

ORDINANCE NO. 2451

AN ORDINANCE OF THE CITY OF CHULA VISTA ADDING CHAPTER 2.31 AND AMENDING VARIOUS SECTIONS OF CHAPTER 9.50 OF THE CHULA VISTA MUNICIPAL CODE RELATING TO MOBILEHOME PARKS AND CREATION OF THE MOBILEHOME RENT REVIEW COMMISSION

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

SECTION I. That Chapter 2.31 is added to the Chula Vista Municipal Code to read as follows:

Chapter 2.31 MOBILEHOME RENT REVIEW COMMISSION

Section 2.31.010 Creation.

There is hereby created a Mobilehome Rent Review Commission.

Section 2.31.020 Purpose and Intent.

It is the purpose and intent of the City Council in establishing the Commission is to create an advisory body to provide an independent review of the disputes over rent increases in mobilehome parks within the City of Chula Vista under Chapter 9.50.

Section 2.31.030 Functions and Duties.

The functions and duties of the Commission shall be as follows:

- A. Pursuant to Chapter 9.50, act as the "due process" unbiased decisionmaker regarding mobilehome park rent disputes.
- B. Adopt rules and regulations to procedurally administer hearings under Chapter 9.50 to determine whether the park owner's rent increase in excess of the applicable cost of living increase is a fair return on the park owner's property.
- C. Consult with and provide advice to the City Council and City Manager on matters relating to mobilehome parks.

Section 2.31.040 Membership.

A. Number of Members.

The Commission shall consist of seven (7) Voting Members, a Staff Ex-officio Member and up to three (3) General Ex-officio Members.

B. Designation of Members.

1. Voting Members.

The Voting Members shall be appointed by the City Council from the qualified electors of the City in accordance with Section 600 et seq. of the Charter. No member shall own or be a tenant in a mobilehome park.

2. Staff Ex-officio Member.

The City Manager or his/her designate representative shall be an ex-officio member of the commission, who shall not be required to be a qualified elector of the City, but who shall have no vote ("Staff Ex-officio Member").

3. General Ex-Officio Members.

The City Council, or its designee, may appoint not greater than three (3) additional ex-officio members of the Commission, who shall not be required to be qualified elector(s) of the City, but any such appointed ex-officio members shall have no vote ("General Ex-Officio Member"). The Council shall appoint one ex-officio member who shall be a tenant in a mobilehome park within the city at the time of appointment and throughout the member's term. The Council shall also appoint one ex-officio member who shall be an owner of a mobilehome park at the time of appointment and throughout the member's term.

Section 2.31.050 Term of Office.

A. Term of Office--All Classes of Members.

1. Post-Initial Terms.

Except as otherwise provided in this Subsection A, the term of office of all members, and all classes of members, of said Commission shall be for a nominal period of four (4) years, and shall terminate on June 30th of the fourth year of their term, unless they shall otherwise sooner resign, die, become disqualified or incompetent to hold Office.

2. Initial Terms of Voting Members.

Notwithstanding subsection A.1., the Initial Terms shall commence upon appointment and shall conclude, for one (1) Voting Member on June 30, 1992; for two (2) Voting Members on June 30, 1993; for two (2) Voting Member members on June 30, 1994; and for two (2) Voting Members on June 30, 1995, unless they shall otherwise sooner resign, die, become disqualified or incompetent to hold Office.

a. Assignment to Initial Terms by Lot.

Voting Members shall be assigned to Initial Terms by lot at the first regular meeting at which all Voting Members are present, but in any event not later than the third month after initial appointment of the 7th Voting Member.

3. General Ex-officio Member.

The term of General Ex-officio members shall be for a period of four years from the time of appointment.

4. Staff Ex-officio Member.

The term of the Staff Ex-officio Member shall be indefinite.

5. Holdover Office.

Notwithstanding the end of any Member's Initial Term or Post-initial Term as herein provided, a Member, other than the Staff Ex-officio Member, shall be permitted to continue to exercise the privileges of the former Office after the end of the term until the Office to which he or she was assigned is filled by re-appointment or by the appointment of a qualified successor to Office.

6. Vacancies.

Notwithstanding the term of Office to which a Member is assigned, said Office shall be deemed vacant upon any of the following events ("Event of Vacancy"):

- a. The death or disability of said Member that renders said Member incapable of performing the duties of Office.
- b. The termination of status as Member of the Commission or the classification which was assigned to be represented on the Commission.
- c. The member's conviction of a felony or crime involving moral turpitude.
- d. The member's absence from three (3) regular, consecutive meetings of the Commission, unless excused by majority vote of such board or commission expressed in its official minutes.
- e. The member has submitted a resignation which resignation has been accepted by the City Council.

- f. The membership has been terminated by a majority vote of the City Council.

Upon the occurrence of an Event of Vacancy as hereinabove listed, the City Council shall so declare the Office to be vacant, and shall expeditiously take such steps as are necessary to fill said vacancy.

B. Number of Terms.

1. Voting Members.

- a. No Voting Member shall be appointed to more than two (2) terms except as herein provided.
- b. A Voting Member assigned to an Initial Term of less than two (2) years may be appointed at the natural expiration of their Initial Term to two (2) terms in addition to their Initial Term. A Voting Member who currently occupies an Office under an Initial Term may not be appointed to fill the Unexpired Term of another Office which has become vacant.
- c. A Voting Member appointed to the Commission to fill the unexpired term of an Office of a Voting Member which has become vacant ("Unexpired Term") which has less than two (2) years remaining on said Unexpired Term, may be appointed to two (2) terms in addition to their Unexpired Term. A Voting Member who currently occupies an Office may not be re-appointed to fill the Unexpired Term of another Office which has become vacant.
- d. Any member may be re-appointed after two (2) successive years of not serving on the Commission in any Office or Membership capacity--Voting, General Ex-officio or Staff Ex-officio.

2. General Ex-officio Members.

General Ex-officio member may be reappointed without limitation as to number of terms.

3. Staff Ex-officio Member.

The Staff Ex-officio member shall serve at the pleasure of the City Council.

Section 2.31.060 Operation of Commission.

A. Time of Meetings.

1. "Organizational Meeting". Among such other meetings as the Commission may desire to have, the Commission shall meet not later than in the first week of July each year ("Organizational Meeting"), and thereupon shall do the following:
  - a. Select a Chairperson and a Vice Chairperson from among its Voting Members to serve for a period of one (1) year.
  - b. Assign such duties to its members as it determines may be necessary.
  - c. Deliberate upon agenda issues for further deliberation and discussion by the Commission.
2. Other Meetings. The Commission shall meet at such other times as it shall establish by majority vote, or at such time as the Chairperson thereof may call, or at such times as a majority of the members thereof may call a meeting.

B. Place of Meetings.

Unless the Commission shall otherwise establish another regular place for its meetings and advise the City Clerk accordingly, the Commission shall meet in the Council Conference Room in the Administrative Building at the City Hall Complex located at 276 Fourth Avenue, Chula Vista, or at such other place as may be posted upon the door of said Conference Room at least thirty (30) minutes in advance of the Meeting.

C. Conduct of Meetings.

The meetings of the Commission, and notice thereof, shall be governed by the same rules and regulations by which the City Council is bound in the conduct of public meetings.

D. Quorum.

Four Voting Members shall constitute a quorum for the transaction of business.

E. Resolutions.

The affirmative vote of a majority of the entire membership shall be required for the passage of any resolution of the Commission.

F. Reports and Recommendations.

All reports and recommendations shall be made in writing.

G. Staff Support.

All officers and department heads shall cooperate with and render reasonable assistance to the Commission. The City Manager may make available staff and clerical support to the Commission to fulfill its functions and duties, provided such staff and clerical support is available.

H. Rules and Regulations.

The Commission may make such rules and regulations not inconsistent with the provisions of this Chapter.

SECTION II: The title of Chapter 9.50 is amended to read MOBILEHOME PARK SPACE-RENT REVIEW.

SECTION III: Section 9.50.010 of the Chula Vista Municipal Code is amended to read:

Section 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 mobilehome owners and mobilehome park owners to establish a better understanding for each other's positions which will result in agreement on the amount of rent to be charged. A binding arbitration provision is provided for. The procedures of the ordinance are established with the intent that they be accomplished in a timely fashion. The participating parties shall commit to the goal of completing the arbitration process within sixty (60) days of the serving of the notice of rent increase, and that the entire dispute resolution process be completed within one hundred-twenty (120) days following receipt of the notice of space rent increase. This chapter shall not apply to leases exempted by Civil Code Section 798.17 ("Green Bill" leases).

SECTION IV: That Section 9.50.030 of the Chula Vista Municipal Code is amended to read:

9.50.030 Definitions.

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

- A. "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 or other allowable pass-throughs as defined in this ordinance.
- B. "Mobilehome" means a mobilehome as defined in the California Mobilehome Home Residency Law.
- C. "Mobilehome park owner" or "Owner" means the owner, lessor, operator, manager of a mobilehome park within the purview of this ordinance.
- D. "Mobilehome resident" or "resident" means any person entitled to occupy a mobilehome dwelling unit by virtue of ownership thereof.
- E. "Dispute" or "controversy" means a disagreement or difference which is subject to the arbitration process.
- F. "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.
- G. "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:
  - 1. Said improvement shall have a cost of more than \$10,000.
  - 2. Said improvement shall be exclusive of maintenance or replacement of existing facilities.
  - 3. 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.
- H. "Other Allowable Pass-Throughs" means separately billed utility service fees and charges excluded from rent in accordance with the provisions of Civil Code section 798.41; increases in rates of owner-provided utilities; and governmental assessments such as real property taxes, license fees, and assessments for municipal services or improvements. Copies of bills, invoices, or other appropriate supporting documentation shall be kept on file in the park owner's on-site business office, and made available for review by affected residents upon reasonable request at any time during normal business hours.

SECTION V: That Section 9.50.050 of the Chula Vista Municipal Code is amended to read:

Section 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.

SECTION VI: That Section 9.50.065 of the Chula Vista Municipal Code is amended to read:

Sec. 9.50.065 Notice of rent increase.

- A. 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 to affected residents, at the same time the sixty (60) day notice required by Civil Code Section 798.30 is given, 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 is a notice of space rent increase which exceeds the percentage increase of the Consumer Price Index (CPI) for the most recent twelve (12) month period, as reported by the Bureau of Labor Statistics, preceding this notice. 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. 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.

This increase is in addition to the following allowable pass-throughs: [ identify type and amount of major capitol improvement or other allowable pass-through]

The following space numbers are subject to this increase:  
[insert numbers of affected spaces]

- B. 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.
- C. A copy of the rent increase notice must be given to the Community Development Department of the City of Chula Vista at the same time as issuance of the notice to the residents.
- D. 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.
- E. 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.

SECTION VII: That Section 9.50.070 of the Chula Vista Municipal Code is amended to read:

Section 9.50.070 Initiation of space rent review.

- A. In any situation where the space rent percentage increases in a twelve month period exceed cumulatively the percentage increase of the consumer price index, as reported by the Bureau of Labor

Statistics for the most recent twelve (12) month period 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.

- B. 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.
- C. Upon receipt of the residents' deposit and notification to the park owner, the park owner shall have 7 days to provide a deposit which shall be equal to 75% of the estimated cost for one day of arbitration. The park owner shall sign an appropriate document submitting the dispute to arbitration when making the deposit.
- D. 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.

- E. 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.
- F. The decision of the arbitrator shall be advisory to the Mobilehome Rent Commission and shall be applicable to all mobilehome residents subject to the rent increase being reviewed. 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. The arbitrator's decision shall be submitted to the Mobilehome Rent Commission within thirty (30) days from the beginning of arbitration.
- G. The arbitrator's decision shall be submitted to the City's Mobilehome Rent Commission, which shall affirm, modify, or revoke the arbitrator's decision at a public hearing held within sixty(60) days following such submission. The parties may stipulate to merely a review of the record at arbitration, or either side may request a "de novo" hearing by the Commission. If a de novo hearing is requested,

it shall be conducted in accordance with procedures adopted by the Commission which satisfy the requirements of "due process" and will constitute a hearing at which evidence is required by law, so that the Commission's decision is reviewable by the courts by a writ of administrative mandamus pursuant to Code of Civil Procedure section 1094.5.

- H. 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 review process automatically terminates.
- I. The review process 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 subsection 9.50.070 A, then either the current resident or incoming resident shall have the right to review the increase under the provisions of this subsection 9.50.070. That right is subject to the outgoing or incoming resident placing a deposit pursuant to subsection B 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, whichever is 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 is a statement of space rent increase which exceeds the percentage increase of the Consumer Price Index (CPI) for the twelve (12) month period, as reported by the Bureau of Labor Statistics, preceding this statement. The CPI is \_\_\_% and this increase is \_\_\_% of your current rent. This increase is in addition to the following allowable pass-throughs: [ identify type and amount of major capitol improvement or other allowable pass-through ]

Under the City's Municipal Code, either the outgoing or the incoming resident is 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.

SECTION VIII: That Section 9.50.090 of the Chula Vista Municipal Code is repealed.

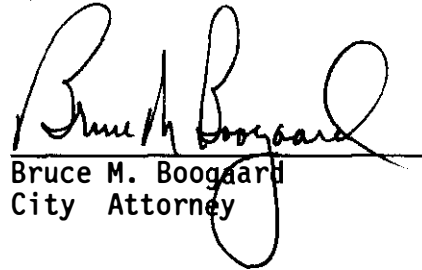
SECTION IX: This ordinance shall take effect and be in full force on the thirtieth day from and after its adoption.

Presented by

Approved as to form by



Chris Salomone  
Director Community Development



Bruce M. Boogaard  
City Attorney

PASSED, APPROVED and ADOPTED by the City Council of the City of Chula Vista, California, this 7th day of May, 1991, by the following vote:

AYES: Councilmembers: Moore, Nader, Rindone  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Malcolm  
ABSTAIN: Councilmembers: None

  
Leonard M. Moore  
Mayor, Pro-Tempore

ATTEST:

  
Beverly A. Authelet, City Clerk

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

I, Beverly A. Authelet, City Clerk of the City of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 2451 had its first reading on April 23, 1991, and its second reading and adoption at a regular meeting of said City Council held on the 7th day of May, 1991.

Executed this 7th day of May, 1991.

  
Beverly A. Authelet, City Clerk