

ORDINANCE NO. 2017-\_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 3.32 OF THE ALAMEDA COUNTY GENERAL  
ORDINANCE CODE REGARDING MOBILE HOME RENT REVIEW PROCEDURES

The Board of Supervisors of the County of Alameda, State of California, does ordain as follows:

SECTION I

The Board of Supervisors makes the following findings in support of this Ordinance:

1. The County of Alameda adopted a mobile home rent stabilization ordinance in 1990, codified as Chapter 3.32 of the Alameda County General Ordinance Code. This existing ordinance limited annual rent increases for spaces in mobile home parks to 5% and allowed park owners to apply for an additional increase.
2. County staff studied the existing ordinance, and its effect on both owners of mobile home parks, as landlords, and owners of mobile homes, as tenants, and recommends an amendment to the ordinance to address the concerns raised by both groups.
3. Mobile home owners, unlike apartment tenants or residents of other rental units, are in the unique position of having made a substantial investment in a residence for which space is rented or leased as distinguished from owned.
4. Alternative sites for the relocation of mobile homes are difficult to find due to the shortage of vacant mobile home spaces, the restrictions on the age, size, or style of mobile homes permitted in many mobile home parks, and requirements related to the installation of mobile homes, including permits, landscaping and site preparation. Additionally, the cost of moving a mobile home is substantial and the risk of damage in moving is significant.
5. The state of California has recognized, by the adoption of legislation regulating tenancies of mobile home owners in mobile home parks, that there is a significant distinction between the tenants (mobile home owners) of mobile home parks and other dwelling units, and the County of Alameda likewise has recognized the unique position of mobile home owners as tenants of mobile home parks.
6. Although mobile home owners benefit from some aspects of homeownership, the benefit is more limited than in traditional homeownership, because the investment in the mobile home is subject to the rental conditions for the underlying land, which conditions are not in the control of the mobile home owner.
7. The existence of housing alternatives for mobile home owners is largely dependent on the maintenance of their equities in their mobile homes. They can relocate to other types of housing only if they can use equity in their mobile homes to transition to other types of housing.
8. The result of these conditions has been and continues to be the creation of a captive market of mobile home owners and a great imbalance in the bargaining position of the park owners and mobile home owners in favor of the park owners.

9. This market situation has contributed to or threatens to contribute to unreasonable space rent increases for mobile home spaces. This situation has resulted in serious concern and stress among significant portions of County residents living in mobile home parks, negatively impacting the health, safety and welfare of the community.
10. Because mobile homes are often owned by senior citizens, persons on fixed incomes, and persons of low and moderate income, significant rent increases create heightened risks of displacement and financial insecurity for these vulnerable populations, which negatively impacts the health, safety and welfare of the community.
11. This market situation has also contributed to or threatens to contribute to other practices by park owners which this ordinance also seeks to remedy or prevent, including protections against retaliation.
12. Pursuant to existing state law, a local rent stabilization ordinance must allow mobile home park owners, as landlords, to earn a fair return on their investment.
13. Additionally, mobile home park owners are responsible for maintaining and improving the conditions of their mobile home park and rely on rental income to fund these activities, which may include significant capital improvements and costly ongoing maintenance.
14. By implementing a maximum annual standard rent increase for mobile home spaces, and by adopting revised procedures for park owners seeking a non-standard rent increase, the amended ordinance balances the goal of stabilizing rents and rental conditions for mobile home owners and the goals of allowing park owners the opportunity to earn a fair return and to efficiently manage the mobile home park.
15. This ordinance should not be interpreted or applied in a way that would deprive a park owner of the constitutionally protected right to receive a just and reasonable return on their property.

## SECTION II

Chapter 3.32 of the Alameda County General Ordinance Code is hereby amended to read as follows:

### Chapter 3.32 - MOBILEHOME PARK RENT REVIEW PROCEDURES

#### 3.32.010 Findings and Purpose

There is presently within the unincorporated area of the County of Alameda and the surrounding areas a shortage of space for location of mobile homes. This has resulted in a low vacancy rate and rents have been and are presently rising rapidly and causing concern among a substantial number of residents. Because of the high cost of moving mobile homes and the potential for damage resulting therefrom, the requirements relating to the installation of mobile homes, including permits, landscaping and site preparation, the lack of alternative homesites for mobile home owners, and the substantial investment of mobile home owners in such homes, the Board of Supervisors finds and declares it necessary to protect the owners and occupiers of mobile homes from unreasonable rent increases, while at the same time recognizing the need of the park owners to receive both a fair return on their property and

rental income sufficient to cover increasing costs of repair, maintenance, insurance, employee service, utilities and government assessments.

### 3.32.020 Definitions

"Base Rent" means the Space Rent charged and allowed pursuant to this chapter on the effective date of this section plus any increase in Space Rent allowed thereafter pursuant to this chapter.

"Capital Improvements" means those improvements that materially add to the value of the property and appreciably prolong its useful life or adapt it to new uses and which may be amortized over the useful life of the improvements in accordance with the Internal Revenue Code.

"Commercial Purchaser" means a person or entity including, but not limited to, an individual, a limited liability company, corporation, partnership or any form of association engaged in Mobile Home sales as a business.

"Hearing Officer" means the person serving or designated pursuant to Section 3.32.040.

"Housing Director" means the Director of the Housing and Community Development Department of the Community Development Agency, acting either directly or through his or her assigned deputies and employees.

"Housing Services" means services provided by the Park Owner related to the use or occupancy of a Mobile Home space, including but not limited to insurance, repairs, replacements, maintenance, painting, lighting, heat, water, refuse removal, laundry facilities, recreation facilities, parking security, and employee services.

"Non Standard Rent Increase" means an increase in rent pursuant to Section 3.32.060.

"Mobile Home" means a structure designed for human habitation and for being moved on a street or highway under permit pursuant to California Vehicle Code § 35790, including but not limited to a manufactured home, as defined in the California Health and Safety Code, "Mobile home" does not include a recreational vehicle, as defined in California Civil Code § 799.24, a commercial coach, as defined in California Health & Safety Code § 18001.8, or factory-built housing as defined in California Health & Safety Code § 19971.

"Mobile Home Owner" means a person who has an ownership interest in a Mobile Home and has a tenancy in a Park under a rental agreement, having the right to the use of a Mobile Home space on which to locate, maintain and occupy a Mobile Home, including any fractional interest therein and who is not a Commercial Purchaser.

"Park" means a Mobile Home park which rents or leases spaces for Mobile Home dwelling units in the unincorporated area of the County of Alameda.

"Park Owner" means the owner, lessor, operator or manager of a Park.

"Rent Review Procedures" means the written procedures adopted by the Housing Director pursuant Section 3.32.160.

"Rent Review Officer" means the person serving or designated pursuant to Section 3.32.030.

"Space Rent" means the money or other consideration charged or received by a Park Owner for the use or occupancy of a Mobile Home space and the nonexclusive use of common area facilities, but excluding separately billed utilities or reasonable charges for services actually rendered as of the effective date of this section.

"Standard Rent Increase" means an increase in rent pursuant to Section 3.32.050.

### **3.32.030 Rent Review Officer**

The Housing Director, or a person or persons designated by the Housing Director, shall serve as the Rent Review Officer to administer and enforce the provisions of this chapter. The Rent Review Officer shall have the power and duty to receive, investigate, hold hearings on, and make findings and decisions regarding the petitions for rent adjustment.

### **3.32.040 Hearing Officer**

The Rent Review Officer may serve as or may designate a Hearing Officer to conduct a hearing or hearings pursuant to this chapter. The minimum qualifications of the Hearing Officer shall be as established by the Rent Review Procedures. A person shall not be appointed as a Hearing Officer if the Rent Review Officer determines that the person has an actual or potential conflict of interest in the matter or if such appointment would have the appearance of a conflict of interest in the matter. For example, a person who is a Mobile Home Owner, a Park Owner or an immediate family member of a Mobile Home Owner or Park Owner shall be ineligible to serve as a Hearing Officer.

### **3.32.050 Standard Rent Increase**

The annual Space Rent shall not be increased by more than four percent (4%). Section 3.32.080 herein governs the maximum increase in Space Rent allowable upon an event of vacancy.

### **3.32.060 Non Standard Rent Increase**

- A. If dissatisfied with the maximum Space Rents permitted by Section 3.32.050 of this chapter, a Park Owner may request an adjustment in Space Rents according to the provisions of this section. However, no Park Owner may request more than one adjustment to Space Rents during the twelve (12) month period following the first full day the last Space Rent increase is put into effect.
- B. A Park Owner may request an adjustment in excess of the Space Rent increase authorized by Section 3.32.050 by conforming to the procedures set forth in this section, and any further procedures as established in the Rent Review Procedures.

- C. A hearing will be held upon receipt of a complete application and submission of such additional information as may be requested by the Hearing Officer or Rent Review Officer.
- D. In any Space Rent increase proceeding pursuant to this section, the burden shall be upon the Park Owner to prove the justification for a Space Rent increase by clear and convincing evidence.
- E. In evaluating the request, the Hearing Officer shall consider, among other factors:
  - 1. Unavoidable increases in maintenance and operating expenses;
  - 2. The costs of substantial rehabilitation or the addition of Capital Improvements;
  - 3. The rental history of the affected Mobile Home spaces and the Park, for the immediately preceding thirty-six (36) months, including prior rent increases, reductions in Housing Services, and the occupancy rate;
  - 4. The physical condition of the affected Mobile Home spaces and Park;
  - 5. Existing Space Rents for comparable Mobile Home spaces in other comparable Parks in the area;
  - 6. Current and historic net operating income;
  - 7. A fair return on the property pro-rated among the Mobile Home spaces of the Park;
  - 8. Whether any expense is clearly excessive, given the industry standard for the same item; and
  - 9. Other financial information that the Park Owner is willing to provide.
- F. The Hearing Officer shall consider the evidence presented and the factors set forth above to determine what level of Space Rent increase, if any, is just, fair and reasonable. The Hearing Officer may approve or deny the requested Non Standard Rent Increase, or may approve the request with modifications. The Housing and Community Development Department will notify the affected Mobile Home Owners of the Hearing Officer's determination.
- G. This section does not place a cap on the amount of a Space Rent increase that may be requested or approved via a Non Standard Rent Increase. However, the Hearing Officer may place a cap on the allowable Space Rent increase approved in response to a request for a Non Standard Rent Increase or deny the request.
- H. If a Non Standard Rent Increase is approved that is based in whole or in part on a Capital Improvement cost, then that portion of the increase attributable to the Capital Improvement cost shall not form a part of the Base Rent. In addition, that portion of the

increase shall be charged only during the useful life of the Capital Improvement in accordance with IRS regulations.

**3.32.070 Notices Required**

Rent increases pursuant to this chapter shall not be effective and shall not be charged, accepted, received or retained until the Park Owner has given all notices required by state law (see e.g. Civil Code Section 798.30), this chapter, and the Rent Review Procedures.

Park Owners shall maintain a current paper copy of the California Mobilehome Residency Law (Civil Code Sections 798 et seq.) and of this Chapter in the on-site management office in an area readily accessible for review by Mobile Home Owners. If the copy cannot be made readily available in an on-site management office, the Park Owner shall immediately notify the Housing Director who may permit the copy to be stored in an alternate location. Each notice of a rent increase shall state the on-site location where the Mobilehome Residency Law may be reviewed.

**3.32.080 Vacancy Decontrol**

A Park Owner shall be permitted to charge a new Space Rent for a Mobile Home space whenever a lawful space vacancy occurs. The new Space Rent shall become the Base Rent upon which future rent increases pursuant to this chapter will be calculated. For purposes of this chapter, a lawful space vacancy is defined as any of the following:

- A. An in-place transfer, which is a sale, transfer or other conveyance of a Mobile Home with the Mobile Home remaining on the Mobile Home space following the sale, transfer or conveyance. A transfer of title whereby the Mobile Home Owner adds or removes one or more co-owners and continues to reside in the Mobile Home as his or her primary residence shall not constitute an in-place transfer.
- B. A vacancy of the Mobile Home space arising from the voluntary removal of a Mobile Home by the Mobile Home Owner who will no longer be resident of the Park. A removal of the Mobile Home from the space for the purpose of performing rehabilitation or Capital Improvements to the space or for the purpose of upgrading the Mobile Home with a newer Mobile Home shall not constitute a voluntary removal of the Mobile Home under this section.
- C. A vacancy occurring after the Park Owner obtains a judgment of unlawful detainer (an eviction), a judgment of abandonment for an "abandoned mobilehome" as defined by and pursuant to the Mobilehome Residency Law, or other termination of the tenancy of the affected Mobile Home Owner in accordance with the Mobilehome Residency Law, California Civil Code Sections 798.55 through 798.60, as amended.
- D. Abandonment of the Mobile Home as determined by a judgment of abandonment pursuant to Section 798.61 of the Mobilehome Residency Law.

### **3.32.090 Mobile Home Park Registration**

Park Owners must register their Park(s) with the Rent Review Officer within sixty (60) days from the effective date of this ordinance. The registration must include, in a form acceptable to the County, the following information:

- A. A list of the Park Owner's Parks and all associated Park Owners, including a list of the managers and operators, if any;
- B. Appropriate contact information for all Park Owners;
- C. The number of Mobile Home spaces in each Park;
- D. Mailing address of each Mobile Home space;
- E. A list of all Mobile Home spaces covered by this chapter;
- F. A list of all spaces within the Park not covered by this chapter and the reasons therefor (e.g., spaces with a lease term longer than 12 months);
- G. The amount of and descriptions for all rent, charges and fees other than Space Rent charged to the Mobile Home Owners by space; and
- H. The Space Rent for each Mobile Home space as of the effective date of this section.

Any changes in the information provided in subsections A through G shall be reported to the Rent Review Officer within thirty (30) days of the change.

### **3.32.100 Conduct of Proceedings, Hearings**

- A. Within ten (10) working days of the filing of a complete petition for a Non Standard Rent Increase the Rent Review Officer shall set a date for the hearing and shall have notified all affected parties by mail of the date and time of the hearing.
- B. The hearing shall be set for a date not less than twenty (20) nor more than thirty (30) working days after the Rent Review Officer has received all required documentation pursuant to Section 3.32.60.
- C. The Rent Review Officer shall designate a Hearing Officer not less than ten (10) working days prior to the hearing.
- D. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious 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.
- E. In the event that either the Park Owner applying for the Non Standard Rent Increase or the affected Mobile Home Owner(s) or both should fail to appear at the hearing, the Hearing Officer may hear and review such evidence as may be presented and make such decisions just as if both parties had been present or continue the hearing or dismiss the petition for Non Standard Rent Increase.

- F. Materials received in conjunction with a petition for Non Standard Rent Increase shall be maintained in the Housing and Community Development Department for five (5) years and shall be available for review by the public during normal working hours.

**3.32.110 Decision of the Hearing Officer**

- A. The Hearing Officer shall adopt findings and a decision no later than ten (10) working days after the conclusion of the hearing on any petition for a Non Standard Rent Increase. All parties shall be sent a copy of the findings and decision.
- B. Based on the findings, the Hearing Officer shall deny the request, grant the request, or set the Non Standard Rent Increase at an amount less than requested.

**3.32.120 Mobile Home Owner's Right of Refusal**

A Mobile Home Owner may refuse to pay any increase in rent which is in violation of this chapter. Such refusal to pay shall be a defense in any action brought to recover possession of a Mobile Home space or to collect the rent increase.

**3.32.130 Three-Year Review**

The Housing Director will provide a report regarding the administration of this ordinance for consideration by the Board of Supervisors at least once in a three (3) year period.

**3.32.140 Administration Fees**

The Board of Supervisors may establish a fee payable by the Park Owners to reimburse the County for the general costs incurred by the County in administering this chapter. One hundred percent of this fee shall be paid by Park Owners to the County. The costs shall be apportioned equally to all Mobile Home spaces in the unincorporated County, with each Park Owner responsible for its pro-rata share. Park Owners may pass through 50 percent of the administrative fees assessed against them to the Mobile Home Owners, in their respective Parks. The portion of the fee to be passed through shall be apportioned equally among the affected Mobile Home spaces in the Park Owners' respective Parks.

**3.32.150 Direct Cost Fees**

The direct costs incurred in the processing of a request for a Non Standard Rent Increase shall be borne directly by the Park Owner involved in the request and may not be passed through in any manner to the Mobile Home Owners unless otherwise apportioned by the Hearing Officer. Direct costs include all costs incurred by the County in processing the request pursuant to this chapter including but not limited to the cost of staff time, hearing costs, and appeals costs. The Rent Review Officer may collect a deposit from a Park Owner prior to processing an application for a Non Standard Rent Increase.

**3.32.160 Implementing Rent Review Procedures**



The Housing Director shall establish written Rent Review Procedures consistent with this chapter to effectuate the purposes of this chapter, including but not limited to establishing timelines for the notices and actions described herein, hearing procedures, requirements for written submissions, and factors to be considered by the Rent Review Officer and Hearing Officer in making determinations pursuant to this chapter.

**3.32.170 Appeals**

A decision by a Hearing Officer may be appealed to the Rent Review Officer. A decision by the Rent Review Officer may be appealed to the Housing Director. A decision by the Housing Director may be appealed to the Board of Supervisors. The appeal may be taken by any Mobile Home Owner, Park Owner or other person aggrieved or by an officer, department, board, or commission affected by the order within ten (10) working days of the decision, by filing with the Housing Director a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the order appealed from. The action of the Board of Supervisors shall be subject to judicial review pursuant to Code of Civil Procedure Section 1094.5.

**3.32.180 Severability**

This chapter shall be liberally construed to achieve its purpose and preserve its validity. If any provision or clause of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable and are intended to have independent validity.

**3.32.190 No Takings**

This chapter should not be interpreted and shall not be applied in a manner that would effectuate a taking of private property.

**3.32.200 Consistency with State and Federal Law**

This chapter should not be interpreted and shall not be applied in a manner that would be inconsistent with the rights and responsibilities of Park Owners and Mobile Home Owners as established by the Mobilehome Residency Law or as otherwise provided by state or federal law.

**SECTION III**

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on \_\_\_\_\_, 2017, by the following called vote:


AYES:  
NOES:  
EXCUSED:

\_\_\_\_\_  
WILMA CHAN, President of the Board of  
Supervisors, County of Alameda,  
State of California

ATTEST:  
Clerk of the Board of Supervisors

By: \_\_\_\_\_

Approved as to form:  
DONNA R. ZIEGLER, County Counsel

By:  \_\_\_\_\_  
Heather Littlejohn  
Deputy County Counsel