

## **Exhibit A - Redline of Staff-proposed Changes to the Ordinance from 12/7/15 Planning Commission meeting**

The following changes to the proposed ordinance made subsequent to the December 7, 2015 Planning Commission meeting are highlighted below:

- (1) “Event of Vacancy” definition removed. This definition was determined to be superfluous and unnecessary.
- (2) “Major Rent Increase” title changed to “Non Standard Rent Increase”. The terminology change is intended to remove any perceived statutory bias regarding any rent increase that is not the standard annual rent increase.
- (3) 3.32.080 was augmented to include voluntary removal of a mobile home as a circumstance under which vacancy decontrol is allowable. This change was made to allow full vacancy decontrol in one additional scenario, voluntary removal of the mobile home by a mobile home owner who is moving out of the park.
- (4) 3.32.090 was revised so that the modified vacancy decontrol may be taken upon an in-place transfer regardless of whether the annual standard rent increases had been imposed in prior years.
- (5) 3.32.150 administration fees section was amended to clarify that park owners would pay the fee annually if imposed, but would be allowed to pass-through 50% of the fees to the mobile home owners, apportioned equally among the spaces in each park. This change clarifies the original staff intent to allow park owners to share the administration fee burden with mobile home owners.

## Chapter 3.32 - MOBILEHOME PARK RENT REVIEW PROCEDURES

### Sections:

#### 3.32.010 Findings and purpose.

There is presently within the unincorporated area of Alameda County and the surrounding areas a shortage of space for location of mobilehomes. 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 mobilehomes and the potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, including permits, landscaping and site preparation, the lack of alternative homesites for mobile-home owners, and the substantial investment of mobilehome owners in such homes, the Board of Supervisors finds and declares it necessary to protect the owners and occupiers of mobilehomes 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 and utility-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.

~~“Event of Vacancy” means a change in ownership of the Mobile Home, removal and replacement of the Mobile Home on the Mobile Home space or any vacancy of the Mobile Home space. A change in ownership shall not constitute an Event of Vacancy if the prior owner continues to reside in the Mobile Home as his or her primary residence.~~

-“Hearing Officer” means the person designated by the Rent Review Officer 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/her assigned deputies and employees.

"Housing Services" means services provided by the 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.

~~“Major 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 Cal. Veh. 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 Cal. Civ. Code § 799.24, a commercial coach, as defined in Cal. Health & Safety Code § 18001.8, or factory-built housing as defined in Cal. 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 Alameda County.

"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.

"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 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 3.32.090 herein governs the maximum increase in Space Rent allowable upon an Event of Vacancy.

### **3.32.060** ~~Major~~ 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 Space Rent increase authorized by Section 3.32.050 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 substantial rehabilitation or the addition of Capital Improvements by the Park Owner seeking the Major Rent Increase;
  - 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 Major 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 Major Rent Increase. However, the Hearing Officer may place a cap on the allowable Space Rent increase approved in response to a request for a Major Rent Increase or deny the request.
- H. If a Major 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-Evictions ~~or~~, Abandoned Mobile Homes or Voluntary Removal

I. A Park Owner may increase Space Rent by any amount when renting a Mobile Home space after obtaining a judgment of unlawful detainer (an eviction) or a judgment of abandonment for an “abandoned mobilehome” as defined by and pursuant to ~~Section 798.61 of~~ the Mobilehome Residency Law. The new Space Rent established for the Mobile Home space shall become the Base Rent upon which future rent increases pursuant to this chapter will be calculated.

J. A Park Owner may also increase Space Rent by any amount upon a vacancy of the Mobile Home space arising from the voluntary removal of a Mobile Home by the owner who will no longer be a 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.

### **3.32.090** Modified Vacancy Control/~~De-Control~~

~~If the Park Owner has not implemented the maximum annual Standard Rent Increases allowed for a particular Mobile Home space, following an Event of Vacancy for that Mobile Home space, the Space Rent may be increased to the level that would have been allowed had the Park Owner implemented annual Standard Rent Increases to the extent permitted by this chapter~~

After an In-place Transfer (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) the Park Owner may increase the Space Rent for the space underlying the Mobile Home up to a maximum of three times the annual Standard Rent Increase, in any given calendar year. 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.

~~increase is implemented.~~

### **3.32.100** 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 other rent, charges and fees 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.

**3.32.110** Conduct of proceedings, hearings.

- A. Within ten (10) working days of the filing of a complete petition for a Major 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 or the Mobile Home Owner 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 Major Rent Increase.
- F. Materials received in conjunction with a petition for Major 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.

**3.32.120** 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 Major 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 Major Rent Increase at an amount less than requested.

**3.32.130** 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.

**3.32.140** Five-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 five (5) year period.

**3.32.150** 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 County. Park Owners may pass through 50 percent of the administrative fees assessed against them to the Mobile Home Owners. The portion of the fee to be passed through shall be apportioned equally among the affected Mobile Home spaces.

**3.32.160** Direct Cost Fees

The direct costs incurred in the processing of a request for a Major 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 Major Rent Increase.

**3.32.170** 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.

**3.32.180** 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.

**3.32.190 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.

**3.32.200 No Takings**

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

**3.32.210 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.