriate hearings. A commission's decision shall be advisory only.

2. Advisory capacity to the city council: A commission shall hold such hearings, receive evidence both oral and documentary, as it deems appropriate, and advise the city council on all matters relating to the space rent situation in its particular mobilehome park that may be referred to it by the city council from time to time.

**Sec. 9.50.070 Initiation of negotiation commission review and hearing process.**

In any situation where the space rent increases in a twelve month period exceed cumulatively the increase of the consumer price index as defined herein for the year preceding the rent increase notice, the following procedures shall apply:

1. Upon the written petition of more than fifty percent of the spaces in the mobilehome park (who will be or have been within a sixty-day period, subject to a rental or service charge increase), the commission shall hold a hearing no sooner than ten days and no later than thirty days at a place and time to be set by the commission, to determine whether or not the rental or service charge increase is warranted. A reasonable continuance may be granted if stipulated to by both parties or at the commission's discretion. The commission's first order of business shall be the selection of a fifth ~~member~~ commissioner.
2. All hearings of a commission shall be open to the other residents of the particular mobilehome park and to other residents of the city; provided, however, that the commission shall have the power to approve and control the attendance of persons who do not live in their particular mobilehome park in order to ensure that residents of the particular mobilehome park can attend the hearing. Persons who do not live in the particular mobilehome park shall not be permitted to speak or participate in the hearings unless they are being called as witnesses or they are assisting one of the parties to the hearing as provided for in paragraph 3 below.
3. All parties to a hearing may have assistance in presenting evidence or in setting forth by argument their position, from such persons as may be designated by the parties.
4. Commissioners from both parties (residents and parkowners) shall have the authority to accept or reject a proposal resolving any of the issues.

5. If a counter offer is made by either party, negotiation shall continue in order to arrive at mutual agreement.
6. If an agreement is reached by the Commission, the agreement shall be in writing and signed by both parties and witnessed by the fifth commissioner. Copies of the signed agreement shall be given to both parties, the City Clerk, the City Attorney, and the Community Development Department. The Community Development Department shall furnish copies of the signed agreement to the resident commissioners to distribute to the affected mobilehome residents.
7. The rent negotiation provisions set forth herein shall also be applicable to the situation where space rent is increased upon sale or removal of the unit. In this case, the written petition shall be from the incoming owner-occupant.

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Sec. 9.50.080 / Mediation of negotiation commission's decision.

1. In the event that the park owner, or the residents of the park, elect to file a petition of appeal with the mediation commission, either party may elect to have the issue submitted to mediation for the purpose of reaching an agreement on the issue in question.
2. The mediation process may be commenced by the party who has elected to mediate the dispute by giving the other party written notice of this election, which may be done orally or in writing. The commission's decision. The cost of mediation will be shared equally by both parties. Mediators shall be compensated as may be agreed upon by the parties and the mediators themselves.
3. A total of three mediators shall be appointed for purposes of conducting the mediation. One mediator to be appointed by the residents and one mediator to be appointed by the owner. The two mediators shall appoint the third mediator.
4. In order to achieve objectivity and the maximum benefit from the mediation process, the mediators shall be selected from a list supplied by the city council. The list shall be qualified citizens with backgrounds in accounting, business, ownership and/or economics. None of the three mediators shall be persons who, either in the past or presently, have been or are directly associated with the mobilehome park industry.

- 5/ The mediators shall determine the procedures which are to be followed in conducting the mediation.
- 6/ Each party shall submit such evidence as they feel is necessary to support their respective positions in the disputed rent/increase. A majority of the mediators may, however, make the determination to include or exclude any testimony or other evidence which is not germane and material to the dispute.
- 7/ The three mediators shall, individually or jointly, as they decide, meet separately with the parties for the purpose of finding a basis for mutual agreement upon the rent/increase which is in dispute and any refund amounts which might be appropriately due to mobilehome residents. The mediators' recommendation shall be advisory only. The mediators shall, however, be empowered to make recommendations and take all other action which is reasonably necessary and prudent to achieve the mutual agreement of the parties as to a fair and equitable resolution of the disputed rent/increase.
- 8/ With respect to any dispute upon which the parties have reached agreement, they shall, upon the request of either of them, enter into a written contract which embodies the terms of the agreement.
- 9/ The negotiation, commission hearings and mediation process are not intended to supersede or contradict the laws of the State of California or the United States generally, or as they pertain specifically to mobilehome parks, mobilehome park rents, and otherwise, as they are now enacted or may be enacted in the future. In the event the issue in dispute is not resolved to either party's satisfaction by either the commission hearings or the mediation process, described above, then each party shall retain all legal rights which they would otherwise have had if this chapter had not been enacted.
- 10/ The mediators shall submit a written report to the city council concerning the activities, actions, results of the mediation efforts and all other matters pertinent to this chapter which may be of interest to the council.
- 11/ Written reports submitted to the city council by the mediator shall be maintained at city hall.



Sec. 9.50.085, Arbitration.

1. In the event that the park owner and resident commissioners are unable to resolve the space rent increase dispute utilizing the negotiation process, the issue shall be submitted to arbitration within five (5) working days.
2. Resident representatives selected to serve as negotiators shall also represent residents during arbitration.
3. The cost of arbitration will be shared equally by both parties and shall be clearly stated at the time of appointment.
4. The arbitration shall be conducted according to the applicable rules of arbitration of the American Arbitration Association and under the auspices of the American Arbitration Association.
5. The decision of the arbitrator shall be binding. The decision must provide park owners with a just and reasonable return on their property.
6. The arbitrator's decision shall be submitted to the City Council.
7. Written information submitted to the City Council by the arbitrator shall be maintained at City Hall.
8. In the event the Arbitrator finds that there has been a failure or refusal by the park owners or the park residents to bargain in good faith, the Arbitrator may assess all costs of arbitration against the party failing or refusing to bargain in good faith.

Sec. 9.50.090 // Adjustment of Rental Amounts Paid  
/// In any case where a dispute arises over the mediation process or the terms of the agreement by the parties to the mediation process, the park owner shall make a timely refund to the affected residents of the excess amount of rent paid from the effective date of the adjustment agreement // That refund may be in cash or in the form of a future credit to be mutually agreed upon by the park owner and each affected resident.

Sec. 9.50.090 Deferral of Rent Increases

In any case where a proposed rent increase exceeding the CPI, as provided herein, is subject to dispute said excess increase shall not become effective until the full negotiation and arbitration processes have been complied with in accordance with the provisions of Chapter 9.50 provided, however, an increase in the amount of the CPI may take effect immediately and only the amount in excess thereof shall be deferred until the completion of the negotiation and arbitration process.

**Sec. 9.50.100 Severability.**

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional, such portion shall be deemed a separate and independent provision and such decision shall not affect the validity of the remainder.

**9.50.110 Enforcement.**

- 1/ The failure of either the mobilehome park residents or park owners to adhere to the procedures established herein shall not constitute a crime, but the city council may, upon petition of either party and after conducting a public hearing thereon, and making a finding of a violation of the terms of this chapter, direct the city attorney to seek judicial enforcement in a court of competent jurisdiction of the mediation procedures contained herein. Such enforcement shall not extend to the failure of refusal of either party to accept the final determination reached by the mediation process.
- 2/ Notwithstanding any provisions in this chapter to the contrary, an individual resident, individual owner, two or more residents, or two or more owners, may at any time bring an action in the state or federal courts alleging a violation of any legal, equitable or other rights which the plaintiff may have. Such action may include, but not be limited to, breach of contract, violation of applicable state laws relating to mobilehomes, and landlord and tenant relationships.

SECTION III: This ordinance shall take effect and be in full force upon its introduction and adoption as an urgency ordinance pursuant to Chula Vista City Charter 311(d). The facts constituting the urgency necessary to preserve the public peace, health, safety, and general welfare are as follows:

The City is aware that one park is currently in the mediation process, and has not yet resolved its space rent increase dispute. It is likely that non-urgency enactment of this ordinance would cause the already protracted rent mediation process in that park to be further protracted, while the participants waited for binding arbitration to become


effective. Acting with urgency would allow that park's process to proceed under the new binding arbitration process and would hopefully lead to resolution of a dispute which is likely to be having significant impact on the health, safety, and welfare of the residents of that park, some number of whom might be facing economic eviction in the face of an already-imposed rent increase which could become subject to binding arbitration.

Presented by

Approved as to form by

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Paul G. Desrochers, Director of  
Community Development



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D. Richard Rudolf,  
Assistant City Attorney

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FIRST READ AT A REGULAR MEETING OF THE CITY COUNCIL OF THE  
CITY OF CHULA VISTA, CALIFORNIA, HELD August 23, 19 88, AND  
FINALLY PASSED AND ADOPTED AT A REGULAR MEETING THEREOF HELD August 23,  
1988, BY THE FOLLOWING VOTE, TO-WIT:

FOR: Councilmen Cox, Moore, McCandliss, Nader  
AGAINST: Councilmen None  
ABSTAIN: Councilmen None  
PRESENT: Councilmen Malcolm

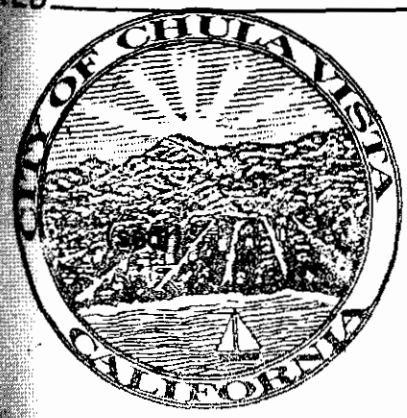
Gregory R. Cox  
Mayor of the City of Chula Vista

ATTEST Jennie M. Fulasz  
City Clerk

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO ) ss.  
CITY OF CHULA VISTA )

I, JENNIE M. FULASZ, CMC, CITY CLERK of the City of Chula Vista, California,  
DO HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of  
ORDINANCE NO. 2282, and that the same has not been amended or repealed.

DATED \_\_\_\_\_



\_\_\_\_\_  
City Clerk

ORDINANCE NO. 2282

AN ORDINANCE OF THE CITY OF CHULA VISTA AMENDING CHAPTER 9.50 OF THE CHULA VISTA MUNICIPAL CODE RELATING TO MOBILEHOME PARK SPACE-RENT NEGOTIATION AND ARBITRATION AND DECLARING THE URGENCY THEREOF

By a unanimous vote of those present (Councilman Malcolm was absent), the City Council, at its meeting of August 23, 1988, placed the ordinance on its first reading and adoption.

Basically, the ordinance establishes procedures for negotiation and arbitration regarding mobilehome park space-rent matters.

The ordinance covers the applicability requirements; section pertaining to recreational vehicles; membership on the negotiation committee; review and hearing process; severability and enforcement.

Copies of the ordinance are available at the office of the City Clerk, City Hall, 276 Fourth Avenue, Chula Vista, CA.

Dated: 9/1/88

  
Jennie M. Fulasz, CMC  
City of Chula Vista, CA

*Handwritten initials*