

ORDINANCE NO. 2566

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ADDING SECTION 9.50.068 AND AMENDING VARIOUS SECTIONS OF CHAPTER 9.50 OF THE CHULA VISTA MUNICIPAL CODE REGARDING THE SPACE RENT CHARGED IN MOBILEHOME PARKS

THE CITY COUNCIL OF THE CITY OF CHULA VISTA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. That Section 9.50.065 of the Chula Vista Municipal Code shall be amended to read:

9.50.065 Notice of rent increase without change of ownership.

- A. In any situation where a mobilehome park owner wishes to increase the space rent to an existing Resident 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 (30) 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 shall be mailed (return receipt requested) to the Community Development Department of the City of Chula Vista, 276 Fourth Avenue, Chula Vista, CA 91910, at the same time as issuance of the notice to 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.

(Ord. 2566, §1 (part) 1993; Ord. 2451 §6, 1991; Ord. 2306 §1 (part), 1989.

SECTION 2. That Section 9.50.067 of the Chula Vista Municipal Code shall be amended to read:

9.50.067 Notice of rent increase upon change of ownership.

The review process shall also be applicable to the situation where space rent is increased above the applicable CPI 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, as provided in this section:

- A. **Outgoing Mobilehome Resident's Right to Arbitrate.** If an outgoing Mobilehome Resident intends to sell his or her mobilehome, the Owner shall provide to the outgoing Resident within 15 days of the receipt of a written notice of intent to sell, a written statement as to the rental rate to be offered to the incoming Mobilehome Resident, as set forth below in subsection C. 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 A, then the current resident shall have the right to arbitrate the increase under the provisions of Section 9.50.070. The right is subject to the outgoing resident placing a deposit pursuant to Section 9.50.070 (B) below, within 30 days of service of the owner's written statement, as shown in subsection C below, to the outgoing resident.
- B. **Incoming Mobilehome Resident's Right to Arbitrate.** The Owner shall also provide within 15 days of receiving a copy of a completed agreement for sale of the Mobilehome, a written statement to the incoming Mobilehome Resident as to (1) the rental rate to be offered to the incoming Mobilehome Resident, as set forth below in subsection C, below, and (2) notice as to whether the outgoing Mobilehome Resident completed arbitration in good faith as to the increase. At such time as an incoming Mobilehome Resident receives such notice, properly and truly prepared, then if the outgoing Resident did not, in good faith, exercise or pursue to completion their right to arbitrate stated above in subsection A or reach written agreement as to the amount of the space rent for the incoming Mobilehome Resident, the incoming Mobilehome Resident shall have the right to arbitrate the increase under the provisions of Section 9.50.070. The right is subject to the incoming Mobilehome Resident placing a deposit pursuant to Section 9.50.070 B, within 30 days of the date on which the incoming Mobilehome Resident receives the park owner's statement regarding the proposed rental amount as set forth in subsection C, below.

- C. 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, the outgoing Resident has the first right to arbitrate the rental increase, and in the event he or she fails to pursue arbitration to completion, 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 (30) 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 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.

- D. If the residents within the affected mobilehome park have established a representative body and notified the owner in writing of its existence, a copy of the rent increase notice must be sent to the chairperson of that body.
- E. A copy of the rent increase notice shall be mailed (return receipt requested) to the Community Development Department of the City of Chula Vista, 276 Fourth Avenue, Chula Vista, CA 91910, at the same time as issuance of the notice to residents.
- F. 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.
- G. 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 the Community Development Department.

(Ord. 2566, §2 (part) 1993).

SECTION 3. There is hereby added to the Chula Vista Municipal Code Section 9.50.068 to read:

9.50.068 Notices of CPI, Rent Increases, and Right to Mediate the Purchase Price of a Mobilehome

- A. The is CPI is published twice each year by the Bureau of Labor Statistics. The Community

Development Department shall mail to each Park Owner or their agent the applicable CPI to be used for space rent increases as soon as the Community Development Department receives the applicable CPI from the Bureau of Labor Statistics. Park Owners shall use the CPI furnished to them by the Community Development Department and may not deviate from that CPI until the Park Owner receives written notification from the Community Development Department that the CPI has changed. The Park Owner shall post, in a prominent place, the notification from the Community Development Department so that all Residents are aware of the applicable CPI.

- B. All notices to Residents to increase space rent, whether or not the increase is above the applicable CPI, shall be mailed (return receipt requested) to the Community Development Department, 276 Fourth Avenue, Chula Vista, CA 91910, at the same time as issuance of the notice to the residents.
- C. The Park Owner shall post in a prominent place, in the on-site office, the Notice of the Right to Mediate the Purchase Price of Mobilehome provided in Section 9.50.076.

(Ord. 2566 §3, 1993).

SECTION 4. That Section 9.50.070 of the Chula Vista Municipal Code shall be amended to read:

9.50.070 Initiation of Space Rent Review.

- A. In any situation where the space rent increases in a twelve (12) 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 the affected Resident(s). The owner must file the original of the written consent with the Community Development Department and notify the Resident that this has been filed.
- B. The Resident shall be required within thirty (30) 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 Resident's deposit has been made.
- C. Upon receipt of the Resident's 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 Resident 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. Both parties may waive arbitration through the American Arbitration Association, and have their case heard directly by the Commission in the first instance. The arbitrator's decision should 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, which decision shall thereupon be final. The parties may stipulate to merely a review of the record at arbitration, or either side may request a "denovo" 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, the arbitration process automatically terminates.

(Ord. 2566, §4 (part) 1993; Ord. 2451 §7, 1991; Ord. 2227 §2, 1987).

SECTION 5. That Section 9.50.075 of the Chula Vista Municipal Code shall be amended to read:

9.50.075 Fixing of Space Rent.

The rent on any particular mobilehome Space shall be fixed as follows:

- A. In the event that the tenant and an Owner reach agreement, with or without the benefit of mediation or arbitration, the rent for the pad shall be fixed at the agreed upon rent at such time as the agreement is reached unless the agreement otherwise provides for a different effective date.
- B. In the event that the tenant and an Owner do not reach agreement, and the rent has been established by the Commission according to the procedures herein established, the rent for the pad shall be fixed at the rental rate so established by the Commission as of the date of the Commission's decision, unless the Commission shall fix a different date. However, except where the rent has been waived, or where Overcharge Damages or Treble Damages are assessed by the Commission, the Commission may not set the rent lower than the pre-existing rent or higher than the amount contained in the Notice of Rent Increase in excess of CPI.
- C. Unilateral Refusal to Pursue Arbitration. In the event that the tenant or Owner fail or refuse in good faith to follow the procedure herein fixed for the establishment of rent, which may include but not be limited to refusal to deposit funds as required, refusal to attend noticed hearings, then the rent for the pad shall be fixed as follows:

1. If the tenant has failed or refused in good faith to follow the procedures herein fixed for the establishment of rent, then the rent shall be fixed at the rental rate contained in the Notice of Rent Increase in Excess of CPI.
 2. If the Owner has failed or refused in good faith to follow the procedures herein fixed for the establishment of rent, then the rent shall be fixed at original rental rate not increased by either the CPI or the amount contained in the Notice of Rent Increase in Excess of CPI.
- D. **Waiver of Fixed Rent.** Notwithstanding the aforementioned manner in which the rent shall be fixed, a refusal or failure, accompanied with the knowingly improper assertion that a greater rental is due by the Owner or his or her agent, to accept a rent payment from a Resident in an amount which is equal to or greater than the rent fixed by Subsections A, B or C of this Section shall constitute a waiver by the Owner of the right to collect said rent, in its entirety, for the rental period for which the rent was refused, unless the tenant consents, in writing, to waive the protections of the Subsection.
- E. **Waiver of Rent for Failure to Institute Legal Action.** Notwithstanding the aforementioned manner in which the rent shall be fixed, a failure to institute legal action within 90 days after a rental payment is due shall constitute a waiver by the Owner of the right to collect said rent, in its entirety, for the rental period sooner than 90 days prior to institution of action, unless the tenant consents, in writing, to waive the protections of this Subsection.

(Ord. 2566, §5 (part) 1993).

SECTION 6. That Section 9.50.076 of the Chula Vista Municipal Code shall be amended to read as follows:

9.50.076 Right to Mediate Mobilehome Resale Price.

- A. In line with the purpose of this Chapter to maintain a supply of affordable housing in the mobilehome market, it is the goal and objective of the City that an outgoing Resident should not be able to command, due to limited Mobilehome Space availability, a higher price for a Mobilehome upon sale due to the fact that the space rent is regulated by the provisions of this Chapter. However, the Council finds that the extent and prevalence of overcharging for Mobilehomes is not so significant a problem in Chula Vista, and that it has little, if any, significant effect on the supply of affordable housing in the City of Chula Vista, to require Mobilehome resale price regulation by the City. The Council feels that this is due, in part, to permitting CPI increases in rents without review. However, on a case-by-case basis, there may be isolated occurrences of overcharging for Mobilehomes due to space rent regulation, and in such event, any abuses can be adequately addressed by the mediation offered by this section. The Council further finds that if, after time, it appears that the mediation process offered by this Section is inadequate to address the problem, it may reconsider more stringent control over Mobilehome overcharging.
- B. The Park Owner shall post the following notice in a prominent place, in the on-site office:

NOTICE OF THE RIGHT TO MEDIATE THE
PURCHASE PRICE OF MOBILEHOME

In addition to the right to arbitrate an increase in space rent above the applicable CPI, a

potential purchaser of a mobilehome has the right to mediate the purchase price of a mobilehome, if you contend that the purchase price is higher because of space rent regulation, then the purchase price might ordinarily be without space rent regulation.

In order to submit the purchase price dispute, based solely on the grounds that the purchase price is more than would ordinarily be without space rent regulation, between yourself and your potential seller to the Chula Vista Mobilehome Rent Review Commission for non-binding mediation you must:

1. Extend an offer to purchase the mobilehome, but not execute an agreement to purchase;
 2. Sign and file with the Community Development Director the form requesting mediation prior to executing a purchase agreement; and,
 3. Participate in the mediation process provided by the Mobilehome Rent Review Commission.
- C. If, prior to executing a Mobilehome purchase agreement, the incoming Resident contends that the price at which the Mobilehome is offered by the outgoing Resident is higher because of space rent regulation than the price of the Mobilehome without space rent regulation, the incoming Resident has the right, upon tender to the seller of an offer to purchase the Mobilehome at a price acceptable to the incoming Resident, to submit the price dispute to the Mobilehome Rent Review Commission for mediation.
- D. Upon submittal of the price dispute to the Mobilehome Rent Review Commission by the incoming Resident, the Commission shall convene as soon as possible to hear the dispute, not sooner than 10 days notice to the buyer and seller of the time and place at which the mediation shall occur. If the Seller fails to appear, the Commission should hear the complaint and evidence of the incoming resident for the purpose of creating a record of such abuses, if any. However, the Commission shall have no power to set the resale price of a Mobilehome with or without the presence of the parties. If the parties fail to mediate, or fail to agree in mediation, the offer to purchase shall be deemed revoked.
- E. The purpose of the mediation, and the sole jurisdiction of the Commission in the mediation, is to get the parties to agree, if possible, to a price which reflects the value of the Mobilehome as if the space rents in the park were not regulated by this Chapter.

(Ord. 2566, §6 (part) 1993).

SECTION 7. That Section 9.50.078 of the Chula Vista Municipal Code be amended to read:

9.50.078 Criminal Acts.

The following acts shall constitute a criminal violation of this Chapter, including the Owner of a Park if done by an Owner's agent with the knowledge or consent of the Owner:

- A. Knowingly demanding, accepting or retaining any rent in excess of the amount fixed by this Chapter, including the demanding of rent waived under the provisions of Subsection C of Section 9.50.075, except that demands for annual increases in rent and negotiations for rent

permitted under 9.50.067 B shall not be deemed illegal.

- B. Knowingly commencing, or threatening to commence, or maintaining an eviction or unlawful detainer proceeding against a Resident for the failure to pay a rent in excess of the amount fixed by this Chapter.

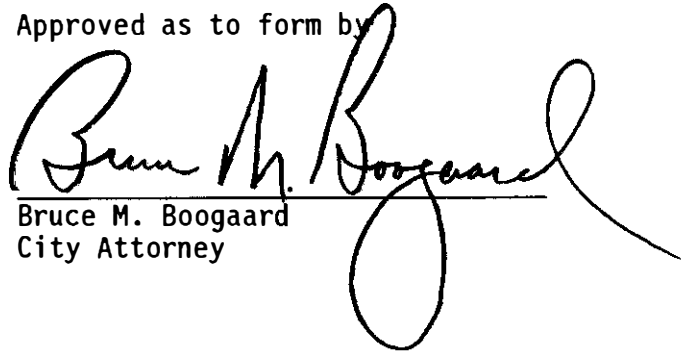
(Ord. 2566, §7 (part), 1993).

Presented by



Chris Salomone
Chris Salomone
Community Development Director

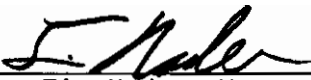
Approved as to form by



Bruce M. Boogaard
Bruce M. Boogaard
City Attorney

PASSED, APPROVED and ADOPTED by the City Council of the City of Chula Vista, California, this 7th day of September, 1993, by the following vote:

AYES: Councilmembers: Fox, Horton, Moore, Rindone, Nader
NOES: Councilmembers: None
ABSENT: Councilmembers: None
ABSTAIN: Councilmembers: None



Tim Nader, Mayor

ATTEST:

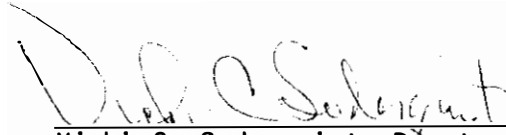


Vicki C. Soderquist, Deputy City Clerk

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

I, Vicki C. Soderquist, Deputy City Clerk of the City of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 2566 had its first reading on August 24, 1993, and its second reading and adoption at a regular meeting of said City Council held on the 7th day of September, 1993.

Executed this 7th day of September, 1993.



Vicki C. Soderquist, Deputy City Clerk