

MOBILE HOME ORDINANCE*

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* Editor's Note: Ordinance No. 494 contained herein was adopted by Initiative Election held on December 8, 1987. Measure L, passed by the voters on November 8, 1994 amended Section 9.70.132 to allow city council to amend Ordinance No. 494 (Chapter 9.70) after public hearing before the rent appeals board and a four/fifths vote of the city council.

Ordinance No. 495 repealed the provisions of Ordinance No. 487 which added Chapter 9.68, entitled Mobile Home Space Rent Adjustment and Registration, to the Code.

9.70.010 Findings and purpose.

The purpose of this chapter is to alleviate the hardship of unreasonable rent increases while still assuring owners' right to a fair return.

- A. The city council finds the following conclusions to be true and correct:
 1. In Rohnert Park, there are five mobile home parks containing one thousand three hundred seventeen spaces, of which one thousand three hundred nine spaces are available for rental to mobile home coach owners (in 1995).
 2. Mobile homes provide an important form of affordable housing for

a substantial number of Rohnert Park residents.

3. The majority of mobile home park home-owners/residents are age fifty-five or older.
4. The majority of mobile home park homeowners/residents own the mobile homes which they occupy and many of these homeowners/residents typically have substantial loan payments to meet in addition to rent payments.
5. The Rohnert Park General Plan recommends that the city maintain and preserve its existing stock of affordable housing of which mobile home park spaces are typically an example.
6. Studies undertaken in surrounding areas have shown that typical moving costs for mobile homes from one mobile home park to another (if vacant spaces could be located) range from approximately five thousand dollars to nine thousand dollars, depending upon the size of the mobile home. In many instances, removal requires a separation of the mobile home unit from appurtenances which have been made permanent, thus creating severe damage and depreciation in value to the mobile home.
7. Mobile homes and manufactured housing have represented an affordable form of shelter to citizens of Rohnert Park with modest incomes. Because mobile homes are often owned by senior citizens, persons on fixed incomes, and persons of low and moderate income, space rent increases can have a significant impact on these families.
8. The need for effective and fair mobile home park space rent stabilization continues to exist in Rohnert Park.
9. It would be desirable to provide prospective homeowners/residents of mobile home coaches with an option to choose between a long-term lease and a periodic tenancy of less than one year in duration. Such an option furthers a legitimate governmental objective and is not in conflict with or preempted by state law.
10. On average, several mobile home coaches are sold or offered for sale each year in Rohnert Park. It would be highly desirable to provide vacancy control in the rent stabilization program as hereunder provided.
11. The city further finds that this article is necessary to preserve public health, welfare, and safety.

12. There exist substantial differences in space rents within given mobile home parks in Rohnert Park.

B. The purpose of this chapter is to stabilize the rate of mobile home park space rental in order to:

1. Prevent exploitation of a shortage of vacant mobile home park spaces should it occur;
2. Prevent excessive and unreasonable mobile home park space rent increases while still assuring park owners' right to a fair return;
3. Provide a process for ensuring mobile home park owners a fair, just and reasonable rate of return on their parks in cases where the guaranteed annual space rent increase provided by this chapter proves insufficient.
4. Assist in protecting affordable housing to help provide a variety of housing types within a range of costs affordable to the low and very low income households.
5. Rectify the disparity of bargaining power which exists between mobile home park home-owners/residents and/or prospective homeowners/ residents and mobile home park owners.

(Ord. 612 §§ 2, 3, 1996: Ord. 607, 1995: Ord. 494 § 1, 1987)

9.70.020 Definitions.

The following words and phrases, as used in this chapter, shall have the following meanings:

- A. "Base rent ceiling" means the maximum allowable rent established by the rollback of rents described in subsection B. of Section 9.70.040.
- B. "Board" means the rent appeals board established by Section 9.70.030 of this chapter.
- C. "Commissioners" means the commissioners of the rent appeals board, as established by Section 9.70.030.
- D. "Controlled rental spaces" means mobile home spaces, and uses of its club house, pools, sauna, Jacuzzi, and other public areas.
- E. "Rental housing agreement" means an agreement, verbal, written or implied, between a landlord and homeowner/resident for use or occupancy

of a rental space for housing services.

- F. "Rent ceiling" means the limit on the maximum allowable rent which a landlord may charge on any controlled rental space.
- G. "Homeowner/resident" means a home-owner, resident, subtenant, lessee, sublessee, or any other person entitled under the terms of the rental housing agreement to the use or occupancy of any rental space.
- H. "Consumer Price Index" means the Consumer Price Index for urban wage earners and clerical workers in the United States.
- I. "Management" means the owner of a mobile home park or an agent or representative authorized to act on the owner's behalf.
- J. "Owner" means any landlord, owner, lessor, or sublessor of a mobile home park in Rohnert Park.
- K. "Prospective homeowner" means a person who is not currently a resident in a mobile home park but is a prospective mobile home space resident who desires the use of a mobile home space and has presented himself/herself to the park owner/management as such, or who is a current resident in a mobile home park who desires to occupy another mobile home space in that park.
- L. "In-place transfer" means a mobile home coach transferred by the homeowner/resident to another with the mobile home coach remaining on the space.

(Ord. 658 § 1, 2000; Ord. 610 §§ 2, 3, 1996; Ord. 607, 1995; Ord. 494 § 2, 1987)

9.70.030 Rent appeals board.

- A. **Composition.** There shall be in the city a rent appeals board. The board shall consist of five appointed commissioners. The board shall elect annually as chairperson one of its members to serve in that capacity.
- B. **Eligibility.** Residents of the city who are duly qualified electors of the city are eligible to serve as commissioners of the rent appeals board.
- C. **Full disclosure of holdings.** Candidates for the position of commissioner shall submit a verified statement listing all of their interests and dealings in real property, including but not limited to its ownership, sale or management, and investment in and association with partnerships, corporations, joint ventures and syndicates engaged in its ownership, sale or management during the previous three years.
- D. **Appointment of commissioners.** Commissioners shall be appointed by the

city council within thirty days after the adoption of the ordinance codified in this chapter.

E. Term of office. Commissioners shall be appointed to serve for a two year term. There shall be no limitation on the number of terms a commissioner may serve.

F. Powers and duties. The board is empowered to set the rent ceiling for all controlled rental spaces. The board is empowered to require registration of all controlled rental spaces under this section. The board is empowered to use city staff, issue orders, rules and regulations, conduct hearings, and charge fees as set forth below. The board may make such studies and investigations, conduct such hearings, and obtain such information as necessary to carry out its powers and duties. The board is empowered to settle civil claims under section 9.70.110, and seek injunctive relief under section 9.70.120.

G. Rules and regulations. The rent appeals board shall issue and follow such rules and regulations, including those which are contained in this chapter, as will further the purposes of this chapter. The board shall publish its rules and regulations prior to promulgation in at least one newspaper in general circulation in the city. The board shall hold at least one public hearing to consider the views of interested parties prior to adoption of general rent levels or maximum rent ceilings, or any decision decontrolling or reimposing rent stabilizations on any category or classification of rental spaces. All rules and regulations, internal staff memoranda, and written correspondence explaining the decisions and policies of the board shall be kept in the board's office, and shall be available to the public for inspection and copying. The board shall publicize this chapter through the media of signs, advertisements, fliers, leaflets, announcements on radio, newspapers, and other appropriate means, so that all residents of Rohnert Park will have the opportunity to become informed about their legal rights and duties under rent stabilization in Rohnert Park.

H. Meetings. The board shall hold at least one regularly scheduled meeting per month. Special meetings may be called at the request of at least two commissioners. All meetings shall be open to the public. Individual maximum rent adjustment hearings shall be conducted in accordance with the provisions of sections 9.70.060 and 9.70.070.

I. Quorum. Three commissioners shall constitute a quorum for the board.

J. Voting. The affirmative vote of three commissioners of the board is required for a decision, including all motions, regulations and orders of the board.

K. Dockets. The board shall maintain and keep in its office all hearing dockets.

L. Vacancies. If a vacancy occurs on the board, the city council shall appoint a qualified person to fill such a vacancy.

M. Staff. The board shall employ the existing staff to perform its functions

efficiently, in order to fulfill the purposes of this chapter.

N. Financing. The board shall finance its reasonable and necessary expenses by charging landlords annual registration fees, as set by the rent board, to cover administrative costs. Such registration fees shall be passed on to the homeowners/residents in the form of rent increases prorated over the year. The board is also empowered to request and receive funding, when and if necessary, from the city and/or any other available source, for its reasonable and necessary expenses.

O. Registration. Within thirty days after the initial board meeting, the board shall require the registration of all controlled rental spaces, which shall be re-registered annually, at times deemed appropriate by the board. The initial registration shall include the rent in effect on December 1, 1985, the date of the adoption of the ordinance codified in this chapter, the address of the rental space, the name and address of the landlord, the housing services provided to the space, a statement indicating all operating-cost increases since the rollback date, and any other information deemed relevant by the board. If the landlord has willfully and knowingly failed to register a controlled rental space, the board may authorize the homeowner/ resident of such a nonregistered controlled rental space to withhold all or a portion of the rent for the space until such time as the rental space is properly registered. After a rental space is properly registered, the board and/or a hearing examiner shall determine what portion of the withheld rent is owed to the landlord for the period in which the rental space was not properly registered. Whether or not the board allows such withholding, no landlord who has failed to register properly shall at any time increase rents for controlled rental spaces until such spaces are properly registered. (Ord. 622 § 2, 1996: Ord. 607, 1995: Ord. 599 § 3, 1994: Ord. 494 § 3, 1987)

9.70.040 Maximum allowable rents.

A. Temporary freeze. Rents shall not be increased during the period of time between the date of the adoption of this ordinance and the rollback date determined under subsection B. of section 9.70.040.

B. Rollback and establishment of base rent ceiling. Thirty days after the adoption of this ordinance, no landlord shall charge rent for any controlled rental spaces in an amount greater than the rent in effect on December 1, 1985, until and unless the rent ceiling is adjusted under sections 9.70.050 and/or 9.70.060. If there was no rent in effect on December 1, 1985, the base rent shall be the rent in effect the last time the space was rented prior to December 1, 1985 adjusted by the percentage increase in the Consumer Price Index (CPI) between the last date of rental and December 1, 1985.

C. Posting. As soon as the landlord is aware of the maximum allowable rent, the landlord shall post it for each space, in a prominent place in or about the affected controlled spaces. The board may require that other information it deems relevant also be posted. (Ord. 494 § 4, 1987)

9.70.042 Vacancy control.

A park owner is prohibited from raising rent upon re-rental or re-lease of a mobile home on-site to a prospective homeowner/resident or current homeowner/resident. Mobile home spaces that are "new construction" as defined in Civil Code section 798.7 are exempted in accordance with Civil Code section 798.45. (Ord. 612 § 3, 1996)

9.70.044 Prospective homeowner rights.

Any person who is a prospective homeowner as defined in section 9.70.020.K must be offered the option of renting a mobile home space in a manner which will permit the prospective homeowner to receive the benefits of this chapter which includes, but is not limited to, rental of a mobile home space on a month-to-month basis, and a new base rent as set forth in section 9.70.042. Such a person cannot be denied the option of a tenancy of twelve months or less in duration. The park owner/management shall inform the prospective homeowner of their options under this clause. (Ord. 612 § 3, 1996)

9.70.050 Annual general adjustment.

On or after February 1st of each year, the maximum allowable rent for a rental space may be increased without application to the board in an amount not to exceed one-half of one percent less than one hundred percent of the increase in the CPI during the preceding twelve months. Such increase shall be equal to one-half of one percent less than the percentage increase in the CPI last reported as of September of the prior year and the month of September of the current year.

Such increase shall be annually calculated by the board. The amount of such permitted increase shall be rounded to the nearest one-tenth of one percent. In the event that the CPI decreases, no increase or decrease in rents shall be authorized pursuant to this section.

Said increase shall be annually calculated by the board. The amount of said permitted increase shall be rounded to the nearest one-tenth of one percent. In the event that the CPI decreases, no increase or decrease in rents shall be authorized pursuant to this section.

However, in no case shall the annual general adjustment exceed four percent.

- A. Announcement of amount of annual general adjustments. The amount of the annual general adjustment shall be announced by the board on or before December 15 of each year and there shall be a mailing to homeowners/residents and landlords indicating the amount and conditions for said increase.

- B. Extra increases for landlords who pay for gas and/or electricity. At the time of the annual adjustment permitted under paragraph B. of this section, a landlord providing electricity and/or gas utilities to a homeowner/resident without charge may increase the rent by an additional one-half of one percent of the rent for each utility provided.
- C. Banking. Rent increases allowed under this section may be accumulated and implemented by the landlord at any future time.
- D. Preconditions to the right to take annual general adjustments. A landlord who is not in compliance with any of the provisions of this chapter shall not demand, accept or retain the annual rent increase otherwise permitted by this section.

No landlord shall increase rent under this section if:

- 1. He/she has failed to comply with any provision of this chapter and/or regulations issued thereunder by the board; or
- 2. He/she has failed to comply substantially with the city health and building codes, and/or any applicable state or local housing, health and safety codes.

(Ord. 658 § 2, 2000; Ord. 612 § 3, 1996; Ord. 607, 1995; Ord. 599 § 4, 1994; Ord. 494 § 5, 1987)

9.70.055 Limits to annual general adjustment formula.

In the event the vacancy control provision in section 9.70.042, or the prospective homeowner rights in section 9.70.044 is (are) invalidated in any way or by any authority, then the following section shall be enforced: section 9.70.050. Annual general adjustment formula will revert to seventy-five percent of the CPI with a four percent cap.
(Ord. 612 § 3, 1996)

9.70.060 Individual adjustment of ceiling on allowable rents.

Any landlord or homeowner/resident can appeal for an individual adjustment of the maximum allowable rent.

- A. Substantive grounds for rent adjustment applied for by landlords. A rent adjustment shall be approved in order to provide a just and reasonable return and maintain net operating income in accordance with the following criteria:
 - 1. Fair net operating income. Fair return applications shall be considered according to the following guidelines:

- a. Net operating income equals gross income minus operating expenses.
- b. Gross income equals the following:
 - (i) Gross rents, computed as gross rental income at one hundred percent occupancy; plus
 - (ii) Interest from security and cleaning deposits (except to the extent that said interest is payable to the homeowners/residents); plus
 - (iii) Income from services, garage and parking fees; plus
 - (iv) All other income or consideration received or receivable for or in connection with the use or occupancy of rental spaces and housing services; minus
 - (v) Uncollected rents due to vacancy and bad debts to the extent the same are beyond the landlord's control. Uncollected rents in excess of three percent of gross rents shall be presumed to be unreasonable unless established otherwise.
- c. Operating expenses-inclusions: Operating expenses shall include the following: license fees, real property taxes, utility costs, insurance, maintenance, management expenses (contracted or owner performed), including necessary and reasonable advertising, accounting, other managerial expenses, normal repair and maintenance expenses, allowable legal expenses, and the amortized cost of capital improvements. Management expenses are presumed to be six percent of gross income, unless established otherwise.

Owner-performed labor shall be counted at reasonable rates as established by board regulation.

Building improvements, major repairs, replacement and maintenance subject to the condition that said expenses shall be amortized in accordance with board regulations, except to the extent such costs are compensated by insurance proceeds.

- d. Excluded from operating expenses. Operating expenses shall not include: avoidable and unnecessary expense increases since the base year, mortgage interest and

principal payments, fees, penalties and interest awarded for violation of this or any other law, or legal fees except as provided in this subsection and depreciation of the property.

Allowable legal expenses shall include attorney's fees and costs incurred in connection with successful good faith attempts to recover rents owing and successful good faith unlawful detainer actions not in violation of applicable law, to the extent the same are not recovered from homeowners/residents. Attorney's fees and costs incurred in proceedings before the board, or in connection with civil actions against the board, are not allowed as operating expenses.

- e. Base year for the purpose of this section shall be 1985.
- f. Presumption of fair base year net operating income. Except as provided in subparagraph g., it shall be presumed that the net operating income produced by the property during the base year provided a fair return (fair net operating income). Landlords shall be entitled to earn a just and reasonable return and to maintain and increase their base year net operating income in accordance with subparagraph h. herein.
- g. Rebutting the presumption. It may be determined that the base year net operating income yielded other than a fair return, in which case, the base year net operating income may be adjusted accordingly. In order to make such a determination, the board must make at least one of the following findings:
 - (i) The landlord's operating and maintenance expenses in the base year were unusually high or low in comparison to other years. In such instances, adjustments may be made in calculating such expenses so that the base year operating expenses reflect average expenses for the property over a reasonable period of time. In considering whether the base year net operating income yielded more or less than a fair net operating income, the board shall consider the following factors:
 - (a) The landlord made substantial capital improvements during the base year, which were not reflected in the base year rent

levels;

- (b) Substantial repairs were made due to damage caused by uninsured disaster or vandalism;
 - (c) Maintenance and repair were below accepted standards so as to cause significant deterioration of housing services;
 - (d) Other expenses were unreasonably high or low notwithstanding prudent business practice.
- (ii) The rent on the base date was disproportionately low due to the fact that it was not established in an arms-length transaction or other peculiar circumstances.
- h. Fair net operating income. The board shall permit rent increases in rent such that the landlord's net operating income shall be increased by sixty percent of the percentage increase in the Consumer Price Index over the base year. (For example, if the CPI has increased by ten percent since the base year, the landlord shall be entitled to a net operating income which is six percent above the base year level.) Unless the board selects a base period other than the year 1985, the base year CPI shall be the CPI for June 1, 1985. For the purposes of this section, the current CPI shall be the CPI last reported as of the date of the application. A rent increase granted pursuant to this section shall not exceed the increase requested in the application.

B. Substantive grounds for rent adjustment applied for by homeowners/residents.

- 1. Grounds for application. A homeowner/ resident or group of homeowners/residents may file a rent adjustment application for one or more rental spaces in the same rental complex on the ground that:
 - a. There has been a discontinuance or substantial reduction of housing service to homeowners/residents without a corresponding reduction in rent.
 - b. The landlord has accepted and retained rent in excess of

that permitted by this chapter.
(Ord. 607, 1995: Ord. 494 § 6, 1987)

9.70.062 Rental adjustment allowed for capital improvement, procedure for granting.

The rental appeals board is authorized to establish rules and regulations defining a capital improvement, determining the amortization period allowed for the recovery of the capital improvement, determining a reasonable rate of return on the capital improvement, determining the impact of a capital improvement on rent once the cost of the capital improvement has been fully recovered, and any other factor or criteria relevant to such determinations.

(Ord. 599 § 2, 1994)

9.70.070 Individual rent adjustment hearings.

A. Petitions. No such individual rent adjustment shall be granted until after the consideration of the petition at an individual rent adjustment hearing. The board may delegate its powers to hold such hearings or to rule on such petitions, or both, to staff hearing examiners or panels of board members, and the board may reserve to itself the power to hear appeals of the decisions and orders of hearing officers or board panels. Final decisions on such petitions and appeals must be made within reasonable deadlines established by the board.

B. Notice. The board shall notify the landlord, if the petition was filed by the homeowner/ resident; or the homeowner/resident, if the petition was filed by the landlord, of the receipt of such a petition. The board shall notify both parties as to the time, date and place of the hearing. Hearings shall be scheduled for times most convenient for all parties, including evenings and weekends. Hearings may be postponed or continued for good cause, provided that all parties receive timely notice of such action.

C. Records. The board may require either party to a rent and adjustment hearing to provide it with all pertinent books, records and papers. Such documents shall be made available to the parties involved prior to the hearing at the office of the rent appeals board. The board shall conduct a building inspection and/or request the city to conduct an inspection if the board and/or hearing examiner find good cause to believe the board's current information does not reflect the current condition of the controlled rental space. The homeowner/resident may request the board or hearing examiner to order such an inspection prior to the date of the hearing. All documents required under this section shall be made available to the parties involved prior to the hearing at the office of the rent appeals board. In cases where information filed in a petition for rent ceiling adjustment, or in additional submissions filed at the request of the board and/or hearing examiners, is adequate or false, no action shall be taken in the petition until the deficiency is remedied.

D. Open hearings. All rent ceiling adjustment hearings shall be open to the public.

E. Right of assistance. All parties to a hearing may have assistance in presenting evidence and developing their position from attorneys, legal workers, homeowner/resident union representatives, or any other persons designated by such parties.

F. Hearing record. The board shall make available for inspection a copy of the official record, which shall constitute the exclusive record for the decision on issues at the hearing. The record of the hearing, or any part of one, shall be obtainable for the cost of copying. The record of the hearing shall include:

1. All exhibits, papers and documents required to be filed or accepted into evidence during the proceeding;
2. A list of participants present;
3. A summary of all testimony accepted in the proceedings;
4. A statement of all materials officially noticed;
5. All findings of fact;
6. The ruling on each exception or objection, if they are presented;
7. All recommended decisions, orders or rulings;
8. All final decisions and/or orders of hearing examiners and/or panels of board members and/or the board; and
9. Each final decision, order or ruling.

G. Hearing decision. No individual rent adjustment shall be granted unless supported by the preponderance of the evidence submitted at the hearing. All parties to a hearing shall be sent a notice of the decision and a copy of the findings of fact and law upon which the decision is based. At the same time, parties to the proceedings shall also be notified of their rights to an administrative appeal, if allowed by the board, and to judicial review of the decision pursuant to section 9.70.100 of this chapter.

H. Consolidation.

I. Inadequate or false information. If information filed in a petition for an individual rent adjustment or any additional submissions filed at the request of the board is inadequate or false, no action shall be taken on the petition until the deficiency is remedied.

(Ord. 607, 1995: Ord. 494 § 7, 1987)

9.70.080 Just cause for eviction.

Shall apply to mobile home park evictions which are governed by Section 798-796.6 of the California Civil Code.
(Ord. 494 § 8, 1987)

9.70.090 Non-waiverability.

Any provision, whether oral or written in or pertaining to a rental agreement whereby any provision of this chapter for the benefit of a homeowner/resident is waived, shall be deemed against public policy and void.
(Ord. 607, 1995: Ord. 494 § 9, 1987)

9.70.100 Judicial review.

A landlord or homeowner/resident aggrieved by any action, regulation, rule, order or decision of the board may seek judicial review by appealing to the appropriate court within which the rent-controlled space is located.
(Ord. 607, 1995: Ord. 494 § 10, 1987)

9.70.110 Civil remedies.

Any landlord who demands, receives, accepts or retains any payment of rent in excess of the maximum lawful rent, in violation of the provisions of this chapter or any rule, regulation or order hereunder promulgated, shall be liable as hereinafter provided to the homeowner/resident from whom such excessive payment is demanded, accepted, received or retained, for reasonable attorney's fees and costs, as determined by the court, plus damages in an amount not to exceed five hundred dollars or three times the amount by which the payment or payments demanded, accepted, received or retained exceeds the maximum lawful rent, or whichever is greater.
(Ord. 607, 1995: Ord. 494 § 11, 1987)

9.70.120 Injunctive relief.

The board and homeowners/residents and landlords of rent controlled spaces may seek relief from the appropriate court within the jurisdiction within which the rent controlled space is located, to restrain by injunction any violation of this chapter and of the rules, regulations, orders and decisions of the board.
(Ord. 607, 1995: Ord. 494 § 12, 1987)

9.70.130 Partial invalidity.

If any provision of this chapter or application thereof is held invalid or unconstitutional, this invalidity or unconstitutionality shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

This chapter shall be liberally construed to achieve its purposes and preserve its validity.
(Ord. 612 § 2, 1996: Ord. 494 § 13, 1987)

9.70.132 Amendment.

The provisions of this measure may be amended by the city council after a public hearing before the rent appeals board and by four-fifths vote of the city council. (Measure L, passed by voters at election of November 8, 1994 and Resolution 94-189 adopted December 6, 1994 ratified the citizens' votes)

9.70.150 Retaliation.

The park owner/management shall in no way retaliate against any homeowner/resident for the homeowner/resident's assertion or exercise of any right under this chapter. In the event of retaliatory action by the park owner/management, the homeowner/resident is referred to state law and homeowner/resident rights existing under state law.

(Ord. 612 § 2, 1996)