

## CHAPTER 17.1. - MOBILEHOMES.

**Sections:**

## Sec. 17.1-1. - Declarations and findings.

The city council of the city of Salinas finds and declares as follows:

- (a) The state of California has recognized, by the adoption of special legislation regulating tenancies of mobilehome owners in mobilehome parks that there is a significant distinction between the tenants of mobilehome parks and other dwelling units, and the council likewise has recognized that tenants of mobilehome parks, unlike apartment tenants or residents of other rental stock, are in the unique position of having made a substantial investment in a residence, the space for which is rented or leased as distinguished from owned.

The physical removal and relocation of a mobilehome from a rented or leased space within a mobilehome park can be accomplished only at substantial cost and inconvenience with the concurrent ability to find another location, and, in many instances, the removal requires a separation of the mobilehome unit from appurtenances which have been made permanent, thus creating severe damage and depreciation in value to the mobilehome.

As a result of the absence of vacant spaces and park restrictions on accepting mobilehomes that are not new, it is virtually impossible for mobilehome owners to move their mobilehomes from one park to another park within the city of Salinas.

- (b) Pursuant to studies and hearings conducted by the city council and city staff, the city council of Salinas has determined it necessary and in the public interest to establish a mechanism to assist in the resolution of disputes that may arise from time to time between tenants and management of mobilehome parks regarding the rates charged for the rental or lease of space.
- (c) There is presently within the city and surrounding areas a shortage of spaces for the location of mobilehomes, resulting in a low vacancy rate.
- (d) Because of the shortage and potential for rapidly rising rates, regulation is

necessary to assure that economic hardship to a substantial number of mobilehome park tenants in the city, many of whom are senior citizens on low fixed incomes, does not occur.

In some mobilehome parks, rent increases in the past decade have been substantially in excess of the increases in the Consumer Price Index.

- (e) Therefore, the city council does accordingly find and declare that it is necessary to establish a means to provide protection to mobilehome park tenants from unreasonable rent increases, while at the same time recognizing the need of mobilehome park management to receive a fair return and to receive rent increases sufficient to cover increased cost of repairs, maintenance, service insurance, upkeep, and other amenities.
- (f) The city council further finds and declares that the adoption of this chapter will not have a significant, substantial or adverse effect on the physical environment of the community because enactment of this chapter involves no deviation from the general plan and no change in the present use of any property within the city.

(Ord. No. 2110 (NCS), § 1.)

#### Sec. 17.1-2. - Definitions.

The following words and phrases, as used in this chapter, shall have the same definitions and meanings as defined by Sections 798 through 798.12 of the California Civil Code of the state of California: management; mobilehome; mobilehome park; park; tenant; and resident. In addition, for the purposes of this chapter, the following words are defined as follows:

- (a) "CPI" shall mean Consumer Price Index (CPI) for all urban consumers, as reported by the U.S. Labor Bureau of Labor Statistics, for the San Francisco-Oakland Bay Area.
- (b) "Rent" shall mean the consideration, including any bonus, benefit or gratuity demanded of or received in connection with the use and occupancy of any habitable building or land, or for the transfer of a lease for occupancy. Rent shall not include utilities, including but not limited to gas, electricity, cable

television, garbage, sewer and/or water when and if these charges to tenants are regulated by a public utility and if on June 1, 1990 if they were charged to tenant separate from the rent.

- (c) "Space" shall mean a lot upon which a mobilehome is placed for which rent is charged.

(Ord. No. 2110 (NCS), § 1.)

#### Sec. 17.1-3. - Exemptions.

This chapter shall apply, as of its effective date, to all mobilehome tenancies in mobilehome parks located in the city of Salinas except:

- (a) Tenancies which were used primarily for commercial purposes as of June 1, 1990;
- (b) Tenancies in mobilehome parks of four spaces or fewer;
- (c) Tenancies the rental of which is subsidized by any government agency;
- (d) Mobilehome parks owned exclusively by the tenants;
- (e) Tenancies which are exempt by state or federal law including but not limited to tenancies pursuant to Civil Code 798.17 rental agreements.

(Ord. No. 2110 (NCS), § 1.)

#### Sec. 17.1-4. - Annual across-the-board CPI increases.

- (a) Rent Increases in 1991 and Subsequent Years. On or after February 1st of each year, the rent may be increased to an amount equal to the rent in effect on February 1st of the prior year adjusted by seventy-five percent of the increase in the Consumer Price Index (CPI).

The increase in the CPI shall be equal to the percentage increase between the CPI last reported as of August 31 of the most recent year and the CPI last reported as of August 31 of the year prior to that year. However, said increase shall not exceed eight percent.

Said increase shall be annually calculated by the city clerk and posted by October 15 shall be annually calculated by the city clerk and posted by October 15 of each year. The amount of said increase shall be rounded to nearest one-quarter of one percent.

In the event that the CPI decreases, no increase or decrease shall be authorized pursuant to this section.

- (b) Banking. Across-the-board rent increases allowed pursuant to this section may be accumulated and implemented by the landlord at any future time, except that said increases are not permitted when in conjunction with vacancy increases authorized by this chapter, they exceed the amounts of the increases otherwise authorized required by this section.
- (c) Compliance with State Law. Rent increases permitted pursuant to this subsection shall not be effective and shall not be demanded, accepted, or retained until the landlord has given the notice required by state law.
- (d) Permissible Rent Increases. No rent in excess of rent in effect on November 29, 1990 may be charged unless authorized by Section 17.1-4, Section 17.1-5, or Section 17.1-6.
- (e) Excessive Rent Mediation. Notwithstanding other remedies available under this section or state law, any mobilehome park tenant receiving notice of a rent increase in excess of that authorized by this section may file a petition for a mediation meeting before a mediator appointed by the city. The mediator shall consider the information, evidence or other documentation as the mediator may require in determining whether the disputed rent increase is authorized and shall make a recommendation no later than ten days after the conclusion of the hearing. The same procedures as authorized under subsections (b) and (c) of this chapter shall apply to mediations under this section. There shall be no appeal from or review of mediator's recommendation.

(Ord. No. 2110 (NCS), § 1; Ord. No. 2114 (NCS), § 2; Ord. No. 2116 (NCS), § 1; Ord. No. 2213 (NCS), § 1.)

#### Sec. 17.1-5. - Vacancy decontrol.

Notwithstanding the limitations on rent increases otherwise set forth in this chapter, upon changes in the ownership of the mobilehome that is on a space, the rent for the space may be increased without limit. The new rent established at time of change of ownership pursuant to this section shall be subject to the increase restrictions of this chapter.

This section shall not be applicable to a change in ownership due to an involuntary eviction or the death of a mobilehome owner wherein the deceased tenant's spouse or parents take over the occupancy of the mobilehome. If the deceased tenant's children take over the occupancy, the park owner may not institute a vacancy decontrol increase as long as there are children under the age of eighteen who occupy the mobilehome.

This section shall not be applicable if there is merely a replacement of the mobilehome without a change in the park tenancy.

(Ord. No. 2110 (NCS), § 1; Ord. No. 2214 (NCS), § 1.)

#### Sec. 17.1-6. - Fair return adjustments.

- (a) Purpose. The purpose of this section is to provide a mechanism for the review and approval of requested rental increase in excess of CPI adjustments, and to allow a mobilehome park owner to request rental increases in excess of that allowed in Section 17.1-5, when the owner believes that the CPI rent adjustment does not allow a fair return. The standard to be utilized in determining whether a proposed increase allows for a fair return shall be based upon the following:
- (b) Terminology and Concepts. For the purposes of rent adjustment review hearings, the following concepts shall apply:
  - (1) Net operating income equals gross income less operating expenses;
  - (2) Gross income equals the following:
    - (A) Gross rents computed as gross rental income at one-hundred percent paid occupancy, plus
    - (B) Interest from rental deposits, unless directly paid by the owner to residents (interest shall be imputed at the rate of six and one-half percent of all deposits, but if such deposits in fact earned greater interest, then actual interest earned shall be used), plus
    - (C) Income from utilities, except to the extent the charges are not deemed rent, laundry facilities, cleaning fees or services, garage, storage and parking fees,
    - (D) All other income or consideration received or receivable for or in connection with use or occupancy of mobilehome/mobilehome spaces and

related services, minus

- (E) Uncollected rents due to vacancy and bad debts to the extent that same are beyond the owner's control. Uncollected rents in excess of three percent of gross rents shall be presumed to be unreasonable unless established otherwise. Where uncollected rents must be estimated, the average percentage of the preceding three year's experience shall be used or some other comparable method;
- (3) Operating Expenses.
- (A) Operating expenses shall include the following:
    - (i) Real property taxes,
    - (ii) Utility costs, except to the extent charges for the utilities are not deemed rent and are passed through to the mobilehome owner,
    - (iii) Management expenses contracted or owner performed, including necessary and reasonable advertising, accounting, insurance and other managerial expenses, and allowable legal expenses. Management expenses are presumed to be five percent of gross income, unless established otherwise,
    - (iv) Normal repair and maintenance expenses, including painting, normal cleaning, fumigation, landscaping, and repair of all standard services, including electrical, plumbing, carpentry, furnished appliances, drapes, carpets, furniture, pool and laundry, recreational equipment,
    - (v) Owner-performed labor which shall be compensated at the average hourly rates charged for such work upon documentation provided showing the date, time and nature of the work performed,

Notwithstanding the foregoing, an owner may receive greater or lesser compensation for self-labor if it can be shown that the amounts set forth are substantially unfair in a given case. There shall be a maximum allowable expense for this paragraph of five percent of gross income, unless the owner shows greater services for the benefit of residents.

- (vi) License and registration fees required by law to the extent same are not otherwise paid by residents, and

- (vii) Capital expenses with a total cost of less than one hundred dollars per year per unit,
  - (viii) Capital improvements and major repairs, provided that the cost of such expenses, if they exceed one hundred dollars per space shall be amortized over their useful life. When said expenses have a useful life of four years or more, an interest cost of twelve percent a year on the unamortized balance of the cost of improvement shall be allowed as an expense. Amortization of the cost shall be on a straight line basis over the life of the improvement;
- (B) Operating expenses shall not include:
- (i) Avoidable and unnecessary expense increases since the base year,
  - (ii) Mortgage principal, interest payments and payments by the owner under any underlying ground lease,
  - (iii) Any penalties, fees or interest assessed or awarded for violation of this or any other law,
  - (iv) Legal fees except as provided below,
  - (v) Depreciation of the property,
  - (vi) Any expense for which the owner has been reimbursed by any security deposit, insurance settlement, judgment for damages, settlement, or any other method,
  - (vii) Reserve accounts;
- (4) 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 derogation of applicable law, to the extent such expenses are not recovered from residents. Attorney's fees and costs incurred related to proceedings under this chapter are not allowable as operating expenses. No other attorney fees are allowable. Park owners shall bear the burden of production and proof of the amount and purpose of such fees including reasonable rate per hour and hours spent and, should they fail to produce such evidence, all such fees shall be disallowed.
- (5) Base year operating expenses and gross income for purposes of these rent adjustment provisions shall mean operating expenses and gross income in the

year of June 1, 1989 to June 1, 1990.

- (6) Gross income and operating expenses shall be adjusted to reflect the portion of the mobilehome park that is subject to this chapter. Income from spaces that are exempted from this chapter shall not be considered. (For example, if forty percent of the mobilehome owners are subject to the ordinance, then forty percent of the income and expenses shall be considered).
- (c) Determination of Base Year Net Operating Income.
- (1) To determine the net operating income during the base year, there shall be deducted from the "base year gross income" a sum equal to the actual "base year operating expenses" unless the owner demonstrates to the satisfaction of the board that some other twelve consecutive month period is justified by exceptional reasons independent of the purpose of this chapter, provided that in all cases, January 1, 1990 shall fall within the twelve-month period utilized herein except as provided in subdivision 2 of this subsection.
  - (2) In the event that the owner did not own the subject property on June 1, 1989, the operating expenses for June 1, 1989 to June 1, 1990 shall be determined in one of the following manners, whichever the board determines to be more reliable in the particular case:
    - (A) The previous owner's actual operating expenses as defined above, or where unavailable;
    - (B) Actual operating expenses for the first calendar year of ownership discounted to the twelve-month period of June 1, 1989 to June 1, 1990 by the schedule in Section 17.1-7(e).
- (d) Special Base Year Operating Income Adjustment. 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 determination, at least one of the following determinations is required:
- (1) The owner'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 the base year of

operating expenses reflects average expenses for the property over a reasonable period of time. The following facts shall be considered in making this decision:

- (A) The owner made substantial capital improvements during the base year which were not reflected in the rent levels;
  - (B) Substantial repairs were made due to damage caused by natural disaster or vandalism;
  - (C) Other expenses were unreasonably high or low, notwithstanding prudent business practices.
- (2) The gross income during the base year was significantly lower than normal because of destruction of the premises and/or temporary eviction for construction or repairs, or other special circumstances.
- (e) Schedule of Increases in Operating Expenses. Where the schedule of rent increases, or other calculations require projections of a prior year's income and expenses, it shall be presumed, subject to rebuttal, that operating expenses, exclusive of property taxes and management expenses, increased at the CPI, that property taxes increased at two percent per year, and that management expenses are five percent of gross income.
- (f) Authorized Adjustments. The hearing officer shall grant an increase to an owner, in excess of that allowed by Section 17.1-5, if it finds and determines that it is necessary to provide the owner with a net operating income, after adjustment for seventy-five percent of the increase in the CPI, equal to the net operating income realized for the park during the base year. The percentage rent increase needed to cover increases in operating expenses shall be calculated in the following manner:

Minimum Percentage Income	Base Year Net Operating Income	minus	Current Year Net Operating
Increased Required =			
<u>adjusted by the (CPI)</u>			

## Current Year Gross Rents.

(Ord. No. 2110 (NCS), § 1.)

### Sec. 17.1-7. - Hearings.

- (a) Time for Hearings. A hearing officer appointed by the city shall consider and decide petitions for rental increases, as provided herein, within ninety days of the receipt of the completed application form unless a longer time is agreed to by all tenants and management affected. Petitions shall be considered and decided in the order filed.
- (b) Open Meetings. All meetings shall be open to the public and notice thereof given as required by law. Meetings shall be held as necessary to hear and decide petitions within the allotted time.
- (c) Submissions by Management. City shall prepare an application form and provide notification if an application is incomplete within ten days of its submission. At the time the management files its petition, management shall submit to the hearing officer such information, evidence, or other documentation as the hearing officer may require in determining whether the proposed rent increase is fair. The information which the management may be required to submit may include, but is not limited to the following:
  - (1) The actual operating expenses by category for the mobilehome park for a two-year period ending no more than four months before the proposed effective date of the increase;
  - (2) The current and proposed rent schedules for each space in the mobilehome park;
  - (3) A schedule of other fees and income from the mobilehome park;
  - (4) The vacancy rates in the mobilehome park during the preceding two-year period.
  - (5) A list of current leases for spaces unaffected by the proposed increase

extending beyond the effective date of the increase, showing the dates that each lease expires and the amount and date of change in rental rates for such lease;

- (6) Details of any other factors affecting the need for the proposed rent increase as may be reasonably required by the hearing officer. Failure to include information sufficient to provide the hearing officer with such information as the hearing officer deemed necessary to render an informed decision when requested by the hearing officer shall be at the risk of the management.
  - (7) The applicant may also submit anticipated increases in expenses for the mobilehome park for the twelve-month period of the proposed increase, provided that the increases are certain and can be precisely calculated.
- (d) Representation. Any party to a hearing may be assisted by attorneys or other persons of the party's choice at the party's sole expense.
  - (e) Hearing Procedure. The hearing officer shall proceed in the manner required by law, including this chapter, and shall render findings which support its decision and which are supported by the evidence. The hearings shall not be conducted according to technical rules of evidence and witnesses. Any relevant evidence shall be considered if it is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of business affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Unduly repetitious or irrelevant evidence shall be excluded upon order of the hearing officer.

Although the hearing need not be conducted pursuant to the rules of evidence, the hearing officer shall afford the parties a fair hearing including, but not limited to, refraining from taking of any ex parte evidence. The hearing officer shall tape record its meetings and make an official record of the hearing, which record shall constitute the exclusive record for decision of the issues at the hearing. The record shall be obtainable for the cost of copying and shall include; all exhibits, papers and documents required to be filed or accepted into evidence during the proceedings; a list of participants present; a summary of all testimony accepted in the proceeding; a statement of all materials officially noticed; all findings of fact; the ruling on each exception or objection, if any are presented; all recommendations, decisions, orders or rulings; all final decisions and orders; and the reasons for each recommendation in each final decision, order or ruling.

- (f) Time for decision. The hearing officer shall make a final decision no later than twenty days after the conclusion of its hearing on any petition.
- (g) Notice of Decision. The management and the tenants shall be sent a notice of the hearing officer's findings and decision within seven days after the rendering of the decision.
- (h) Judicial Review. Review of the final decision of the hearing officer shall be by a court of competent jurisdiction and venue. Such review shall be conducted in accordance with the Code of Civil Procedures, Section 1094.5 et seq.

(Ord. No. 2110 (NCS), § 1.)

Sec. 17.1-8. - Registration and administrative fee.

- (a) On April 1st of each year, each mobilehome park within the city of Salinas, coming under the terms of this chapter, shall file a registration statement setting forth the number of spaces in the park regulated by this chapter. The city council shall, by resolution, establish an administrative fee to offset the costs to the city of the regulatory activities provided pursuant to this chapter.
- (b) After the administrative fee provided for in subsection (a) above is paid in full by the mobilehome park, such fee may be recovered in equal monthly installments from each mobilehome rental space in the park that is subject to the terms of this chapter.
- (c) No application shall be accepted from any mobilehome park for a rent adjustment of any kind, no hearing or other proceeding shall be scheduled or take place, and no rent adjustment, including annual across-the-board CPI increases, shall be granted or take effect for any mobilehome park which has not filed the annual registration statement or paid in full the annual administrative fee.

(Ord. No. 2110 (NCS), § 1; Ord. No. 2157 (NCS), § 1.)

Sec. 17.1-9. - Fee for fair return petitions.

The city shall establish by resolution a fee schedule for fair return petitions and for the excessive rent mediation petitions.

(Ord. No. 2110 (NCS), § 1; Ord. No. 2116 (NCS), § 2.)

### Sec. 17.1-10. - Agreements.

Nothing in this chapter shall operate to restrict the right of a tenant and management to enter into an agreement in accordance with California Civil Code Section 798.17. Pursuant to Civil Code Section 798.17(c) the tenant shall have the option to reject the offered rental agreement and accept a rental agreement for a term of twelve months or less, including a month to month agreement.

(Ord. No. 2110 (NCS), § 1.)

### Sec. 17.1-11. - Cost savings.

If management reduces or eliminates any service to a tenant in effect on the date this chapter becomes effective, management shall reduce each tenant's rent by a proportionate share of the cost savings due to such reduction or elimination.

(Ord. No. 2110 (NCS), § 1.)

### Sec. 17.1-12. - Duty of owner to provide a copy of this chapter.

It shall be the duty of every owner to provide a copy of this chapter to each mobilehome owner or tenant who rents or leases a space from the owner.

(Ord. No. 2110 (NCS), § 1.)

### Sec. 17.1-13. - Notification to prospective buyer of base rent.

The park owner shall notify a mobilehome owner of the amount of any vacancy decontrol increase that would be instituted pursuant to Section 17.1-5 of this chapter.

Said notice shall be provided within ten days of a written request by a mobilehome owner for said information. The amount of said increase shall be binding on the park owner in regard to any vacancy increase for that space for a period of four months.

Failure of a park owner to comply with this section shall result in a loss of the right to any rent increase pursuant to Section 17.1-5 unless said failure is justified by good cause.

The purpose of this section is to insure that sellers and purchasers of a mobilehome in a park have full knowledge of the conditions surrounding current and future occupancy of a mobile-home space in the park.

(Ord. No. 2110 (NCS), § 1.)

Sec. 17.1-14. - Enforcement.

Either party may bring an action in the Superior Court compelling the other party to comply with the terms of this chapter. Violation of this chapter shall not be a misdemeanor nor punishable by the imposition of civil penalties. In any such court proceeding, the prevailing party shall be awarded reasonable attorney's fees.

(Ord. No. 2110 (NCS), § 1; Ord. No. 2114 (NCS), § 3.)

Sec. 17.1-16. - Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held void, invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and an independent provision, and such decision shall not affect the validity of the remaining portions thereof.

(Ord. No. 2110 (NCS), § 1.)