

ORDINANCE NO. 2306

AN ORDINANCE OF THE CITY OF CHULA VISTA AMENDING CHAPTER
9.50 OF THE CHULA VISTA MUNICIPAL CODE RELATING TO RENTAL
MOBILEHOME PARKS

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

SECTION I: That Chapter 9.50 of the Chula Vista Municipal Code be,
and the same is hereby amended to read as follows:

Chapter 9.50 MOBILEHOME PARK SPACE-RENT ~~NEGOTIATION/AND~~
ARBITRATION

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~~ provided for. The procedures of the ordinance are established
with the intent ~~of providing a negotiation process which can~~ that they be
accomplished in a timely fashion. The participating parties shall commit to
the goal of completing the ~~negotiation and~~ arbitration processes within
sixty (60) days of the serving of ~~a permit to the owner/manager~~ the
notice of rent increase.

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 and~~ arbitration ~~processes or~~ as set
forth herein ~~Chapter 9.50~~ where the recreational vehicle owner/occupant has
been in residency for nine or more consecutive months. Notwithstanding the
above, this 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 Home 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 mobilehome park owner and residents of a park and the owner/tenant/landlord/property/holder/lease/holder~~ which is subject to the arbitration process.
8. "Consumer price index" or "CPI" 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" shall be defined as the majority opinion of a negotiation commission regarding resolution of the space rent dispute.~~

Sec. 9.50.050 Owner Meetings and Possible Voluntary Negotiations.

Within five days, but not more than 10 days, after service of a notice of increase as provided in Section 9.50.065, the park owner must hold an informal meeting for the benefit of the affected residents to discuss his or her increase. It is hoped that such a meeting may lead to voluntary settlement of the dispute. The meeting should be set for a time and date believed to be convenient for residents and may be changed to a different date based on the reasonable request of the residents.

The residents shall have the option to choose whether or not to attend the meeting. Attendance at the meeting shall not affect the residents' right to arbitrate under Section 9.50.070 of this Chapter.

Sec. 9.50.060 Negotiation Commission Membership.

The mobilehome negotiation commission in each mobilehome park shall consist of five 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 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 denial/increase per Civil Code Sections 798.30 or 798.32 is given. A good faith attempt to meet the thirty (30) day petition filing requirement is sufficient for purposes of this section. All questions regarding the timeliness of the petition shall be decided by the Community Development Director or his/her designee subject to an appeal to the City Council.

1. Two commissioners shall be residents of the mobilehome park within which the commission is being formed. They shall be elected by a majority vote of the other owner/occupant residents of the mobilehome park.
2. Two 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.
4. The fifth commissioner shall be appointed by the unanimous vote of the other four 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 special involvement in the mobilehome community or the mobilehome industry. It is preferable that the fifth 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.

- 6/ A chairman shall be selected by the majority vote of the commissioners.
- 7/ At least two resident commissioner alternates shall be elected, and one park owner commissioner and each commissioner alternate shall be appointed 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.
- 8/ Commissioners shall serve at the pleasure of the parties who elected or appointed them.
- 9/ Three commissioners shall constitute a quorum provided that one resident commissioner and one owner commissioner are present. Three affirmative votes are required for a ruling or a decision.

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 the 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 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 798.31, which require the owner to meet and consult with residents regarding matters of concern 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 books listing the time, date and place of hearings, the parties involved, the addresses involved and the final disposition of the matter.

9.50.060 / Powers of a negotiation commission.

The negotiation commission shall have the following powers:

- 1/ To negotiate all disputes regarding rental rate adjustments, 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 // rent // space // situation // in // its // particular // mobilehome // park // that // may // be // referred // to // it // by // the // city // council // from // time // to // time.

Sec. 9.50.065 Notice of rent increase.

In any situation where a mobilehome park owner wishes to increase the space rent above the applicable CPI, he or she must first give notice as follows:

NOTICE - RENT INCREASE IN EXCESS OF CPI

IF YOU DO NOT TAKE ACTION TO ARBITRATE WITHIN THIRTY DAYS, THIS INCREASE SHALL BE AUTOMATICALLY EFFECTIVE

This notice of increase exceeds the current annual rate of the Consumer Price Index (CPI). The CPI is % and this increase is % of your current rent. Under the City's Municipal Code, you are entitled to the following rights:

1. To this end, I am required to hold a meeting with the residents to discuss the reasons for the increase. The meeting will be at (time and place). You are encouraged to attend but are not required to do so. Under the City's ordinance, owners and residents are encouraged to attempt to resolve differences regarding this increase.
2. You have the right to file for arbitration with the City's Community Development Department. You may file for arbitration whether or not you attend the meeting to discuss the increase. To file for arbitration, you must place a deposit of \$ with the City's Community Development Department within thirty days of the date this notice is served on you. If you do not place the deposit, you forfeit your right to arbitrate the rent increase.

If you or other affected residents are lower-income (below \$13,000-\$15,000 per year), you may be eligible to receive assistance with part of the cost of arbitration from the City's Community Development Department. If you have questions regarding arbitration or need more information, you can call the City at 691-5047.

The following space numbers are subject to this increase:

1. If the residents within the affected mobilehome park have established a representative body and notify the owner in writing of its existence, a copy of the rent increase notice must be sent to the chairperson of that body.

2. A copy of the rent increase notice must be given to the Community Development Department of the City of Chula Vista at least 15 days prior to issuance of the notice to the residents. Staff will provide copies to the Mobilehome Issues Committee.
3. The rent increase notice must contain the space numbers of all residents who are subject to the increase which is above the amount of the applicable CPI.
4. The notice shall advise recipients that a deposit of 25% of the cost of arbitration shall be made within thirty (30) days of the date of service of notice or the right to arbitration is waived. The deposit shall be made with the Director of Community Development.

Sec. 9.50.070 Initiation of ~~negotiation/commission/review/and/hearing process~~ arbitration.

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 unless the owner receives written consent to the increase from more than 50% of the spaces affected by the notice of increase. The owner must file the original of the written consent with the Community Development Department and notify the residents that this has been filed.

1. Residents shall be required within thirty days of the date of service of the notice of increase to deposit with the City Community Development Department 25% of the estimated arbitration cost for one day of arbitration. Arbitration shall begin in not less than 20 days nor more than 30 days after the date of service of the notice of increase, provided the residents' deposit has been made.
2. Upon receipt of the residents' deposit and notification to the park owner, he shall have 7 days to provide a deposit which shall be equal to 75% of the estimated cost for one day of arbitration.
3. The cost of arbitration including costs incurred by the American Arbitration Association in cases where a settlement is reached prior to any hearing will be shared. The owner shall be responsible for 75% and the residents responsible for 25% of the first \$750. Any costs of arbitration above \$750 shall be shared equally by both parties. Additional costs above the amount of deposit shall be due and payable subject to the requirements of the American Arbitration Association.
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 and shall be applicable to all mobilehome residents subject to the rent increase being arbitrated. Factors to be considered shall include but not be limited to a just and reasonable return on the owner's property. The burden of proof shall be on the park owner to demonstrate that the rent increase is necessary to provide a just and reasonable return on the 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 that the owner reduces the rent increase to the applicable CPI, or more than 50% of the affected residents agree in writing to settle the dispute, the arbitration process automatically terminates.
9. Arbitration shall also be applicable to the situation where space rent is increased upon change of ownership of the mobilehome or removal of the unit. Either the incoming or outgoing owner-occupant shall have the right to arbitrate.

If an outgoing mobilehome owner intends to sell his or her mobilehome, he or she may request, and the owner shall be obligated to provide within 15 days of the request, a written statement as to the rental rate to be offered to the incoming owner-occupant. If the rate of increase in rent to the new owner-occupant is above the amount of the applicable CPI as provided in Section 9.50.070, then either the current resident or incoming resident shall have the right to arbitrate the increase under the provisions of Section 9.50.070. The right to arbitrate is subject to the outgoing or incoming resident placing a deposit pursuant to Section 1 above, within 30 days of either (a) service of the owner's written statement to the outgoing resident or (b) the date of execution of a purchase contract between the incoming and outgoing residents, which is the latter.

The park owner's statement shall contain the following:

NOTICE - RENT INCREASE IN EXCESS OF CPI

IF YOU DO NOT TAKE ACTION TO ARBITRATE IN A TIMELY MANNER, THIS INCREASE SHALL BE AUTOMATICALLY EFFECTIVE UPON THE SALE OF YOUR MOBILEHOME

This statement of increase exceeds the current annual rate of the Consumer Price Index (CPI). The CPI is % and this increase is % of your current rent. Under the City's Municipal Code, the outgoing or the incoming resident are entitled to file for arbitration with the City's Community Development Department. In order to arbitrate, you must place an arbitration deposit of \$ with the City's Community Development Department within thirty days of the date this notice is served on you or the date of execution of a purchase contract on the mobilehome. If you do not place the deposit, you forfeit your right to arbitrate the rent increase.

If you are low income (below \$13,000-15,000 per year), you may be eligible to receive assistance for part of the cost of arbitration from the City's Community Development Department. If you have questions regarding arbitration or need more information, you can call the City at 691-5047.

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 list of order of business shall be the selection of a fifth 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 the 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 park owners) shall have the authority to accept or reject a proposal regarding 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.

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, all during 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 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.

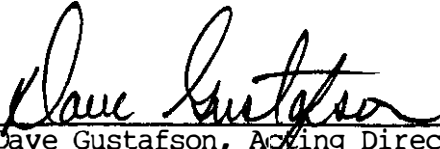
9.50.090 Deferral of Rent Increases.

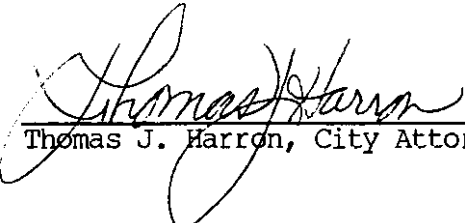
In any case where a proposed rent increase exceeding the CPI, as provided herein, is subject to dispute said excess increase shall not become effective until the ~~full~~ ~~negotiation~~ and arbitration processes have been complied with in accordance with the provisions of Chapter 9.50 provided, however, 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.

SECTION II: This ordinance shall take effect and be in full force on the thirtieth day from and after its adoption.

Presented by

Approved as to form by


 Dave Gustafson, Acting Director
 of Community Development
 5521a


 Thomas J. Harron, City Attorney

FIRST READ AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, CALIFORNIA, HELD April 11, 19 89, AND FINALLY PASSED AND ADOPTED AT A REGULAR MEETING THEREOF HELD April 18, 19 89, BY THE FOLLOWING VOTE, TO-WIT:

AYES: Councilmen : McCandliss, Nader, Cox, Moore
NAYES: Councilmen : None
ABSTAIN: Councilmen : None
ABSENT: Councilmen : Malcolm

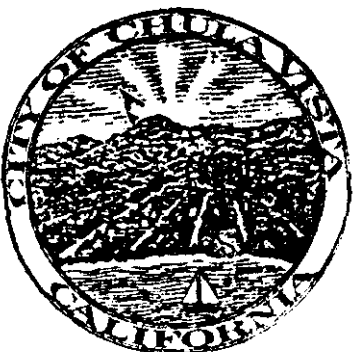
Gregory R. Cox
Mayor of the City of Chula Vista

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. 2306, and that the same has not been amended or repealed.

DATED _____



City Clerk



CITY OF
CHULA VISTA

OFFICE OF THE CITY CLERK

ORDINANCE NO. 2306

AN ORDINANCE OF THE CITY OF CHULA VISTA, CALIFORNIA
AMENDING CHAPTER 9.50 OF THE CHULA VISTA
MUNICIPAL CODE RELATING TO RENTAL MOBILEHOME PARKS

At its meeting of April 18, 1989, the City Council placed the ordinance on second reading and adoption (Councilman Malcolm was absent during the vote).

The Ordinance covers the requirements for (1) Burden of Proof on Reasonable Return; (2) Arbitration Costs; (3) Reduction of Increase to CPI Ends Arbitration Process; (4) Petition Requirement and Requirement to Negotiate; (5) Voluntary Negotiation; (6) Owner's Rent Increase Notice and (7) Rent Increase at Time of Sale of Mobilehome.

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

Dated: 4/24/89


Jennie M. Fulasz, CMC
City Clerk