

ARTICLE V. MOBILEHOME RENT CONTROL*

***Editor's note** — Ord. of June 7, 1988. §§ 1– 8, as ratified by Res. No. 88-289 of June 28, 1988, being nonamendatory of the Code, has been included herein as Art. V. §§ 29-101 – 29-108, at the discretion of the editor. Section 9 of said ordinance, providing for severability, has been omitted from codification.

Cross reference — Trailers and mobilehomes, § 6-419 et seq.

Sec. 29-101. Definitions.

For the purposes of this article, the following words, terms, and phrases shall be defined as follows:

Board shall mean the mobilehome park rental review board of the City of Escondido.

Capital improvement shall mean the installation of new improvements and facilities and/or the replacement or reconstruction of existing improvements and facilities which consist of more than ordinary maintenance and/or repairs.

Department shall mean the community development department of the City of Escondido.

Mobilehome shall mean a vehicle designed and equipped for human habitation and which is used as the principal place of habitation for the occupants thereof.

Mobilehome park shall mean any area of land within the City of Escondido where two (2) or more mobilehome spaces are rented, or held out for rent to accommodate mobilehomes used for human habitation.

Mobilehome space shall mean the site within a mobilehome park intended, designed, or used for the location or accommodation of a mobilehome and any accessory structures or appurtenances attached thereto or used in conjunction therewith.

Owner shall mean the owner or operator of a mobilehome park or an agent or representative authorized to act on said owner's or operator's behalf in connection with the maintenance or operation of such park.

Rehabilitation work shall mean any renovation or repair work completed on or in a mobilehome park which was performed in order

to comply with the direction or order of a public agency, or to repair damage resulting from fire, earthquake, or other casualty.

Rent shall mean the consideration paid for the use or occupancy of a mobilehome space.

Rental increase shall mean any increase in rent charged by an owner to a tenant, including but not limited to lease offers, lease renewal offers, and increase in monthly rents.

Tenancy shall mean the right of a tenant to use or occupy a mobilehome space.

Tenant shall mean a person who has a tenancy in a mobilehome park. (Ord. of 6-7-88, § 1)

Sec. 29-102. Mobilehome park rental review board.

(a) The city council of the City of Escondido shall serve as the mobilehome park rental review board.

(b) The board shall establish the time of any hearings or meetings held pursuant to this article and such hearings or meetings shall be held in the City Hall as often as the board determines to be necessary to discharge its duties hereunder.

(c) Three (3) members shall constitute a quorum for the purpose of conducting a hearing or meeting. Decisions of the board shall be made by a majority vote of the members present.

(d) The duties and responsibilities of the board shall include the hearing of all rent increase applications and determine either to approve or disapprove a rent increase in the manner provided for herein. (Ord. of 6-7-88, § 2)

Sec. 29-103. Base rent.

Except as hereinafter provided, an owner shall not demand, accept, or retain rent for a mobilehome space exceeding the rent in effect for said space on January 1, 1986. If a previously rented mobilehome space was not rented on January 1, 1986, the owner shall not demand, accept, or retain rent for said space exceeding the rent in effect during the last month the space was rented prior to January 1, 1986. If a mobilehome space is rented for the first time after January 1, 1986, the

owner shall not demand, accept, or retain rent for said space exceeding the rent first charged for the space. No owner shall send a notice containing the specific amount of a proposed rental increase prior to receiving approval of a rent increase from the board. Except as herein provided, an owner shall not demand, accept or retain rent exceeding the rent in effect on January 1, 1986, for a mobilehome space that was not regulated by this section prior to January 1, 1986. If such mobilehome space was not rented on January 1, 1986, the owner shall not demand, accept or retain rent for said space exceeding the rent in effect during the last month the space was rented prior to January 1, 1986. (Ord. of 6-7-88, § 3)

Sec. 29-104. Permitted rent increases based upon an application approved by the board.

(a) An owner may file with the department a rent increase application for one or more mobilehome spaces for approval by the board.

(b) An application for a rent increase pursuant to this section shall be filed upon a form prescribed by the department and shall be accompanied by the payment of a fee which will be determined by the board; provided, however, that no fee shall be charged for applications filed within the first one hundred eighty (180) days after the effective date of this article. Said application shall specify the address of the mobilehome park, the space number or numbers for which rent is requested to be increased, the amount of the requested rent increase, and the facts supporting the requested increase. The applicant shall produce at the request of the department any records, receipts, reports, or other documents that the department may deem necessary for the board to make a determination whether to approve a rent increase. The application shall be made under penalty of perjury and supporting documents shall be certified or verified as requested by the department.

(c) Upon receipt of a rent increase application, the department shall mail a notice to the affected tenants at the mobilehome spaces designated in the application, informing them of the receipt of such application, the amount of the requested rent increase, a brief summary of the owner's justification for the request, any supporting documents which may be inspected at the City Hall, the tenant's right to submit written statements, photographs or other documents relating to the application within thirty (30) days after the date the notice is mailed, and the address where such statements or documents may be mailed or delivered.

(d) The department shall determine within thirty (30) days after receipt of a rent increase application whether said application is complete. If the department determines that said application is not complete, it shall notify the applicant in writing as to what additional information is required.

(e) A copy of each rent increase application shall be provided to each member of the board after such application is determined to be complete. The board shall hold a hearing on said application within sixty (60) days after such determination is made except as provided in subsection (i). Notice of the time, date, and place of the hearing shall be mailed to the applicant and the affected tenants at the mobilehome spaces designated in the application at least ten (10) days prior to the hearing.

(f) At the hearing, the applicant and the affected tenants may offer any testimony that is relevant to the requested rent increase. The applicant and affected tenants may offer documents, written declarations, or other written evidence for the rust time at the hearing only if good cause is shown why such evidence was not filed with the department prior to the hearing. Formal rules of evidence shall not be applicable to such proceedings. Except as provided in subsection (j) within fifteen (15) days after the close of the hearing, the board shall make its determination,

pursuant to the standards established by subsection (g) of this section, approving or disapproving a rent increase for the mobilehome space or spaces specified in the rent increase application.

(g) The board shall approve such rent increase as it determines to be just, fair and reasonable. The board shall consider the following factors, in addition to any other factors it considers relevant, in making such determination:

(1) Changes in the Consumer Price Index for All Urban Consumers in San Diego Metropolitan Area published by the Bureau of Labor Statistics.

(2) The rent lawfully charged for comparable mobilehome spaces in the City of Escondido.

(3) The length of time since either the last hearing and final determination by the board on a rent increase application or the last rent increase if no previous rent increase application has been made.

(4) The completion of any capital improvements or rehabilitation work related to the mobilehome space or spaces specified in the rent increase application, and the cost thereof, including such items of cost, including materials, labor, construction interest, permit fees, and other items as the board deems appropriate.

(5) Changes in property taxes or other taxes related to the subject mobilehome park.

(6) Changes in the rent paid by the applicant for the lease of the land- on which the subject mobilehome park is located.

(7) Changes in the utility charges for the subject mobilehome park paid by the applicant and the extent, if any, of reimbursement from the tenants.

(8) Changes in reasonable operating and maintenance expenses.

(9) The need for repairs caused by circumstances other than ordinary wear and tear.

(10) The amount and quality of services provided by the applicant to the affected tenant.

(11) Any existing written lease lawfully entered into between the applicant and the affected tenant.

(h) The board may provide that an increase in rent or a portion of an increase in rent granted by the board be limited to the length of time necessary to allow the park owner to reasonably amortize the cost of a capital improvement, including interest. Such increase granted as a result of the capital improvement shall not continue beyond the time necessary for reasonable amortization of the cost of such improvement.

(i) Notice of the board's determination shall be mailed to the applicant and all affected tenants at the mobilehome spaces designated in the application. The determination of the board shall be final.

(j) In the event that the board is unable to act and make its final determination on a completed rent increase application within the time limitations prescribed by subsections (d) through (f) of this section, and after the thirty (30) days for the tenant to file statements or documents in opposition to the application under subsection (c) shall have expired, the board may. approve such interim rent increase for the mobilehome space or spaces specified in said application which clearly appears to be warranted when the factors set forth in subsection (g) of this section are considered, based upon the facts stated in the application, any written statements or documents filed with the department by the affected tenants, and any other facts known to the board. An approved interim rent increase shall expire on either (1) the last day of the month within which the board makes its final determination disapproving a rent increase, or (2) the effective date of a rent increase which is approved by a final determination of the board.

(k) The time within which the board may conduct a hearing as provided in subsection (e) or make its determination as provided in subsection (f) may be extended twice by the board for periods of time not to exceed sixty (60) days each if the board approves an interim rent increase pursuant to subsection (j). (Ord. of 6-7-88, § 4)

Sec. 29-105. Fees.

A tenant whose tenancy is not regulated by the provisions of the mobilehome residency law shall not be charged a fee for anything other than rent or utilities with the exception of incidental reasonable charges for services actually rendered. (Ord. of 6-7-88, § 5)

Sec. 29-106. Permissible reasons for terminating or refusing to renew a tenancy.

A tenancy which is not subject to the provisions of the mobilehome residency law shall not be terminated nor shall its renewal be refused, except for one or more of the following reasons:

(1) Failure of the tenant to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the tenant receives a notice of noncompliance from the appropriate governmental agency.

(2) Conduct by the tenant, upon the mobilehome park premises, which constitutes a substantial annoyance to other tenants.

(3) Failure of the tenant to comply with reasonable rule or regulation of the mobilehome park. No act or omission of the tenant shall constitute such failure to comply unless and until the owner has given the tenant written notice of the alleged rule or regulation violation and the tenant has failed to adhere to the rule or regulation within seven (7) days.

(4) Nonpayment of rent, utility charges, or reasonable incidental service charges.

(5) Condemnation of the mobilehome park.

(6) Change of use of the mobilehome park, provided that the provisions of Subsection (f) of Section 798.56 of California Civil Code are followed:

(a) The owner gives the tenant written notice of the proposed change twelve (12) months or more before the date of the proposed change.

(b) The owner gives each proposed tenant whose tenancy will commence within twelve (12) months of the proposed change written notice thereof prior to the inception of his tenancy. Notice of termination or refusal to renew must be given in writing in the manner prescribed by Section 1162 of the Code of Civil Procedure at least sixty (60) days prior to the termination date of the tenancy. Said notice shall state the date the tenancy terminates, the reason for the termination or refusal to renew, and the specific facts upon which the owner is relying. (Ord. of 6-7-88, § 6)

Sec. 29-107. Refusal of tenant to pay illegal rent.

A tenant may refuse to pay any rent in excess of the maximum rent permitted by this article. The fact that such unpaid rent is in excess of the maximum rent shall be a defense in any action brought to recover possession of a mobilehome space for nonpayment of rent-or to collect the illegal rent. (Ord. of 6-7-88, § 7)

Sec. 29-108. Remedies.

(a) Any person who demands, accepts or retains any payment of rent in violation of the provisions of this article shall be liable in a civil action to the person from whom such payment is demanded, accepted or retained for damages in the sum of three (3) times the amount by which the payment or payments demanded, accepted, or retained exceed the maximum rent which could be lawfully demanded, accepted, or retained together with reasonable attorney's fees and costs as determined by the court.

(b) Any person violating any of the provisions of this article shall be guilty of a misdemeanor and shall be punishable in the manner provided by section 1-13 of the Escondido Municipal Code. (Ord. of 6-7-88, § 8)