

## CHAPTER 121: MOBILEHOME SPACE RENT STABILIZATION

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#### § 121.01 PURPOSE.

It is the purpose of this chapter to:

- (A) Prevent excessive and unreasonable rent increases to mobilehome park residents.
- (B) Prevent exploitation of the shortage of available mobilehome lots in the city and neighboring areas.
- (C) Enable mobilehome owners to preserve their equity in their mobilehomes.
- (D) Permit mobilehome park owners to receive a fair return.

(E) Help preserve affordable space rents within the city.

(Ord. 2008-015, passed 10-27-08)

## § 121.02 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CONSUMER PRICE INDEX.** The Consumer Price Index All-items Western region for all urban consumers as reported by the Bureau of Labor Statistics of the United States Department of Labor.

**IN-PLACE TRANSFER.** The transfer of the ownership of a mobilehome with the mobilehome remaining on the mobilehome lot following the transfer.

**LANDLORD.** A mobilehome park owner, mobilehome owner, lessor or sublessor who receives or is entitled to receive rent for the use and occupancy of any rental unit or portion thereof, and the agent, representative or successor of any of the foregoing.

**MOBILEHOME.** A structure transportable in one or more sections, designed and equipped to contain not more than one dwelling unit, to be used with or without a foundation system.

**MOBILEHOME PARK.** Any area or tract of land where two or more mobilehome lots are rented or leased, or held out for rent or lease, to accommodate mobilehomes used for human habitation for permanent, as opposed to transient, occupancy.

**RENT.** Any consideration, including any bonus, benefit or gratuity, demanded or received by a landlord for or in connection with the use or occupancy, including housing services, of a rental unit or in connection with the assignment of a lease or in connection with subleasing of the rental unit. **RENT** shall not include utility charges for charges for sub-metered gas and electricity. **RENT** shall not include charges for water, refuse disposal, sewer service, and/or other services which are provided and charged to mobilehome residents solely on a cost pass-through basis. **RENT** shall not include any amount paid for the use and occupancy of a mobilehome unit (as opposed to amounts paid for the use and occupancy of a mobilehome space.)

**RENT INCREASE.** Any rent demanded of or paid by a mobilehome owner or mobilehome tenant in excess of rent paid for the rental unit immediately prior to such demand or payment. **RENT INCREASE** includes any reduction in the services provided to a mobilehome resident or transfer of the cost without a corresponding reduction in the moneys demanded for or paid as rent.

**RENTAL AGREEMENT.** A written agreement between a landlord and a mobilehome owner or mobilehome tenant for the use and occupancy of a rental unit to the exclusion of others.

**RENTAL UNIT.** A mobilehome or mobilehome lot, located in a mobilehome park in the City of Citrus Heights which is offered or available for rent. **RENTAL UNIT** includes the land, with or without

a mobilehome, and appurtenant buildings thereto and all housing services, privileges and facilities supplied in connection with the use or occupancy of the mobilehome or mobilehome lot.

**SERVICE REDUCTION.** A decrease or diminution in the basic service level provided by the park since July, 2008 including, but not limited to services the park owner is required to provide pursuant to:

- (1) California Civil Code §§ 1941.1 and 1941.2.
- (2) The Mobilehome Residency Law, California Civil Code §§ 798 *et seq.*
- (3) The Mobilehome Parks Act, Cal. Health and Safety Code §§ 18200 *et seq.*
- (4) The landlord's implied warranty of habitability.

(5) An express or implied agreement between the landlord and the resident.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.03 APPLICABILITY OF THIS CHAPTER.**

This chapter shall be applicable to all mobilehome park spaces within the city except as provided in § 121.04.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.04 EXEMPTIONS FROM THIS CHAPTER.**

(A) *Exemptions provided by state law.*

(1) As of September 2008, the following exemptions from local rent regulations are provided by state law:

(a) Spaces that are subject to a lease which exempts that space from rent regulation pursuant to the California Mobilehome Residency Law, California Civil Code §§ 798 *et seq.*

(b) Newly constructed spaces, which are exempted pursuant to California Civil Code § 798.45.

(c) Spaces which are exempt pursuant to California Civil Code § 798.21 (which exempts spaces which are not the principle residence of the mobilehome owner.)

(2) The purpose of this section is to provide information, rather than set forth regulations under this chapter.

(B) *Units owned or operated by government agencies.* The provisions of this chapter shall not apply to mobilehomes or mobilehome parks owned or operated by any governmental agency or any rental unit whose rent is subsidized pursuant to a public program that limits the rent that can be charged for the mobilehome.

(C) *Mobilehome parks with less than ten spaces.* This chapter shall not be applicable to spaces in mobilehome parks with less than ten spaces.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.05 PERMISSIBLE RENT INCREASES.**

No rent in excess of rent in effect on July 1, 2008 may be charged unless authorized by §§ 121.06, 121.07 or 121.09.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.06 AUTOMATIC ANNUAL INCREASES BASED ON INCREASES IN THE CONSUMER PRICE INDEX.**

(A) *Annual rent increases starting in 2009.* Starting in 2009, on or after May 1 of each year, the rent may be increased over the allowable rent as of May 1 of the prior year adjusted by 100% of the percentage increase in the CPI last reported as of January 1 in the current year over the CPI last reported as of January 1 in the prior year. The percentage amount of said increase shall be rounded to nearest one-quarter of one percent. However, in 2009, the rent may not be increased over the rent in effect as of January 1, 2005, by a percentage that exceeds the percentage increase in the CPI from January 1, 2005 to the date of the notice of the increase.

(B) *Notice of annual allowable rent increase.*

(1) *Notice by City Manager.* The allowable annual rent increase shall be annually calculated by the City Manger and posted by January 10 of each year in City Hall and on the city's website, and mailed to each park owner and to the mobilehome owner representative in each park.

(2) *Notice in mobilehome parks.* A copy of the clerk's notice shall be posted in a prominent place in each mobilehome park within three work days after it is received by the park owner.

(C) *No decrease if CPI decreases.* In the event that the CPI decreases, no rent decrease shall be required pursuant to this section.

(D) *Banking of allowable annual increases.* Increases authorized pursuant to this section may be implemented by the landlord at any future time, subject to the precondition that the park owner notify the mobilehome owner of each authorization of a rent increase pursuant to this section and annually notify the mobilehome owner that the increase may be added to the rent at a future date.

(E) *Compliance with state law.* Rent increases permitted pursuant to this section shall not be effective and shall not be demanded, accepted, or retained until the landlord has given the notice required by state law.

(F) *No increases upon in-place sales of mobilehomes.* The maximum rent which may be charged pursuant to this chapter shall not be modified upon the sale, transfer, or rental of the mobilehome to a third party, or by the replacement of the mobilehome by the homeowner.

(Ord. 2008-015, passed 10-27-08)

## **§ 121.07 RENT INCREASES IN ORDER TO OBTAIN A FAIR RETURN.**

A park owner may petition for a rent increase in order to obtain a fair return.

(A) *Presumption of fair base year net operating income.* It shall be presumed that the net operating income received by the landlord in the base year provided the park owner with a fair return.

(B) *Fair return.* A park owner has the right to obtain a net operating income equal to the base year net operating income adjusted by 100% of the percentage increase in the CPI since the base year. The base year CPI shall be the annual average CPI for 2005 (base period = 1996). The current year CPI shall be the annual average CPI for the calendar year which is used as the current year in the application.

(C) *Base year.*

(1) Except as provided in division (B) of this section, base year means the 2005 calendar year.

(2) In the event that a determination of the allowable rent is made pursuant to this section, if a subsequent petition is filed the base year shall be the year that was considered as the "current year" in the prior petition.

(D) *Current year.* The current year shall be the calendar year that precedes the year in which the application is filed.

(E) *Adjustment of base year net operating income.* The park owner or mobilehome owners may present evidence to rebut the presumption of fair return based upon the base year net operating income as set forth in division (A) of this section based on at least one of the following findings:

(1) *Exceptional expenses in the base year.* The park owner's operating expenses in the base year were unusually high or low in comparison to other years. In such instances, adjustments may be made in calculating operating expenses so the base year operating expenses reflect average expenses for the property over a reasonable period of time. The following factors shall be considered in making such a finding.

(a) Extraordinary amounts were expended for necessary maintenance and repairs.

(b) Maintenance and repair was below accepted standards so as to cause significant deterioration in the quality of services provided.

(c) Other expenses were unreasonably high or low notwithstanding the application of prudent business practices.

(2) *Exceptionally low rent in the base year.* The gross income during the base year was disproportionately low due to exceptional circumstances. In such instances, adjustments may be made in calculating base year gross rental income consistent with the purposes of this chapter. The following factors shall be considered in making such a finding:

(a) If the gross income during the base year was lower than it might have been because some residents were charged reduced rent.

(b) If the gross income during the base year was significantly lower than normal because of the destruction of the premises and/or temporary eviction for construction or repairs.

(c) The pattern of rent increases in the years prior to the base year and whether those increases reflected increases in the CPI.

(d) The base year rents were exceptionally low compared to the rents for spaces in comparable parks in the Modesto area.

(e) Other exceptional circumstances.

(F) *Calculation of net operating income.*

(1) *Net operating income.* Net operating income shall be calculated by subtracting operating expenses from gross rental income.

(2) *Gross rental income.*

(a) Gross rental income shall include:

1. Gross rents calculated as gross rental income at 100% occupancy, adjusted for uncollected rents due to vacancy and bad debts to the extent such are beyond the control of the landlord. Uncollected space rents in excess of 3% of gross space rent shall be presumed to be unreasonable unless established otherwise and shall not be included in computing gross income.

2. All other income or consideration received or receivable in connection with the use or occupancy of the rental unit.

(b) Gross rental income shall not include:

1. Income which constitutes reimbursement for utilities provided by the park owner.

2. Income associated with provision of utility services when the charges for the utility service are preempted by state and consideration of said income is preempted by state law. (As of the date of the adoption of this chapter state law regulates and preempts consideration of income and expenses associated with the provision of sub-metered gas and electricity. Consideration of gas and electricity income and expenses for common area services is not preempted by state law.)

(3) *Operating expenses.*

(a) Included in operating expenses. Operating expenses shall include the following:

1. Reasonable costs of operation and maintenance.

2. Management expenses. It shall be presumed that management expenses have increased by the percentage increase in rents or in the CPI, whichever is greater, between the base year and the

current year unless the level of management services has either increased or decreased between the base year and the current year.

3. Utility costs. Utility costs except utility where the consideration of the income associated with the provision of the utility service is regulated by state law and consideration of the costs associated with the provision of the utility service is preempted by state law.

4. Real property taxes. Property taxes are an allowable expense, subject to the limitation that property taxes attributable to an assessment in a year other than the base year or current year shall not have been considered in calculating base year and/or current year operating expenses.

5. License and registration fees. License and registration fees required by law to the extent these expenses are not otherwise paid or reimbursed by tenants.

6. Landlord-performed labor. Landlord-performed labor compensated at reasonable hourly rates.

a. No landlord-performed labor shall be included as an operating expense unless the landlord submits documentation showing the date, time and nature of the work performed.

b. There shall be a maximum allowed under this provision of 5% of gross income unless the landlord shows greater services were performed for the benefit of the residents.

7. Costs of capital replacements. Costs of capital replacements plus an interest allowance to cover the amortization of those costs where all of the following conditions are met:

a. The capital improvement is made at a direct cost of not less than \$100 per affected rental unit or at a total direct cost of not less than \$5,000, whichever is lower.

b. The costs, less any insurance proceeds or other applicable recovery, are averaged on a per unit basis for each rental unit actually benefitted by the improvement.

c. The costs are amortized over a period of not less than 36 months.

d. The costs do not include any additional costs incurred for property damage or deterioration that result from any unreasonable delay in undertaking or completing any repair or improvement.

e. The costs do not include costs incurred to bring the rental unit into compliance with a provision of the Riverbank Municipal Code or state law where the original installation of the improvement was not in compliance with code requirements.

f. At the end of the amortization period, the allowable monthly rent is decreased by any amount it was increased because of the application of this provision.

g. The amortization period shall be in conformance with a schedule adopted by the City Manager unless it is determined that an alternate period is justified based on the evidence presented in the hearing.

8. Legal expenses. Attorneys' fees and costs incurred in connection with successful good faith attempts to recover rents owing, successful good faith unlawful detainer actions not in derogation of applicable law, and legal expenses necessarily incurred in dealings with respect to the normal operation of the park to the extent such expenses are not recovered from adverse or other parties, subject to the following requirements:

a. Reasonable fees, expenses, and other costs incurred in the course of successfully pursuing rights under or in relationship to this chapter and regulations adopted pursuant to the chapter including costs incurred in the course of pursuing successful fair return petitions. Said expenses shall

be amortized over a five year period, unless the Hearing Officer concludes that a differing period is more reasonable.

b. Allowable legal expenses which are not of a nature that recurs annually shall be amortized over a reasonable period of time. At the end of the amortization period, the allowable monthly rent shall be decreased by any amount it was increased because of the application of this provision.

9. Interest allowance for expenses that are amortized. An interest allowance shall be allowed on the cost of amortized expenses; the allowance shall be the interest rate on the cost of the amortized expense equal to the "average rate" for 30 year fixed rate on home mortgages plus 1%. The "average rate" shall be the rate Freddie Mac last published in its weekly Primary Mortgage Market Survey (PMMS) as of the date of the initial submission of the petition.

(b) Exclusions from operating expenses. Operating expenses shall not include the following:

1. Mortgage principal or interest payments or other debt service costs.
2. Any penalties, fees or interest assessed or awarded for violation of any provision of this chapter or of any other provision of law.
3. Land lease expenses.
4. Political contributions.
5. Depreciation.
6. Any expenses for which the landlord has been reimbursed by any utility rebate or discount, security deposit, insurance settlement, judgment for damages, settlement or any other method or device.
7. Unreasonable expense increases since the base year.
8. Expenses associated with the provision of master-metered gas and electricity services.
9. Expenses incurred as a result of unreasonable delays in performing necessary maintenance or repair work or the failure to complete necessary replacements.

(c) Adjustments of operating expenses. Base year and/or current operating expenses may be averaged with other expense levels for other years or amortized or adjusted by the CPI or may otherwise be adjusted, in order to establish an expense amount for that item which most reasonably serves the objectives of obtaining a reasonable comparison of base year and current year expenses. Grounds for such adjustments include, but are not limited to:

1. An expense item for a particular year is not representative;
2. The base year expense is not a reasonable projection of average past expenditures for that item in the years immediately preceding or following the base year;
3. The current year expense is not a reasonable projection of future expenditures of that item;
4. A particular expense exceeds the normal industry or other comparable standard for the area, the park owner shall bear the burden of proving the reasonableness of the expense. To the extent that it is found that the expense is unreasonable it may be adjusted to reflect the normal industry standard; or
5. A base year expense is exceptionally low by industry standards and relative to current year expenses although the level or type of service has not changed significantly.

(G) *Assurance of a fair return.* Notwithstanding any other provision of this chapter, nothing shall preclude the hearing officer and the City Council from granting an increase that is necessary in order to meet constitutional fair return requirements and to take into account factors which a court directs the city to consider in a fair return hearing.

(Ord. 2008-015, passed 10-27-08)

## **§ 121.08 PROCEDURES FOR REVIEWING PETITIONS FOR FAIR RETURN RENT ADJUSTMENTS.**

Procedures for petitions for individual park rent adjustments.

(A) *Right to petition.* No petition for a fair return rent adjustment may be filed pursuant to this chapter until 30 days after this chapter goes into effect.

(B) *Limit on frequency of petitions.* Only one petition pursuant to this section may be filed for a mobilehome park within a 12 month period. An exception to this limitation shall be authorized in the event of extraordinary circumstances that could not reasonably have been foreseen at the time the prior petition was filed.

(C) *Petition form required.* Such petition shall be on a form prescribed by the City Manager.

(D) *Petition fee.* Upon the receipt of a fair rate of return application, the City Manager shall determine if the employment of experts will be necessary or appropriate for a proper analysis of the applicant's presentation. If the City Manager so determines, it shall also determine the anticipated cost of employing any such experts. The resulting figure shall be communicated to the applicant. The application shall not be further processed until the applicant has paid to the city the estimated cost of expert analysis. Any unused portion of the advance payment for expert analysis shall be refunded to the applicant.

(E) *Contents of petition form.* The form may require any information deemed relevant by the administrator. The form shall include, but not be limited to:

(1) A list of the names and addresses of all mobilehome owners and mobilehome tenants subject to the rent increase.

(2) A statement of the date the rent increase is proposed to be effective.

(3) The rent for each space in the park in the base year, the current year, the three prior years.

(4) An income and expense statement for the base year, the current year, and the three prior years.

(5) Evidence documenting the income and expenses claimed by the park owner.

(6) All other documentation upon which the park owner is relying on to justify the rent increase.

(F) *Determination that the petition is complete.* The City Manager will determine if the petition is complete within 30 days after the petition is submitted. If the application is incomplete, the City Manager will also inform the petitioner as to what additional information is required.

(G) *Access to the petition.* The documentation required by this section shall be available for inspection and copying by any person during the normal business hours of the city. The city shall make a copy of all submissions by the park owner and the residents in conjunction with a petition that shall be available in the form of an electronic PDF file.

(H) *Time of hearing.*

(1) A hearing officer shall commence an administrative hearing on the petition within not less than 60 nor more than 90 days of the date the park owner's petition is deemed complete. The hearing shall

be completed within 15 days after it is commenced. These time deadlines may be extended if the hearing officer finds that there is good cause to commence and/or complete the hearing at a later date.

(2) The hearing may be scheduled during the normal business hours of the city unless the park owner or a majority of the residents that are subject to the petition request that the hearing be scheduled during the evening. The hearing shall be scheduled at a time that it is convenient for the residents' and park owners' representatives.

(3) The presentations of each party at the hearing and of the city staff and experts shall be limited to three hours each unless the hearing officer finds that there is good cause for providing a greater period of time.

(I) *Notice of hearing.* Written notice of the time, date and place of the administrative hearing shall be given at least 30 days prior to the hearing.

(J) *Requests for additional information by opposing party.*

(1) Either party may request that additional specific supporting documentation be provided to substantiate the claims made by the other party. The request shall be presented in writing to the hearing officer.

(2) The hearing officer may order production of such requested documentation, if the hearing officer determines the information is relevant to the proceedings.

(K) *Submission of reports.*

(1) If an analysis of the rent increase application is prepared by the residents it shall be submitted to the city and to the applicant at least 14 days prior to the hearing. (The applicant shall supply the residents an electronic address for said submission.)

(2) If an analysis of the rent increase application is prepared by the city staff and/or a consultant on behalf of the city, it shall be submitted to the parties at least 14 days prior to the hearing.

(3) Rebuttal reports may be submitted by the park owner and/or residents seven days prior to a hearing.

(L) *Conduct of hearing.*

(1) The hearing shall be conducted by hearing officer in accordance with such rules and regulations as may be promulgated by the City Council and any rules set forth by the hearing officer.

(2) The hearing officer shall have the power and authority to require and administer oaths or affirmations where appropriate, and to take and hear evidence concerning any matter pending before the hearing officer.

(3) The rules of evidence generally applicable in the courts shall not be binding on the hearing officer. Hearsay evidence and any and all other evidence which the hearing officer deems relevant and proper may be admitted and considered.

(4) Any party or such party's representative, designated in writing by the party, may appear at the hearing to offer such documents, oral testimony, written declaration or other evidence as may be relevant to the proceedings.

(5) The hearing officer may grant or order not more than two continuances of the hearing for not more than ten working days each. Additional continuances may be granted only if all parties stipulate in writing or if the hearing officer finds that there is a good cause for the continuance. Such continuances may be granted or ordered at the hearing without further written notice to the parties.

(6) A tape recording of the proceedings shall be made by the City Manager.

(7) The hearing shall be conducted in a manner that insures that parties have an opportunity to obtain documents and to obtain information about the theories and facts to be presented by the opposing parties an adequate time in advance of the hearing to enable preparation of a rebuttal.

(M) *Representation of parties.*

(1) The parties in any hearing may be represented at the hearings by a person of the party's choosing. The representative need not be an attorney.

(2) Written designation of representatives shall be filed by the City Manager.

(3) The written designation of the representative shall include a statement that the representative is authorized to bind the party to any stipulation, decision or other action taken at the administrative hearing.

(N) *Hearing - findings and determination.*

(1) The hearing officer shall submit to the City Manager a written statement of decision, together with written findings of fact upon which such decision is based, within 30 days of the close of the hearing.

(2) The hearing officer's decision shall include a determination in accordance with the provisions of this chapter of the amount of the rent increase, if any, which is required to provide the landlord with a fair return and findings as to the income, operating expenses, and net operating income of the park in the base year and the current year with a breakdown of allowable expenses in accordance with the categories set forth in the application form.

(3) The allowance or disallowance of any proposed rent increase or portion thereof may be reasonably conditioned in any manner necessary to effectuate the purposes of this chapter.

(O) *Notice of decision.* The City Manager shall forthwith mail copies of the decision to the park owner and all affected mobilehome owners and mobilehome tenants.

(P) *Modification of decision in the event of mathematical or clerical inaccuracies.* Any party alleging that the hearing officer's statement of decision contains mathematic or clerical inaccuracies may so notify the City Manager within 15 calendar days of the mailing of the decision. The City Manager shall refer such allegations to the hearing officer, who shall review the decision, make any corrections warranted, and re-file the statement of decision within ten working days of the referral by the City Manager. Upon re-filing of the statement, the decision shall be final.

(Q) *Completion of hearing and issuance of decision.* After a petition is deemed complete, the overall time for conducting a hearing and issuing a decision by the hearing officer shall not exceed 121 days.

(R) *Appeal of decision of hearing officer to the Planning Commission.*

(1) The hearing officer's decision may be appealed to the Planning Commission within 30 days after the decision is delivered to the park owner and the mobilehome owner's representative.

(2) The Planning Commission shall hear the appeal within 45 days after the appeal is filed.

(3) The Planning Commission shall hear arguments by the parties based upon the material submitted in the hearing before the hearing officer. Any party at a proceeding may also submit a transcript of the hearing at its expense.

(4) No further evidence shall be permitted at the hearing before the Planning Commission. The hearing before the Planning Commission shall be based solely upon the materials presented to the hearing officer at the evidentiary hearing.

(5) Within 30 days after the date of hearing the Planning Commission shall:

(a) Accept and confirm the recommendations of the hearing officer and adopt the hearing officer's findings and recommendations; or

(b) Amend the findings and decision of the hearing officer; or

(c) Send the matter back to the hearing officer for further hearings of the issue pursuant to any instructions provided by the Planning Commission, including a direction to consider additional evidence.

(S) *Appeal of City Council's decision.* The determination of the Planning Commission shall be subject to review pursuant to Cal. Code of Civil Procedure § 1094.5 as a final administrative determination, within the time constraints established pursuant to Cal. Code of Civil Procedure § 1094.6.

(T) *Attendance of mobilehome owners at administrative hearing.* Any decisions pursuant to this section shall apply to all mobilehome owners subject to the proposed rent increase regardless of whether such owner was present or represented at the hearing.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.09 RENT INCREASES FOR NEW CAPITAL IMPROVEMENTS.**

(A) A park owner may obtain a pass-through of a new capital improvement costs under this section. Any capital improvement assessment shall be identified separately and listed on rent statements along with their date of expiration.

(B) New capital improvements. Improvements that did not previously exist in the park shall be deemed "new capital improvements", unless the park owner was required by law to make the capital improvements. A park owner may charge each affected mobilehome owner as additional rent the pro-rata share of new service and capital improvement costs including financing costs subject to the following preconditions:

(1) Prior to initiating the service or incurring the capital improvement cost, the park owner must consult with the mobilehome owners regarding the nature and purpose of the improvements and the estimated cost of the improvements.

(2) The park owner must obtain the prior written consent of at least one adult mobilehome owner in each of a majority of the mobilehome spaces which are occupied by the mobilehome owner to the proposed capital improvement. Each space shall have only one vote.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.10 RENT REDUCTIONS FOR SERVICE REDUCTIONS.**

(A) *Definition.* **SERVICE REDUCTIONS** shall mean the elimination or reduction of any service or facility provided as of September, 2008. **SERVICE** shall also include physical improvements or amenities.

(B) *Submission of service reduction complaint to City Manager.* A service reduction complaint shall be submitted to the City Manager alleging in a written form and should state:

(1) The affected spaces;

(2) The prior level of service established by the park owner for that homeowner's mobilehome space and common facilities used by that homeowner;

(3) The specific changes in the prior level of services comprising the alleged reduction in service;

(4) The date the service reduction was first noticed by the homeowner;

(5) The date of notice to the park owner of the alleged service reduction, and if such notice was given, whether the notice was given orally or in writing;

(6) When and how the park owner responded to the homeowner's notice, if notice was given;

(7) Whether the condition was improved or corrected and if so, when and how;

(8) The status of the condition as of the date the complaint is signed;

(9) Where such service reduction was the result of a vote of a majority of the affected homeowners.

(C) *Submission of service reduction complaint to hearing officer.*

(1) Thirty days after the service reduction complaint is submitted to the City Manager, if the dispute is not settled, either one-third of the tenants in a park or the park owner may request that the dispute be submitted to a hearing officer.

(2) If the hearing officer finds that a material service reduction has occurred, the hearing officer shall determine the resultant percentage reduction in the homeowner's enjoyment of their homes due to the service reduction.

(3) Rent shall be reduced by that percentage or amount. The homeowners also shall be entitled to a rebate of the following sum: the monthly rent reduction multiplied by the number of months between the date the homeowners notified the park owner of the reduction in service, and the date the City Manager determined the rent reduction.

(4) A service reduction shall not include the elimination or reduction of a recreational facility or service when such elimination or reduction and rent decrease resulting therefrom have the prior written approval of two-thirds of the homeowners. In such cases no rebate shall be required.

(5) No recreational service or facility which has been reduced or eliminated shall be reinstated at any cost to the homeowners without prior written approval of two-thirds of the homeowners.

(D) *Consolidation of service reduction complaint with consideration of fair return petition.* In the event that a service reduction claim is filed while a fair return petition is pending, either the city, the park owner, or the tenants may require consideration of a claim pursuant to this section in conjunction with the fair return claim.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.11 WAIVERS.**

(A) Any waiver or purported waiver by a mobilehome owner or mobilehome tenant of rights granted under this chapter shall be void as contrary to public policy.

(B) It shall be unlawful for a landlord to require or attempt to require, as a condition of tenancy in a mobilehome park, a mobilehome owner, mobilehome tenant, prospective mobilehome owner, or prospective mobilehome tenant to waive in a lease or rental agreement or in any other agreement the rights granted to a mobilehome owner or mobilehome tenant by this chapter.

(C) It shall be unlawful for a landlord to deny or threaten to deny tenancy in a mobilehome park to any person on account of such person's refusal to enter into a lease or rental agreement or any other agreement under which such person would waive the rights granted to a mobilehome owner or mobilehome tenant by this chapter.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.12 INFORMATION TO BE SUPPLIED BY THE PARK OWNER TO TENANTS AND PROSPECTIVE TENANTS.**

A copy of this chapter shall be posted in the office of every mobilehome park and in the recreation building or clubhouse of every mobilehome park.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.13 INFORMATION TO BE PROVIDED BY THE CITY TO MOBILEHOME OWNERS AND THE PUBLIC.**

(A) Within 30 days after the date this chapter goes into effect the city shall provide each tenant with a copy of this chapter.

(B) The city's web-page shall include a copy of the chapter, a summary of the chapter and other issues related to mobilehome park space rentals within the city, and a copy of California Mobilehome Residency Law.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.14 RESIDENT REPRESENTATIVES.**

The residents of each mobilehome park in the city shall annually elect by majority vote, with one vote per space, a resident representative to receive all notices required by this chapter. The residents shall advise the City Manager of the name, address and phone number of the elected resident representative in writing no later than January 31st of each year and shall promptly notify the City Manager of any change of representative.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.15 RIGHTS OF PROSPECTIVE TENANTS.**

(A) Any prospective tenant must be offered the option of renting a mobilehome space in a manner which will permit the "tenant-to-be" to receive the benefits of the Mobilehome Space Rent Stabilization Program which includes, but is not limited to, rental of a mobilehome space on a month-to-month basis. Such a person cannot be denied the option of a tenancy of 12-months or less in duration.

(B) The park owner shall provide each prospective tenant with a photocopy of the written notification which is attached as Appendix A of this chapter and will provide each prospective tenant with a copy of this chapter.

(C) Any effort to circumvent the requirements of this section shall be unlawful.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.16 INITIAL REGISTRATION, ANNUAL REGISTRATION, AND OTHER NOTICES REQUIRED FROM OWNER.**

(A) *Due date.* Every mobilehome park shall file an initial registration statement by January 1, 2009. Starting in 2010, no later than the February 1 of each year, each park owner shall file an annual registration statement, on a form provided by the City Manager.

(B) *Contents of registration form.* The registration forms shall include the name(s), business address(es), business telephone number(s) of each person or legal entity possessing an ownership interest in the park and the nature of such interest; the number of mobilehome spaces within the park; a rent schedule reflecting the current space rents within the park; a listing of all other charges, including utilities not included in space rent, paid by mobilehome owners within the park and the approximate amount of each such charge; the name and address to which all required notices and correspondence may be sent, and other information required by the City Manager.

(C) *Certification of registration forms.* All registration forms, and any documentation accompanying any registration forms, shall contain an affidavit or declaration, signed by the park owner or a designated agent, with his/her signature notarized, certifying that the information contained therein is true, correct and complete.

(D) *Notice of sale of a park.* Upon the sale or transfer of a mobilehome park, the seller or transferor shall notify the City Manager of the sale or transfer and of the name and address of the buyer or transferee. Within ten days of the sale or transfer of a mobilehome park, the buyer or transferee shall provide a new registration form.

(E) *Notice to prospective park purchasers.* The park owner shall provide prospective park purchasers with a copy of this chapter and notice that the following would be a prerequisite to filing a rent increase application pursuant to § 121.11.

(1) A statement of the base year income, expenses, and net operating income of the park with a breakdown of income and expenses by category.

(2) Documents supporting the amounts reported in the income and expense statement.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.17 RETALIATION PROHIBITED.**

(A) It shall be unlawful for any landlord to evict a mobilehome owner or mobilehome tenant where the landlord's dominant motive in seeking to recover possession of the rental unit is:

(1) Retaliation for the mobilehome owner's or mobilehome tenant's organizing, petitioning government for rent relief, or exercising any right granted under this chapter; or

(2) Evasion of the purposes of this chapter.

(B) It shall be unlawful for a landlord to retaliate against a mobilehome owner or mobilehome tenant for the owner's or tenant's assertion or exercise of rights under this chapter in any manner, including but not limited to:

(1) Threatening to bring or bringing an action to recover possession of a rental unit.

(2) Engaging in any form of harassment that causes the owner or tenant to quit the premises.

(3) Decreasing housing services.

(4) Increasing rent.

(5) Imposing or increasing a security deposit or other charge payable by the owner or tenant.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.18 EXCESSIVE RENTS OR DEMANDS THEREFORE.**

It shall be unlawful for a park owner to demand, accept, receive, or retain any rent in excess of the amounts authorized by this chapter.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.19 EXCESSIVE RENTS - CIVIL PENALTIES.**

(A) If any person is found to have demanded, accepted, received or retained any payment of rent:

(1) In excess of the maximum rent allowed by this chapter such person shall be liable to the mobilehome owner or mobilehome tenant from whom such payment was demanded, accepted,

received, or retained for damages as determined by a court of competent jurisdiction.

(B) In the event a mobilehome owner or mobilehome tenant is the prevailing party in a civil action against a person found to have demanded, accepted, received or retained any payment of rent described in division (A) of this section, such mobilehome owner or mobilehome tenant, in addition to damages as determined by the court pursuant to division (A) of this section, may, in the discretion of the court, be awarded an amount not to exceed \$500 or three times the damages determined by the court pursuant to division (A) of this section, whichever is greater. For the purposes of this division, a mobilehome owner or mobilehome tenant shall be deemed to be a prevailing party if the judgment is rendered in such mobilehome owner's or mobilehome tenant's favor or if the litigation is dismissed in such mobilehome owner's or mobilehome tenant's favor prior to final judgment, unless the parties otherwise agree in the settlement or compromise.

(C) Any person who suffers damages because of the failure of a mobilehome park landlord or a selling or transferring mobilehome owner to provide the information required to be provided by § 121.15 may bring an action for damages in a court of competent jurisdiction and shall be entitled to recover damages, as determined by the court, from such mobilehome park landlord or such selling or transferring mobilehome owner.

(D) Remedies provided by this section are in addition to any other legal or equitable remedies and are not intended to be exclusive.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.20 RULES AND GUIDELINES.**

The City Manager may adopt rules and procedures to implement the applications, notices, registration, verification and certification required by this chapter, and for the review of rent increase applications and the conduct of hearings. Such rules and guidelines shall be submitted to the City Council for review and approval.

(Ord. 2008-015, passed 10-27-08)

### **§ 121.21 AUTHORITY OF CITY COUNCIL TO BRING CIVIL ACTION TO COMPEL COMPLIANCE.**

The City Council may institute a civil action to compel compliance with this chapter.

(Ord. 2008-015, passed 10-27-08)

## **APPENDIX A**

IMPORTANT NOTICE TO PROSPECTIVE HOMEOWNER REGARDING THE PROPOSED RENTAL AGREEMENT FOR THE \_\_\_\_\_ MOBILEHOME PARK.

PLEASE TAKE NOTICE THAT THIS RENTAL AGREEMENT CREATES A TENANCY WITH A TERM IN EXCESS OF TWELVE-MONTHS.

BY SIGNING THIS RENTAL AGREEMENT, YOU ARE EXEMPTING THIS MOBILE HOME SPACE FROM THE PROVISIONS OF THE CITY OF RIVERBANK MOBILEHOME RENT REVIEW LAW FOR THE TERM OF THIS RENTAL AGREEMENT.

THE CITY OF RIVERBANK MOBILEHOME RENT REVIEW LAW AND THE STATE MOBILEHOME RESIDENCY LAW (CALIFORNIA CIVIL CODE SEC. 798 et seq.) GIVE YOU CERTAIN RIGHTS BEFORE SIGNING THIS RENTAL AGREEMENT. YOU MAY CHOOSE TO SEE A LAWYER.

UNDER THE PROVISIONS OF STATE LAW, YOU HAVE A RIGHT TO BE OFFERED A RENTAL AGREEMENT FOR:

(1) A TERM OF TWELVE MONTHS, OR

(2) A LESSER PERIOD AS YOU MAY REQUEST, OR

(3) A LONGER PERIOD AS YOU AND THE MOBILEHOME PARK MANAGEMENT MAY AGREE. YOU HAVE A RIGHT TO REVIEW THIS AGREEMENT FOR 30-DAYS BEFORE ACCEPTING OR REJECTING IT.

IF YOU SIGN THE AGREEMENT YOU MAY CANCEL THE AGREEMENT BY NOTIFYING THE PARK MANAGEMENT IN WRITING OF THE CANCELLATION WITHIN 72-HOURS OF YOUR EXECUTION OF THE AGREEMENT.

IT IS UNLAWFUL FOR A MOBILEHOME PARK OWNER OR ANY AGENT OR REPRESENTATIVE OF THE OWNER TO DISCRIMINATE AGAINST YOU BECAUSE OF THE EXERCISE OF ANY RIGHTS YOU MAY HAVE UNDER THE CITY OF RIVERBANK MOBILEHOME RENT REVIEW LAW, OR BECAUSE OF YOUR CHOICE TO ENTER INTO A RENTAL AGREEMENT WHICH IS SUBJECT TO THE PROVISIONS OF THAT LAW.

(Ord. 2008-015, passed 10-27-08)