

CITY OF PALMDALE  
COUNTY OF LOS ANGELES, CALIFORNIA

ORDINANCE NO. 1368

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF PALMDALE, CALIFORNIA, AMENDING CHAPTER 5.44  
OF THE PALMDALE MUNICIPAL CODE RELATIVE TO  
MOBILE HOME SPACE RENT CONTROL

WHEREAS, Section 5.44.110 of the Palmdale Municipal Code authorizes the City Council to periodically review the provisions of the Mobile Home Rent Control Ordinance to consider: whether mobilehome space rent control continues to be necessary to protect the public health, safety and welfare; whether the implementation of the provisions of the Mobile Home Rent Control Ordinance have been adequate; and whether the provisions of the Mobile Home Rent Control Ordinance should be amended to provide more effective regulation or to avoid unnecessary hardship; and

WHEREAS, Palmdale has seven privately owned mobilehome parks with a total of 1,154 mobilehome spaces; and

WHEREAS, the State of California has recognized, by the adoption of special legislation regulating the terms and conditions of tenancies of mobilehome owners in mobilehome parks, that there is a significant distinction between the situation of tenants who own mobilehomes in mobilehome parks and the situation of tenants of apartments or houses. The California Mobilehome Residency Law includes the following findings:

“The Legislature finds and declares that, because of the high cost of moving mobilehomes, the potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, and the cost of landscaping or lot preparation, it is necessary that the owners of mobilehomes occupied within mobilehome parks be provided with the unique protection from actual or constructive eviction afforded by the provisions of this chapter.” (California Civil Code Section 798.55a);

and

WHEREAS, in *Galland v. Clovis*, 24 Cal.4th. 1003, 1009-1010 (2001), the California Supreme Court explained the “unique” nature of mobilehome space rentals, stating as follows:

“BACKGROUND: THE MOBILEHOME OWNER/MOBILEHOME PARK  
OWNER RELATIONSHIP

This case concerns the application of a mobilehome rent control ordinance, and some background on the unique situation of the mobilehome owner in his or her relationship to the mobilehome park owner may be useful. "The term 'mobile home' is somewhat misleading. Mobile homes are largely immobile as a practical matter, because the cost of moving one is often a significant fraction of the value of the mobile home itself. They are generally placed permanently in parks; once in place, only about 1 in every 100 mobile homes is ever moved. [Citation.] A mobile home owner typically rents a plot of land, called a 'pad,' from the owner of a mobile home park. The park owner provides private roads within the park, common facilities such as washing machines or a swimming pool, and often utilities. The mobile home owner often invests in site-specific improvements such as a driveway, steps, walkways, porches, or landscaping. When the mobile home owner wishes to move, the mobile home is usually sold in place, and the purchaser continues to rent the pad on which the mobile home is located." (*Yee v. Escondido* (1992) 503 U.S. 519, 523, 112 S.Ct. 1522, 118 L.Ed.2d 153.) Thus, unlike the usual tenant, the mobilehome owner generally makes a substantial investment in the home and its appurtenances--typically a greater investment in his or her space than the mobilehome park owner. [cite omitted] The immobility of the mobilehome, the investment of the mobilehome owner, and restriction on mobilehome spaces, has sometimes led to what has been perceived as an economic imbalance of power in favor of mobilehome park owners."

and

WHEREAS, in *Adamson Companies v. City of Malibu*, 854 F.Supp. 1476, 1481 (C.D. Cal. 1994), a federal district court in California stated:

"Mobile homes, despite their name, are not really mobile. Once placed in a park few are moved. This is principally due to the cost of moving a coach, which is often equal to or greater than the value of the coach itself. Also, many mobile home parks will not accept older coaches so that after a time, the coach may be rendered effectively immobile . . . the park owner, absent regulation, theoretically has the power to exact a premium from the tenant who, as a practical matter, cannot move the coach...";

and

WHEREAS, approximately one hundred jurisdictions in California have adopted mobilehome park space rent regulations in response to the special circumstances of mobilehome park tenants; and

WHEREAS, the City Council commissioned a study of mobilehome parks in the City of Palmdale, which included a survey of mobilehome park residents and park managers, and analyses of mobilehome park space rent trends, the characteristics of

mobilehome park space residents, and the affordability of mobilehome space rents, and this study was presented to the City Council on December 3, 2008; and

WHEREAS, as a practical matter, mobilehomes in mobilehome parks are "immobile". The cost of moving a mobilehome from one park to another is substantial. Moving and setup costs of a "doublewide" mobilehome are typically in excess of \$10,000; and

WHEREAS, some mobilehome parks in the City of Palmdale will not accept mobilehomes that are new or will only accept homes that are "doublewide". Sixty-two percent of the resident respondents to the survey reported that their mobilehomes are more than ten years old; and

WHEREAS, mobilehome parks are a valuable resource of affordable housing for low and moderate income individuals and families; and

WHEREAS, based on the survey, a substantial portion of the City's mobilehome owners has made a substantial financial investment in their mobilehomes. From 2004 to 2008, the following number of mobilehome sales and prices were reported in the parks subject to the City's Rent Control Ordinance. In 2004, out of 117 sales, the average price was \$38,821. In 2005, out of 81 sales, the average price was \$37,358. In 2006, out of 100 sales, the average price was \$50,430. In 2007, out of 59 sales, the average price was \$43,060; and

WHEREAS, a significant proportion of mobilehome park residents are senior citizens, many of whom live on incomes that are below the "very low income" level and the level necessary to afford a moderately priced apartment rental unit; and

WHEREAS, in responses obtained from the resident survey, fifty-five percent (55%) of the mobilehome owner households reported that their household income is under \$20,000 per year. Half of the 187 mobilehome owner households that have obtained grants from the City reported that their household income was under \$15,000 per year; and

WHEREAS, in 2008, under federal HUD standards, the income level for households classified as "very low income" in the Los Angeles metropolitan area (50% of Area Median income or under) was \$26,550 for one person households and \$30,300 for two person households. The income level for households classified as "extremely low income" in the Los Angeles metropolitan area (30% of Area Median income or under) was \$15,590 for one person households and \$18,200 for two person households; and

WHEREAS, mobilehome park residents generally have very limited economic bargaining power concerning rents charged for mobile home lots, due to their limited incomes, their large investment in their mobile homes, and the immobility of mobile homes; and

WHEREAS, in the absence of rent regulations it is possible for park owners to raise rents to such high levels that mobilehome owners are forced to abandon their mobilehomes or sell them at nominal prices; and

WHEREAS, the City Council finds that mobile home space rent control continues to be necessary to protect the public health, safety and welfare; that the implementation of the provisions of the Mobile Home Rent Control Ordinance has not been entirely adequate; and that the provisions of the Mobile Home Rent Control Ordinance should be amended to provide more effective regulation;

THE CITY COUNCIL OF THE CITY OF PALMDALE, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The Palmdale Municipal Code is amended by deleting Chapter 5.44, Mobile Home Space Rent Control, in its entirety and adopting a new Chapter 5.44, Mobile Home Space Rent Control, to read as attached hereto as Attachment "A", and incorporated herein by this reference as though set forth in full.

SECTION 2. If the provisions of this Ordinance conflict with any code, ordinance or regulation of the City, the provisions of this Ordinance shall govern. If any provision of this Ordinance conflicts with a preemptive provision of State law, this Ordinance shall be interpreted and applied in conformity with State law.

SECTION 3. To the extent the provisions of this Ordinance are substantially the same as previous provisions of the Municipal Code, these provisions shall be construed as continuations of those provisions and not as new enactments.

SECTION 4. Savings Clause. Neither the adoption of this Ordinance nor the repeal or amendment by this Ordinance of any ordinance or part or portion of any ordinance previously in effect in the City or within the territory comprising the City, shall in any manner affect the prosecution for the violation of any ordinance, which violation was committed prior to the effective date of this Ordinance, nor be construed as a waiver of any license, fee or penalty or the penal provisions applicable to any violation of such ordinances.

SECTION 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 6. The City Clerk shall certify to the passage of this ordinance and shall cause this Ordinance to be published or posted as required by law.

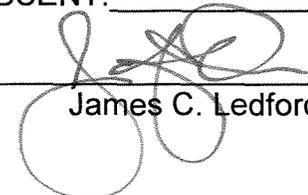
PASSED, APPROVED and ADOPTED this 7th day of January, 2009 by the following vote:

AYES: Ledford, Lackey, Hofbauer, and Dispenza

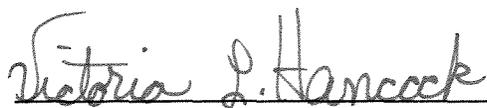
NOES: None

ABSTAIN: None

ABSENT: None

  
James C. Ledford, Jr., Mayor

ATTEST:

  
Victoria L. Hancock, CMC, City Clerk

Approved as to form:

  
City Attorney

**[ATTACHMENT "A" – TEXT OF AMENDMENTS TO CHAPTER 5.44]**

**ATTACHMENT "A" TO ORDINANCE NO. 1368**

**Chapter 5.44  
MOBILE HOME SPACE RENT CONTROL**

**Sections:**

- 5.44.010 Short title.
- 5.44.011 Purpose and Findings.
- 5.44.020 Definitions.
- 5.44.030 The Mobile Home Park Rental Review Board.
- 5.44.040 Base rent.
- 5.44.041 Lease regulations.
- 5.44.050 Registration.
- 5.44.060 Rent increases for vacancies.
- 5.44.070 Annual permissive rent increases
- 5.44.080 Special rent increases by application to the Board.
- 5.44.090 Hearing procedures.
- 5.44.100 Appeal to Hearing Officer.
- 5.44.110 Fees.
- 5.44.120 Permissible reasons for termination of or refusal to renew a residency.
- 5.44.130 Refusal of resident to pay illegal rent.
- 5.44.140 No Retaliation
- 5.44.150 Posting of ordinance.
- 5.44.160 Remedies.
- 5.44.170 City Council review of this chapter.
- 5.44.180 Exemptions.
- 5.44.190 Park inspections and audits.
- 5.44.200 Regulations.

**5.44.010 Short title.**

This chapter may be cited as the "mobile home space rent control ordinance" of the City.

**5.44.011 Purpose and Findings.**

(A) Complaints by residents of mobile home parks concerning excessive rents led the City Council to conduct hearings and, eventually, to adopt an ordinance stabilizing the rents charged for spaces in mobile home parks. The conditions in the City of Palmdale which gave rise to the adoption of the ordinance still are in existence and are set forth below.

(B) Mobile home owners, unlike apartment residents or residents of other rental stock, are in the unique position of having made a substantial investment to purchase a mobile home for which they must rent a space in a mobile home park. They

have also made investments in maintaining and improving those homes, as well as landscaping and exterior improvements to the mobile homes and the rental spaces on which they are located. Alternative sites for the relocation of mobile homes are difficult to find due to the restrictions on the age, size, or style of mobile homes permitted in many 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. Thus, moving a mobile home is not a feasible option if rent becomes excessive.

(C) The result of these conditions is the creation of a captive market of mobile home owners and residents. Their immobility creates an imbalance in the bargaining relationship between park owners and mobile home park residents. Because mobile homes are often owned by senior citizens, persons on fixed incomes, and persons of low and moderate income, excessive rent increases fall upon these individuals with particular harshness.

(D) The purpose of this chapter is to protect mobile home park residents from excessive rent increases, prevent exploitation of the shortage of available mobile home lots in the City, and enable mobile home owners to preserve their equity in their mobile homes, while at the same time providing a just and reasonable return to park owners.

#### **5.44.020 Definitions.**

For purposes of this chapter, the following words, terms and phrases are defined to mean:

(A) "Amortizable capital expenses": Expenses for improvements and replacements which have a useful life of at least five years and can be depreciated pursuant to U.S. or California tax codes.

(B) "Board": The Mobile Home Park Rental Review Board of the City.

(C) "Camping trailer": A vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold for occupancy and is designed for human habitation for recreation or emergency occupancy.

(D) "City Manager": The City Manager of the City of Palmdale, or his/her designee.

(E) "Consumer Price Index" or "CPI": The Consumer Price Index – All Items for All Urban Consumers index published by the U.S. Department of Labor, Bureau of Labor Statistics for the Los Angeles-Riverside-Orange County Metropolitan Area.

(F) "Day": Calendar day, except as otherwise expressly stated in this chapter.

(G) "Department": The Housing Department of the City of Palmdale.

(H) "Hearing Officer": The hearing officer selected to hear appeals of decisions of the Mobile Home Rental Review Board on Special Rent Increase applications pursuant to PMC 5.44.100 of this chapter.

(I) "Housing Manager": The Housing Manager of the Housing Department of the City of Palmdale, or his/her designee.

(J) "Mobile home": A vehicle, designed or used for human habitation including a camping trailer, travel trailer, motor home and slide-in camper, when used as the principal place of habitation for the occupants thereof, and any recreational vehicle defined as a mobile home under State law.

(K) "Mobile home park" or "park": Any area of land within the City where two or more mobile home spaces are rented, or held out for rent, to accommodate mobile homes used for human habitation.

(L) "Mobile home park housing services" or "housing services": Services connected with use or occupancy of a rental space in a mobile home park that are provided to residents for the rent charged for a space including, but not limited to, utilities ordinary repairs, replacement and maintenance, laundry facilities, recreational facilities, a resident manager, refuse removal, parking, street cleaning and maintenance, and other benefits, privileges, facilities or terms and conditions of the residency.

(M) "Mobile home space" or "space": The site within a mobile home park intended, designed or used for the location or accommodation of a mobile home and any accessory structures or appurtenances attached thereto or used in conjunction therewith.

(N) "Motor home": A vehicular unit built on or permanently attached to a self-propelled motor vehicle chassis, chassis cab or van, which becomes an integral part of the completed vehicle, designed for human habitation for recreational or emergency occupancy.

(O) "Operate the park in a manner that is designed to protect the safety of its residents": The circumstance when an owner reasonably cooperates with local law enforcement to reduce or prevent crime within the park. A rebuttable presumption that the owner is reasonably cooperating with local law enforcement to reduce or prevent crime within the park shall be established if the owner either has authorized, in writing, the Sheriff's Department to conduct patrols within the park or has agreed in writing to participate in the City's Partners Against Crime Program or any other similar program.

(P) "Owner": The owner or operator of a mobile home park or an agent or representative authorized to act on behalf of the owner or operator in connection with the maintenance or operation of such park.

(Q) "Rehabilitation work": Any renovation or repair work completed on or in a mobile home 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.

(R) "Rent" or "Space Rent": The consideration paid for the use or occupancy of a mobile home space, and the provision of mobile home park housing services.

(S) "Residency": The right or entitlement of a mobile home owner of a mobile home, or subresident of a mobile home owner, to use, occupy, and place a mobile home on a rental space in a mobile home park and to related housing services.

(T) "Resident": A person who has a residency in a mobile home park, including an owner of a mobile home, a subresident of a mobile home, or any other person with a lawful residency in a mobile home.

(U) "Resident, Prospective": A prospective purchaser of a mobile home in a mobile home park who has applied for park residency. "Prospective resident" also means a prospective subresident of a prospective purchaser of a mobile home park who has applied for a park residency.

(V) "Serve" or "Service": Except as otherwise expressly provided in this chapter, the date of personal delivery of any notice on the addressee, or two (2) business days after deposit of notice in the U.S. mail, by first class mail, postage-prepaid. "Serve" or "service" also means any other method of delivery mutually agreed upon by the parties.

(W) "Slide-in camper": A portable unit, consisting of a roof, floor and sides, designed to be loaded onto and unloaded from the bed of a pickup truck, and designed for human habitation for recreational or emergency occupancy, and includes a truck camper.

(X) "Subresident": Any person who sub-rents or leases a mobile home from any resident in a park.

(Y) "Travel trailer": A portable unit, mounted on wheels, of such size and weight as not to require special highway movement permits when drawn by a motor vehicle, and for human habitation for recreational or emergency occupancy.

(Z) "Vacancy": The existence of a space on which no mobile home is located or a transfer of ownership of a mobile home which remains in a park; provided, however, that transfer of ownership shall not include transfers to a spouse, former spouse, parent, child, trustee, conservator, heir, joint resident or personal representative of a homeowner's estate who acquires ownership of a mobile home through the death of a homeowner; and provided, further, that a space shall not be deemed vacant if it is unoccupied solely because a mobile home has been removed so that a resident may replace it with a new mobile home.

**5.44.030 The Mobile Home Park Rental Review Board.**

(A) The Mobile Home Park Rental Review Board is hereby established and shall consist of five members and three alternates appointed by the Mayor with the approval of the City Council. In order to provide varied and balanced backgrounds and experience, one member and one alternate shall be a resident of a mobile home park; one member and one alternate shall be an owner of a mobile home park; and three members and one alternate shall be "public members" who are neither residents nor owners or who have no financial interest (as defined by state law) in any mobile home or mobile home park and have no parents, children, spouses or siblings with any such interest. Said public members and alternates shall file a declaration to this effect with the City Clerk.

(B) An alternate shall serve as a member of the Board during the absence of a member of the Board with the same experience background as the alternate. Four members shall constitute a quorum for the purpose of conducting a hearing or meeting; provided, that at least one of the members who is present is a resident of a mobile home park and at least one of the members who is present is an owner of a mobile home park. If necessary to make a quorum for a meeting or hearing, a park owner alternate or a park resident alternate may serve in place of an absent at-large member alternate. In such an event, the resident and owner alternates shall be chosen to serve in order to be determined by lot. Decisions of the Board shall be made by a majority vote of the members present.

(C) Each member and alternate shall be appointed by a majority vote of the City Council for a two-year term to end on June 30th of the second year following the appointment or until a successor is appointed. Any member or alternate may be removed, with or without cause, by a majority vote of the City Council. Should a vacancy exist, an appointment shall be made by a majority vote of the City Council for the unexpired portion of the term.

(D) If a member of the Board is absent from three successive meetings without being excused by the Board, the office of such member shall be vacated and the Chairperson shall immediately notify the City Administrator who shall notify the City Council that said office is vacant. Upon such notification, the City Council shall appoint a successor for the remainder of the term of such member.

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

(F) The Board shall elect one of its members as Chairperson and said election shall be held as soon as practicable after each new term commences.

(G) The duties and responsibilities of the Board shall include the following:

(1) The Board shall make any recommendations it deems appropriate to the City Council regarding the implementation and enforcement of the provisions of this chapter.

(2) The Board shall hear Special Rent Increase applications and determine whether to approve or disapprove a rent increase in the manner provided in PMC 5.44.080 and 544.090.

(H) Board members and alternates may be compensated for their services in an amount established by resolution of the City Council and may receive reimbursement as provided by the City Council for traveling and other reasonable expenses incurred while on official duty.

**5.44.040 Base rent.**

(A) Except as provided in this chapter, an owner shall not demand, accept or retain rent for a mobile home space exceeding the rent in effect for the space on November 12, 1981. If a previously rented mobile home space was not rented on November 12, 1981, the owner shall not demand, accept or retain rent for the space exceeding the rent in effect during the last month the space was rented prior to November 12, 1981. If a mobile home space is rented for the first time after November 12, 1981, the owner shall not demand, accept or retain rent for the 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.

(B) For purposes of determining a Permissive Rent Increase pursuant to PMC 5.44.070, "base rent" shall have the meaning set forth in PMC 5.44.070(D) and (E).

(C) For purposes of determining a Special Rent Increase pursuant to PMC 5.44.080, "base rent" shall have the meaning set forth in PMC 5.44.080.

**5.44.041 Lease regulations.**

(A) No owner may require, directly or indirectly, that any resident or prospective resident sign a lease or rental agreement that provides that a space shall be exempt from the rent control provisions of this chapter, or provides for space rent in excess of the amount permitted by this chapter as a condition of residency in the park, and no owner may deny residency to a prospective purchaser of a mobile home in the park on the ground that the prospective purchaser will not sign such a lease or rental agreement.

(B) No owner shall misrepresent any rent increase approved by the City under this chapter, or misrepresent the status of any rent increase application submitted by the owner to the City, as an inducement to cause a prospective resident to enter into a lease or rental agreement that will be exempt from the rent control provisions of this chapter.

(C) No owner shall directly or indirectly threaten a prospective resident with a rent increase not permitted under this chapter, as an inducement to cause the prospective resident to enter into a lease or rental agreement that will be exempt from the rent control provisions of this chapter.

(D) No owner shall withhold or conceal the existence of this chapter upon any written or verbal inquiry by any prospective resident.

**5.44.050 Registration**

(A) Every mobile home park shall file an initial registration statement and annual registration statement, on a form provided by the Housing Manager.

(B) Initial Registration: No later than March 1, 2009, each owner shall file an initial registration statement with the Department, under penalty of perjury, on a form approved by the City, which sets forth the following information:

(1) The complete name, address (including street address, and mailing address if different from street address), telephone number, and fax number (if any) of the owner of record of the park. As used in this subparagraph, "owner" means the individual, firm or entity that actually owns the park;

(2) The complete name, address (including street address, and mailing address if different from street address), telephone number, and fax number (if any) of the management company or other operator of the park (if different from the owner);

(3) The complete name, address (including street address, and mailing address if different from street address), telephone number, and fax number (if any) of the onsite manager of the park;

(4) The space rent charged for each space in the park, including rents for spaces subject to this chapter and rents for spaces exempt from local regulation under Civil Code Section 798.17;

(5) Each type of utility and service included in the space rent;

(6) Each type of utility and services separately charged from the space rent, the amount charged per space as of the date of the initial registration, and if the amount varies from month-to-month, the methodology for setting the utility charges and services;

(7) A list of each space exempt from local rent regulation pursuant to a long-term lease or rental agreement under Civil Code Section 798.17 (including the lease terms, and execution and expiration dates for each lease or rental agreement);

(8) A list of amenities provided in the park;

(9) A list of spaces that became vacant over the prior twelve (12) months, the date that each space last became vacant and the rent charged commencing upon such vacancy; and

(10) Copies of the rent rolls for the park for the preceding twelve (12) months; and

(11) Any other information or documentation deemed necessary by the Housing Manager for administration of this chapter.

(C) Annual Registration: No later than January 31<sup>st</sup> of each subsequent year, each owner shall file an annual registration statement with the Department, under penalty of perjury, on a form provided by the City, setting forth complete information for each of the categories listed in Subsection (B) of this Section 5.44.050, which covers the time period since the prior registration statement.

(D) Registration upon change of park ownership: Within thirty (30) days of a change of ownership of the park, the new owner shall file a registration statement with the Department, under penalty of perjury, on a form approved by the City, setting forth the information required by Subparagraphs (1), (2) and (3) of Subsection (B) of this Section 5.44.050 for the new owner, and any other changed information from the prior registration statement.

(E) The Housing Manager shall have the authority to request any additional information or documentation from the owner upon review of the registration form, should the registration form be incomplete, or indicate a potential violation of this chapter. No registration shall be deemed complete until the Housing Manager issues a written determination to the owner that the owner submitted all information required by this chapter. Within thirty (30) days after a registration form is submitted, the Housing Manager shall either notify the owner that the registration form is complete, or notify the owner as to what information or documentation is required in order to complete the registration process.

(F) No owner shall impose or receive approval of a Permissive Rent Increase under PMC 5.44.070 or a Special Rent Increase under PMC 5.44.080, unless the park has satisfied the registration requirements and is fully registered pursuant to this Section 5.44.050.

**5.44.060 Rent increases upon vacancies.**

(A) Commencing on May 1, 1993, and every six months thereafter, the owner of any mobile home park in the City shall post in a conspicuous location in the park, which is accessible to all park residents, a notice setting forth the maximum rent which will be charged for any space in the park which becomes vacant during the following six months. If the park charges different rents depending upon the type of space or the size of the coach which occupies the space, the notice shall contain the maximum rent

which will be charged for each such category. The notice shall be on a form approved or provided by the Department.

(B) At least fifteen (15) days prior to the posting of the notice referred to in subsection (A) of this section, the owner shall provide to the Department a copy of the notice which is to be posted in the park. At that time, the park owner also shall submit to the Department the following information in a form acceptable to the City:

(1) All of the spaces in the park which became vacant during the preceding six-month period;

(2) The rent level which is being charged for any space which has been re-rented;

(3) The date(s) that each space was re-rented, and the complete name of each signatory to the lease or rental agreement for each space that was re-rented;

(4) The type and duration of the lease or rental agreement for each space which has been re-rented;

(5) Whether the residents are billed separately for any utilities and, if so which utilities are billed separately from the rent; and

(6) Whether there are any other fees or charges which are billed separately from the rent and, if so, the identity and amount of such charges. (The fact that other fees or charges are being billed separately from the rent shall not imply that the City has approved such additional fees or charges.)

(C) The rent for a mobile home space may be increased by any amount upon a vacancy, provided:

(1) That the residency is terminated voluntarily by the resident( s) or lawfully terminated for just cause pursuant to state law;

(2) That the owner has complied with the requirements of Subsections (A) and (B) of this section;

(3) That the rent which is charged does not exceed the maximum amount for the applicable category of space as set forth in the notice which was last posted by the park owner or operator pursuant to subsection (A) of this section.

**5.44.070 Annual permissive rent increases.**

(A) Subject to the requirements of this section, the rent for a mobile home space may be increased once every twelve (12) months by the *lesser* of (1) seventy-five percent (75%) of the increase in the CPI over the prior calendar year, or (2) five percent (5%) of the current space rent, in accordance with the following provisions. This space rent increase shall be known as a "Permissive Rent Increase".

(B) Limitations:

(1) A Permissive Rent Increase application for one or more mobile home spaces shall not be noticed to residents or approved more frequently than once in any 12-month period.

(2) A Permissive Rent Increase shall not be implemented on any space or spaces in a park more frequently than once in any 12-month period.

(3) If a space was previously exempt from rent regulation under this chapter pursuant to a long-term lease or rental agreement, and the City authorizes or approves a Permissive Rent Increase during the calendar year in which the lease or rental agreement expires, the Permissive Rent Increase shall not be imposed on or collected from that previously exempt space. In such a circumstance, a Permissive Rent Increase shall not be imposed on that previously exempt space unless the Permissive Rent Increase is approved or authorized on or after January 1<sup>st</sup> in the calendar year which commences at least twelve (12) months after date of expiration of the lease or rental agreement. No retroactive imposition of any previously approved Permissive Rent Increase shall be allowed.

(4) An owner shall not impose a Permissive Rent Increase on any space on spaces within twelve (12) months of a rent increase imposed on any of the spaces pursuant to a vacancy. In such a circumstance, a Permissive Rent Increase shall not be imposed on the space that received a vacancy increase unless the Permissive Rent Increase is approved or authorized on or after January 1<sup>st</sup> in the calendar year which commences at least twelve (12) months after imposition of the vacancy increase. No retroactive imposition of any previously approved Permissive Rent Increase shall be allowed.

(5) A Permissive Rent Increase shall not be imposed on a space or spaces less than twelve (12) months after imposition of a Permissive Rent Increase pursuant to this section or a Special Rent Increase pursuant to PMC 5.44.080.

(6) Banking of Permissive Rent Increases is prohibited.

(a) An owner may charge less than the Permissive Rent Increase authorized by this section. However, if an owner fails to implement the full amount of a Permissive Rent Increase in the calendar year in which it was authorized or approved by the City pursuant to this section, the owner shall be prohibited from demanding, charging, implementing or collecting the full Permissive Rent Increase in any subsequent year. During the calendar year in which the Permissive Rent Increase was authorized or approved, the owner may, upon proper notice pursuant to state law, implement the full amount of the approved Permissive Rent Increase at any time, which such Permissive Rent Increase shall operate in a prospective manner only. If an owner fails to charge the full amount of an authorized or approved Permissive Rent Increase at

any time, no retroactive recovery of any portion of that Permissive Rent Increase not previously collected from the resident shall be recoverable at any time.

(b) Following approval of an Initial Permissive Rent increase under Subsection (D), or an Annual Permissive Rent Increase under Subsection (E), for purposes of determining a subsequent Annual Permissive Rent Increase under Subsection (E), the space rent actually charged during the prior twelve (12) months shall be the base rent to be used for purposes of determining the new Annual Permissive Rent Increase for each space.

(i) If an owner receives approval of a Permissive Rent Increase but thereafter charges only a portion of the authorized or approved Permissive Rent Increase during that same calendar year, the actual rent charged shall be the base rent used in determining the subsequent Permissive Rent Increase.

(ii) If an owner receives approval of a Permissive Rent Increase and charged the full amount of the authorized or approved Permissive Rent increase for only a portion of the calendar year in which the Permissive Rent Increase was approved, the space rent in effect as of December 31<sup>st</sup> of that calendar year shall be the base rent for purposes of determining the subsequent Permissive Rent Increase.

(c) Following approval of an Initial Permissive Rent increase under Subsection (D), or an Annual Permissive Rent Increase under Subsection (E), for purposes of determining a Special Rent Increase under PMC 5.44.080, the space rents actually charged in the base year and current year shall be the space rents used in determining the park's gross income for the base year and current year under PMC 5.44.080.

(d) Following the City's approval of a Permissive Rent Increase under this section, if the new space rent actually charged to a resident by the owner is less than the authorized or approved Permissive Rent increase, the owner shall also include that actual rent charged in the rent schedule provided to the City under Subsection (E) of this Section and in the park's registration statement provided pursuant to PMC 5.44.050.

(C) Any application submitted under this Section for a Permissive Rent Increase shall be accompanied by the filing fee as may be set by resolution of the City Council from time to time.

(D) Initial Permissive Rent Increase.

(1) Within forty-five (45) days of the effective date of this Section, the Housing Manager shall notify all owners of the Initial Permissive Rent Increase determined under this Subsection (D).

(2) Method of Calculation.

(a) The Housing Manager shall determine the CPI increase. As used herein, "CPI increase" means seventy-five percent (75%) of the percentage increase in the CPI over the prior twelve months. The CPI increase shall be determined by measuring the percentage increase in the CPI from December 31, 2007 to December 31, 2008, in accordance with the following procedure: The December 31, 2007 CPI shall be subtracted from the December 31, 2008 CPI. The resulting sum shall then be divided by the December 31, 2007 CPI. The resulting fraction shall then be multiplied by 100, and then by seventy-five percent (75%).

(b) The "December 31, 2008 CPI" means the CPI last reported by the U.S. Department of Labor, Bureau of Labor Statistics, as of that date.

(c) The "December 31, 2007 CPI" means the CPI last reported by the U.S. Department of Labor, Bureau of Labor Statistics, as of that date.

(d) The amount determined under Subparagraph (a) shall be known as the "CPI increase".

(3) New space rent. Subject to the limitations contained in Subsection (B) of this Section 5.44.070, each owner shall thereafter be entitled to increase the base rent for each space regulated under this chapter by the *lesser* of (a) the CPI increase or (b) five percent (5%) of the base rent for each space. This rent increase shall be referred to as the "Initial Permissive Rent Increase".

(a) For purposes of determining an Initial Permissive Rent Increase under this Subsection (D), the "base rent" shall be the lawful rent in effect as of December 3, 2008.

(E) Annual Permissive Rent Increase.

(1) Not later than January 31<sup>st</sup> of each subsequent year, the Housing Manager shall notify all owners of the Annual Permissive Rent Increase determined under this Subsection (E).

(2) Method of calculation.

(a) The Housing Manager shall determine the CPI increase. As used herein, "CPI increase" means seventy-five percent (75%) of the percentage increase in the CPI over the prior twelve months. The CPI increase shall be determined by measuring the percentage increase in the CPI over the prior twelve months in accordance with the following procedure: The prior CPI shall be subtracted from the current CPI. The resulting sum shall then be divided by the prior CPI. The resulting fraction shall then be multiplied by 100 and then by seventy-five percent (75%).

(b) The "current CPI" means the CPI most recently reported by the U.S. Department of Labor, Bureau of Labor Statistics, as of December 31<sup>st</sup> of the prior year.

(c) The “prior CPI” means the CPI used in approving the prior Initial Permissive Rent Increase or the prior Annual Permissive Rent Increase pursuant to this Section 5.44.070. If a Special Rent Increase was the most recent rent increase approved under this chapter, the “prior CPI” means the CPI used in approving a Special Rent Increase under Section 5.44.080 of this chapter. If the most recent rent increase was based on a vacancy increase pursuant to PMC 5.44.060, the “prior CPI” means the CPI in effect on the date of any rent increase upon vacancy.

(d) The amount determined under Subparagraph (a) shall be known as the “CPI increase”.

(3) New space rent. Subject to the limitations contained in Subsection (B) of this Section 5.44.070, each owner shall thereafter be entitled to increase the base rent for each space regulated under this chapter by the *lesser* of (a) the CPI increase or (b) five percent (5%) of the base rent for each space. The lesser of these two numbers shall be referred to as the “Annual Permissive Rent Increase”.

(4) Base rent to determine Annual Rent Increase. For purposes of determining an Annual Permissive Rent Increase pursuant to this Subsection (E), the space rent actually charged for each space as of December 31<sup>st</sup> of the prior calendar year shall be the base rent for purposes of determining the new Permissive Rent Increase, as determined in accordance with this Section 5.44.070.

(F) Notice of the Initial Permissive Rent Increase or Annual Permissive Rent Increase determined in accordance with this section shall be sent to the affected residents by the owner in accordance with applicable law.

(G) Concurrently with service of notice to the residents of the Initial Permissive Rent Increase or the Annual Permissive Rent Increase, the owner shall also serve notice of the Permissive Rent Increase imposed on each space to the City, by filing a rent schedule with the City setting forth:

(1) the space rents in effect for the subject spaces immediately prior to the owner’s determination of the Permissive Rent Increase;

(2) the dollar amount of the Permissive Rent Increase for each space; and

(3) the new rent actually charged for each space.

(H) Any resident may file a protest against the proposed Initial or Annual Permissive Rent Increase for which notice has been received from the owner. The protest must be filed with the Housing Manager, on the City-approved form and accompanied by all supporting documentation, within fifteen (15) days of service of notice of the proposed rent increase by the owner on the resident. The resident shall serve a copy of his/her protest on the owner, at the same time as the resident files the protest with the City. Failure of a resident to file his/her protest within fifteen (15) days

of service of the notice shall constitute a waiver of the resident's right to protest, and the proposed Initial or Annual Permissive Rent Increase shall be final.

(I) The Housing Manager, upon receipt of the protest, shall review the protest, and determine if it is timely and complete. If the protest is not timely, the Housing Manager shall notify the resident that the protest is untimely, and that the proposed Permissive Rent Increase may be charged by the owner upon expiration of the notice period required by State law. If the protest is not complete, the Housing Manager shall notify the resident that the protest is not complete, and shall request any additional information or documentation that must be submitted in order for the Housing Manager to deem the protest complete. The Housing Manager shall not declare the protest complete until all requested information is submitted to the City by the resident. If the resident does not submit the requested information or other documentation to the City by the fifteenth (15<sup>th</sup>) day following service of the Housing Manager's request for additional information, the protest shall be deemed denied, and the Housing Manager shall provide written notice to the owner and appellant confirming the denial of the protest, and advising the owner and appellant that the proposed Permissive Rent Increase shall be final.

(J) Within twenty (20) days after the Housing Manager deems the protest complete, the City Manager shall issue a written decision on the protest, which shall be served on the appellant and the owner.

(K) If the Housing Manager denies the protest, the proposed Permissive Rent Increase shall become effective in accordance with the terms listed in the owner's notice of rent increase. If the Housing Manager sustains the protest, the Housing Manager shall have the authority to approve a modified Permissive Rent Increase or deny the proposed Permissive Rent Increase in accordance with the provisions of this section. Any modified Permissive Rent Increase approved by the Housing Manager pursuant to this subsection shall not be effective until expiration of the 90-day notice of rent increase required under Civil Code Section 798.30.

(L) The Housing Manager shall sustain the protest if he/she makes any of the following findings:

(1) The notice of Permissive Rent Increase was sent more frequently than once in any 12-month period.

(2) The owner imposed an Initial Permissive Rent Increase or an Annual Permissive Rent Increase on a space within the twelve (12) month period immediately preceding the proposed effective date of the new Permissive Rent Increase.

(3) The space was previously exempt from rent regulation under this chapter pursuant to a long-term lease or rental agreement, and the proposed Initial Permissive Rent Increase or the proposed Annual Permissive Rent Increase would be

imposed on the space within twelve (12) months of the expiration of the lease or rental agreement.

(4) The proposed Initial Permissive Rent Increase or Annual Permissive Rent Increase would be imposed on any space within twelve (12) months after a vacancy increase was imposed on that space.

(5) The proposed Permissive Rent Increase exceeds the lesser of the CPI increase or five percent (5%) of the base rent, as determined under Subsections (D) or (E) of this section. In such event, the Housing Manager shall approve a Permissive Rent Increase that does not exceed the *lesser* of the CPI increase or five percent (5%) of the base rent.

(6) The proposed Permissive Rent Increase violates the prohibition on banking set forth in Subsection (B) of this section.

(7) If the Housing Manager finds that the park is not currently registered as required by PMC 5.44.050, the Housing Manager shall sustain the protest unless the owner immediately registers the park in compliance with PMC Section 5.44.050.

(M) A protest may be filed by one or more residents in the park. Failure of a resident to file a protest under this Section 5.44.070 shall not preclude the Housing Manager from issuing a decision applicable to all of the spaces in the park as provided in Subsection (N).

(N) If the Housing Manager sustains the protest, the Housing Manager shall issue a written decision setting forth the basis for his/her findings, and specifying the space(s) to which the protest has been sustained. Failure of a resident to appeal on behalf of all spaces shall not preclude the Housing Manager from sustaining the protest as to all spaces if the Housing Manager finds that the limitations of this section would otherwise be violated. The Housing Manager, in his/her decision on the protest, shall specify if the decision applies to only the space(s) subject to the protest, or to all spaces in the park.

(O) The decision of the Housing Manager on any protest under this Section 5.44.070 shall be final and not subject to any right of appeal.

(P) Upon final approval of a Permissive Rent Increase, the owner shall not charge the resident rent in excess of that rent permitted under the Permissive Rent Increase, except based on a subsequent rent increase approved in accordance with this chapter. Following receipt of the Housing Manager's decision, the owner shall submit a modified rent schedule to the City containing the rents actually charged to the residents based on the Housing Manager's decision under Subsection (J), and shall include the new rents in the subsequent annual registration required under PMC 5.44.050.

**5.44.080 Special rent increases by application to the Board.**

(A) Introduction. An owner may seek a Special Rent Increase in addition to those permitted by Sections 5.44.060 and 5.44.070 pursuant to the procedures and requirements of this section. The owner shall bear the burden of proof and shall provide the evidence to justify a Special Rent Increase under Subsections (H), (I) and (J) of this section. No Special Rent Increase shall be granted unless supported by the preponderance of the evidence submitted at the hearing. It is the intent of this Section 5.44.080 to establish rents at a level, which will provide owners with a fair and reasonable return while protecting the residents from excessive rent increases. Applications for a Special Rent Increase shall be filed by the owner with the Housing Manager based on the provisions of this chapter and any regulations adopted by the City Manager to implement this chapter.

(B) Limitations

(1) A Special Rent Increase application under this Section 5.44.080 shall not be filed for a park more frequently than once in any 12-month period.

(2) A Special Rent Increase shall not be filed any earlier than twelve (12) months after approval of a Permissive Rent Increase under PMC 5.44.070.

(3) For any space previously exempt from rent regulation pursuant to a long-term lease or rental agreement, a Special Rent Increase shall not be imposed on that space until twelve (12) months after that space comes under this chapter. No retroactive imposition of any previously approved Special Rent Increase shall be allowed.

(4) For any space which received a vacancy increase under PMC 5.44.060, a Special Rent Increase shall not be imposed on that space until twelve (12) months after the effective date of the vacancy increase. No retroactive imposition of any previously approved Special Rent Increase shall be allowed.

(C) Presumptions. Subsection (H) provides for Special Rent Increases under a maintenance of net operating income ("MNOI") formula. It is presumed, in the absence of evidence to the contrary, that the MNOI formula provides a fair and reasonable return. Subsection (I) authorizes an application for a Special Rent Increase under an MNOI formula, based on modifications or readjustments to the base year net operating income ("NOI"). Subsection (J) authorizes an application for a Special Rent Increase where the owner contends that he/she cannot receive a fair return notwithstanding the MNOI rent increases allowed under Subsections (H) or (I).

(D) Filing fee. Any application submitted under this Section for a Special Rent Increase shall be accompanied by the filing fee as may be determined by resolution of the City Council from time to time.

(E) An MNOI Special Rent Increase application may be filed with the Housing Manager under Subsection (H) without filing an application under Subsection (I) or (J). An application for an MNOI Special Rent Increase may be filed under Subsection (I) without filing an application under Subsection (H) or (J). However, an application for a Special Rent Increase under Subsection (J) shall not be filed unless an MNOI application under Subsection (H) or (I) is also concurrently filed, and the two applications shall be heard together. If the owner fails to meet his/her burden of proof to justify a Special Rent Increase under Subsection (J), the Board shall have the authority to grant an MNOI Special Rent Increase under Subsection (H) or (I) if there is a preponderance of evidence in the record to support a Special Rent Increase under Subsections (H) or (I). If the owner fails to meet his/her burden of proof, based on a preponderance of evidence, to justify any Special Rent Increase under Subsections (H), (I) or (J), the Board shall deny any Special Rent Increase.

(F) Required Information and Documentation. An application submitted to the Housing Manager by an owner for a Special Rent Increase under this section shall contain all information and documentation necessary for the Housing Manager to deem the application complete. For purposes of this section, the term "complete" means payment of the required filing fee as may be established by resolution of the City Council from time to time pursuant to PMC 5.44.080(D), and all of the following:

(1) For a park's MNOI Rent Increase application under Subsection (H) of this Section 5.44.080, information and documentation establishing the following: the park's income and expenses in calendar year 2005 (or for the base year as defined in Section 5.44.080(G)(2)(a) if the owner previously received an MNOI Rent Increase or other Special Rent Increase under Subdivision (H) of this section); the park's income and expenses for the current year; the park's income and expenses in each of the last five (5) years; if the owner previously received a Special Rent Increase under this Section 5.44.080, the park's income and expenses since its last Special Rent Increase; and such other information and documentation necessary and relevant for the City and its experts to complete their analysis and for the Board to properly determine whether the owner is entitled to an MNOI calculation under Section 5.44.080(H).

(2) For a park's application for a Readjusted Base Year MNOI Rent Increase under Subsection (I) of this Section 5.44.080, all information and documentation required by Subparagraph (1) of this Subsection (F), and additional information and documentation establishing: the park's purchase price; capital improvements made by the owner in calendar year 2005; capital improvements made by the owner in the current year; the factual basis and supporting evidence for the owner's contention that the park's 2005 operating expenses were unusually high or low despite prudent business practices; the factual basis and supporting evidence for the owner's contention that capital improvements that were made in calendar year 2005 but not reflected in rent increases collected during 2005; the factual basis and supporting evidence for the owner's contention that unusual repairs made in calendar year 2005 including but not limited to the reasons for those repairs; the factual basis and supporting evidence for the owner's contention that the park had unusually high or low

expenses in calendar year 2005 including but not limited to the reasons for those expenses; the factual basis and supporting evidence for the owner's contention that rents during calendar year 2005 were disproportionately low due because the rents were not established in an arm's-length transaction; the factual basis and supporting evidence for the owner's contention that rents in calendar year 2005 were low when compared to rents being charged in comparable mobile home parks in the City and comparable mobile home parks in comparable surrounding areas, including evidence to establish the comparability of the other mobile home parks and the comparability of surrounding areas; the return earned by the owner in calendar year 2005; and such other information and documentation as is necessary and relevant for the City and its experts to complete their analysis and for the Board to properly determine whether the owner is entitled to a Readjusted MNOI Rent Increase under any of the factors listed in PMC 5.44.080(H)

(3) For an application for a Fair Return Special Rent Increase under Subsection (J) of this Section 5.44.080, information and documentation establishing: the park's purchase price, the park's income and expenses in the calendar year 2005 (or other base year as defined in Section 5.44.080(G)(2)(a), if the owner previously received a Special Rent Increase under this section); the park's income and expenses for the current year; the park's income and expenses in each of the last five (5) years; the park's income and expenses since its last Special Rent Increase; capital improvements made by the owner in calendar year 2005 (or other base year as defined in Section 5.44.080(G)(2)(a), if the owner previously received a Special Rent Increase under this section), capital improvements made by the owner in the current year and each of the last five years; other information and documentation supporting the owner's contention that the return earned by the mobile home park is not just and reasonable; and such other information and documentation as is necessary and relevant for the City and its experts to complete their analysis and for the Board to properly determine whether the owner is entitled to a Fair Return Special Rent Increase under PMC 5.44.080 (J).

(4) For any application submitted under this Section 5.44.080, all information and documentation concerning any rent increases imposed by the owner based on approval of any Permissive Rent increases under Section 5.44.070 for the base year, and in each of the years up to and including the current year; and all Annual Permissive Rent Increases noticed, imposed, or proposed to be imposed, between submittal of the Special Rent Increase application and the Board's determination under Section 5.44.090.

(5) An application shall not be deemed complete until information and documentation, as set forth in this section has been provided. An application shall not be set for hearing before it is deemed complete. If an owner fails to submit a complete application within sixty (60) days of the City's request for additional information, the application shall be deemed withdrawn. The owner shall be credited with any unused filing fee as of the date of withdrawal. Upon withdrawal of the application, the owner

shall be required to submit a new application if he/she wishes for the City to consider a Special Rent Increase application under this section.

(6) The determination by the Department that an application is complete under this Subdivision (F) shall not preclude the Board from requesting additional information or documentation deemed necessary and relevant by the Board to evaluate the application and determine whether the owner is entitled to a Special Rent Increase under this section.

(G) Definitions. For purposes of this Section 5.44.080, the following words, terms and phrases are defined to mean:

(1) "Base Rent": The lawfully charged space rent for a space pursuant to this chapter.

(2) "Base Year": Calendar year 2005, except as provided in subparagraphs (a) and (b).

(a) Following approval by the City of a Special Rent Increase under this Section 5.44.080, "base year" means the income and expense year which was used by the Board as the "current year" in determining the most recently approved Special Rent Increase .

(b) In the event a park received a rent increase under predecessor Section 5.44.060 (Ord. 130494 2007; Ord. 86794 1990; Ord. 55692 1985), the "base year" shall be calendar year 2005.

(3) "Base Year Consumer Price Index" or "Base Year CPI": The average CPI reported by the U.S. Department of Labor, Bureau of Labor Statistics, for calendar year 2005, or such other base year determined under Subparagraph (1).

(4) "Base year net operating income" or "Base Year NOI": Base year gross income minus base year operating expenses.

(5) "Comparable Park": A park which has similar quality, number and type of amenities, construction and services, is located in a similar neighborhood and provides similar access and proximity to schools, medical and educational facilities, recreation, entertainment, parks, shopping and other services and amenities and is similarly maintained as the applicant's park.

(6) "Current Year": The 12-month period immediately preceding the date of submittal of a complete application for a Special Rent Increase.

(7) "Current Year CPI": The average CPI reported by the U.S. Department of Labor, Bureau of Labor Statistics, for the 12-month period immediately preceding the date of submittal of a complete application for a Special Rent Increase.

(8) "Current year net operating income" or "Current year NOI": Current year gross income minus current year operating expenses.

(9) "Gross Income" includes:

(a) Space rents. For any park which received a prior Annual Permissive Rent Increase or prior Special Rent Increase, "space rents" shall include the amount of space rents authorized pursuant to the most recent Annual Permissive Rent Increase as provided in PMC 5.44.070, or the amount of space rents that were determined to be necessary by the Board (or Hearing Officer) in the most recent prior decision to enable the owner to earn a fair return as provided in Section 5.44.080(L)(5), whether or not such approved space rents were actually collected by the owner.

(b) Security deposits and late fees.

(c) Fees collected for services and amenities not included in space rent such as fees for recreational vehicle storage, cable tv, security, use of recreational facilities, income from coin-operated facilities.

(d) Collections for sub-metered utility service in excess of that paid by the park to the utility company, except that "gross income" shall not include collections for sub-metered utility services provided by utilities regulated by the California Public Utilities Commission ("PUC") (including but not limited to gas and electric services).

(e) Any other income received in connection with use, occupancy or operation of the park.

(10) "Operating Expenses" include:

(a) License fees.

(b) Real property taxes and assessments.

(c) Utility costs, except as provided in subparagraph 9(e).

(d) Insurance.

(e) Management expense (owner performed or contracted), including reasonable advertising, accounting and managerial expense. Management expenses are presumed to be the same percentage of gross income as incurred in the base year unless the applicant produces evidence sufficient to justify that expenses increased at a higher rate despite prudent management. In the event the base year expenses are not available, they shall be estimated by taking the current expenses and decreasing them downward according to the CPI between the base year and the application year, as modified for any adjustments based on a difference between owner-managed and contracted-management in the park between the base year and current

year, unless the applicant produces substantial evidence to establish that management expenses increased at a higher rate despite prudent management.

(f) Normal repairs and maintenance, including but not be limited to, painting, cleaning, landscaping, repair of all standard services including plumbing, carpeting, electrical, furnished appliances and recreational facilities.

(g) Operating supplies such as janitorial supplies, gardening supplies, stationery, and similar items.

(h) Amortizable capital expenses. The amount of any amortizable capital expense shall be divided by the number of years in its useful life and only the dividend thereof shall be utilized as an operating expense for any given year in performing the MNOI or fair return calculations.

(i) Allowable legal expenses. Allowable legal expenses include reasonable attorneys' fees and costs incurred in connection with successful actions to evict residents or recover back rent and matters pertaining to the operation of the park, and reasonable attorneys' fees and costs incurred in connection with preparation of the rent increase application. Allowable legal expenses shall be divided by the number of years of their useful life or other reasonable basis, and only the dividend thereof shall be used as an operating expense for any given year in performing the NOI calculations or fair return calculations.

(11) "Operating Expenses" shall not include:

(a) Debt service, including but not limited to mortgage principal and interest payments, and any other form of debt service.

(b) Land lease payments.

(c) Fees or penalties imposed for violation of the Mobilehome Residency Law (California Civil Code Section 798, et seq., or any other city, county, state or federal law.

(d) Fees based on the form of ownership of the park, and any governmental fees, charges or assessments imposed based on the form of ownership of the park.

(e) Expenses of any kind reimbursed by insurance or a fee charged to the residents.

(f) Any expenses which resulted due to the owner's failure to undertake prudent and ongoing maintenance activities or activities required by law; or costs which were caused by unnecessary and unreasonably deferred negligent, or otherwise improper repair and/or maintenance or other act or unreasonable omissions of the owner.

(g) Any sub-metered utility expenses related to, resulting from or arising out of any utility services regulated by the PUC (including gas and electricity services).

(h) Allowable legal expenses shall not include (i) attorneys' fees, costs and other legal expenses incurred in actions filed against the City, the Board or the hearing officer; (ii) attorneys' fees, costs and other legal expenses incurred in connection with the form of ownership of the park; and (iii) attorney's fees, costs and other legal expenses incurred in connection with complying with applicable provisions of federal, state or local law with regard to the operation of the park (including legal expenses incurred resulting from any civil or criminal code enforcement violations by the owner, or legal expenses incurred in any pending and unresolved cases defending the owner against any alleged civil or criminal code violations).

(12) Modifications to operating expenses.

(a) In calculating operating expenses for any year, when: (i) an expense item for a particular year is not representative; or (ii) in the case of base year expenses, when the expense is not a reasonable projection of average past expenditure for that item; or (iii) in the case of current year expense, when the expense is not a reasonable projection of future expenditures of that item, said expense shall 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.

(b) In the event the applicant did not own the park in the base year, the operating expenses for the base year shall be determined based upon the actual operating expenses of the owner during the base year. Where actual figures are not available (such as if the records no longer exist or are not obtainable notwithstanding reasonable and good faith efforts by the applicant to obtain the records from the actual owner), the Board may consider the actual operating expenses for the first calendar year that the applicant owned the park, discounted to the base year by the percentage change in the CPI between the base year and the current year.

(13) Reasonableness of Operating Expenses. The owner shall have the burden of proving that all operating expenses are reasonable. Whenever a particular expense exceeds the normal industry or other comparable standard, the owner shall bear the burden of establishing the reasonableness of the expense. To the extent that the Board finds any such expense to be unreasonable, the Board shall adjust the expense to reflect the normal industry or other comparable standard.

(H) Maintenance of net operating income special rent increase ("MNOI Rent Increase). It shall be presumed in the absence of evidence to the contrary, presented pursuant to this subsection, or Subsections (I) and (J), that the NOI earned by the mobile home park in the base year provided a just and reasonable return to the park. Except as otherwise provided in subparagraph (1) of this Subsection (H), owners shall

be entitled to increase the park's base year NOI by seventy-five percent (75%) of the percentage increase in the CPI since the base year to the date of submittal of a complete application. Procedures for determining the MNOI Rent Increase shall be determined in accordance with this Subsection (H) and any regulations adopted by the City .

(1) For purposes of determining a park's initial MNOI Rent Increase under this Subsection (H) or under Subsection (I), the "base year CPI" shall be the average CPI reported by the U.S. Department of Labor, Bureau of Labor Statistics, for calendar year 2005; and the "current CPI" used in determining an MNOI Special Rent Increase application under this Subsection (H) or (I) shall be the average CPI reported by the U.S. Department of Labor, Bureau of Labor Statistics, for the 12-month period immediately preceding the date that the MNOI Rent Increase application is deemed complete.

(2) In the event a park submits a Special Rent Increase application under this Section 5.44.080, and the park previously received a Special Rent Increase(s) under this section, the following provisions shall apply in determining if the owner is entitled to a subsequent Special Rent Increase:

(a) The income and expense year which was designated by the Board (or Hearing Officer) as the "current year" for the most recent Special Rent Increase approved by the Board (or Hearing Officer) shall be deemed the "base year" for purposes of evaluating and determining the subsequent Special Rent Increase.

(b) The "base year CPI" shall be the average CPI reported by the U.S. Department of Labor, Bureau of Labor Statistics, for the 12-month period used by the Board (or Hearing Officer) in determining the "current year" for the most recently approved Special Rent Increase.

(c) In determining the park's gross income for the base year for the subsequent Special Rent Increase application, the gross income previously determined by the Board (or Hearing Officer) for the prior "current year" as necessary to provide a fair return in the prior "current year" (as reflected in the Board's prior decision) shall be used as the base year gross income for the subsequent Special Rent Increase application.

(3) In the event that there has been an increase of more than three (3) percent in vacancies in the park since the base year, calculation of the park's gross income and operating expenses shall be governed as follows.

(a) In the event that there has been an increase in vacancies of more than three percent in the park since the base year, the City finds that it would be contrary to the purposes of rent stabilization to authorize additional rent increases for occupied spaces in order to offset reductions in income due to increased vacancies which occur because there is not sufficient demand to fill the vacant spaces at the legal rent ceiling. In effect, allowing additional rent increases for occupied spaces because

there are more vacant spaces in a park would allow owners to obtain higher rents from existing residents, than it is possible to obtain from the prospective residents, whose homes are still "mobile" and whose options have not been restricted by the process of moving into the park. Therefore, in the event that there has been an increase in vacancies of more than three percent since the base year, gross income and operating expenses shall be determined pursuant to Subparagraphs (b) and (c).

(b) Gross space rents for the park shall be computed as ninety-seven percent (97%) of the gross scheduled rental income for the park, based on 100% occupancy.

(c) Calculations of base year and current year operating expenses may be adjusted by the Board so that a reasonable comparison of the expenses and charges associated with rented spaces is obtained for the purpose of comparing base year and current year operating expenses and to adjust for variations in operating expenses due to the increased vacancy rate.

(4) Schedule of Increases in Operating Expense. Where scheduling of rental increases, or other calculations, require projections of income and expenses because actual data is not available, it shall be presumed that operating expenses and management expenses, exclusive of property taxes, increase at the rate of the increase in the CPI for the applicable year; and that property taxes increase at two percent (2%) per year.

(l) Special rent increase based on modifications to or readjustment of 2005 NOI ("Readjusted 2005 MNOI Rent Increase"). An owner may rebut the presumption that the park's 2005 NOI provided a just and reasonable return at that time and obtain an adjustment of the base year rents, by presenting evidence that:

(1) The park's operating expenses in calendar year 2005 were unusually high or low despite prudent business practices. In such instance, the Board may adjust the calculation of 2005 NOI by adjusting the 2005 expenses to reflect the average of the park's expenses over a reasonable period of time or the average of expenses in comparable mobile home parks in 2005; or

(2) Capital improvements were made in calendar year 2005 that were not reflected in rent increases collected during that year. In seeking an increase under this provision, the owner shall have the burden of demonstrating that the improvement is completed and operational, and submitting evidence of the cost incurred; or

(3) Unusual repairs were made in calendar year 2005 due to damage caused by uninsured natural events or vandalism; or

(4) Other expenses in calendar year 2005 were unusually high or low notwithstanding prudent business practices; or

(5) The rent during calendar year 2005 was disproportionately low due to the fact that it was not established in an arm's-length transaction; or

(6) The rent during calendar year 2005 was low when compared to rents being charged in comparable mobile home parks in the City and comparable mobile home parks in comparable surrounding areas; or

(7) The rent during calendar year 2005 was not sufficient to provide a just and reasonable return in calendar year 2005 year.

The park owner shall have the burden of proving the existence of one or more of the circumstances listed in Paragraphs (1) through (7), above, of this Subsection (I), by a preponderance of evidence, and shall have the burden of providing reliable and credible evidence of the rents, operating expenses, gross income, NOI, capital improvement costs, existence and justification for finding of comparable rents and comparable parks, and the return resulting in the determination that a readjustment or modification to the 2005 NOI is warranted.

(J) Special rent increase based on fair return. An owner may rebut the presumption that the increased calculations provided in Subsection (H) of this Section and modified calculations provided by Subsection (I) of this Section are sufficient to provide a just and reasonable return, by presenting evidence that the return being earned by the mobile home park is not just and reasonable as set forth in this subdivision and the regulations adopted from time to time by resolution of the City Council. The owner shall have the burden of proving the park is not earning a just and reasonable return by a preponderance of evidence.

(1) In reviewing the evidence and making its determination, the Board shall consider all relevant information, including but not limited to:

- (a) The purchase price of the park;
- (b) Any capital improvements made in the park by the owner.
- (c) The return earned by the park ;
- (d) The return earned by comparable mobile home parks ; and

(e) The mobile home park's pattern of income and expenses over each of the past five years, including any unavoidable increases or decreases in maintenance, repairs and other operating expenses, including but expressly not limited to, deferred maintenance or substantial deterioration in the mobile home park other than as the result of normal wear and tear.

(K) It is the intent of this chapter that a rent increase be approved under this Section 5.44.080 only when the owner demonstrates by a preponderance of evidence that such a rent increase is necessary to provide the owner with a fair return.

(L) An owner may charge less than the Special Rent Increase approved by the Board , subject to the following:

(1) An owner may phase in a Special Rent Increase approved by the Board (or Hearing Officer), but at time of the initial phasing, the owner shall serve notice of the phasing plan to each affected resident along with the notice of rent increase required by state law, and shall concurrently serve a copy of the phasing plan to the Department.

(2) An owner may decide not to charge the full amount of a Special Rent Increase approved by the Board (or Hearing Officer), as determined in the owner's discretion. The owner shall serve each affected resident with notice of rent increase as required by state law.

(3) At no time shall any Special Rent Increase be imposed on any space such that the total rent paid by the resident in any one month exceeds the new rent reflected in the decision of the Board (or Hearing Officer).

(4) If an owner decides to phase in an approved Special Rent Increase, or to charge less than the approved Special Rent Increase, the owner shall not thereafter demand, charge or collect any portion of any uncollected Special Rent Increase for any retroactive period of time. No retroactive recovery of any portion of a Special Rent Increase not previously collected from a resident shall be recoverable by the owner. No phasing plan shall include any retroactive recovery of any uncollected Special Rent Increases, and a phasing plan shall operate prospectively only.

(5) In evaluating a subsequent Special Rent Increase application under Section 5.44.080 of this chapter, the new space rents determined by the Board (or Hearing Officer) as necessary to provide the owner with a fair return in the most recent prior Special Rent Increase shall be included in determining the base year gross income for purposes of calculating the subsequent Special Rent Increase (subject to the provisions of Subsection (H)(3) of this section).

(6) If the new space rent actually charged to a resident by the owner following the City's approval of the Special Rent Increase, is less than the authorized Special Rent increase determined under this Section, the owner shall also list the actual rent charged in the park's annual registration provided to the City under PMC 5.44.050.

(M) Upon final approval of a Special Rent Increase, the owner shall not charge the resident rent in excess of that rent permitted under the Special Rent Increase except based on a subsequent rent increase approved in accordance with as otherwise authorized by this chapter. Following receipt of the Board's final decision (if the Board's decision is not timely appealed), or following receipt of the hearing officer's final decision in the event of an appeal under PMC 5.44.100, the owner shall submit a modified rent schedule to the City containing the rents actually charged to the residents based on the Board's final decision or the hearing officer's final decision.

(N) Following approval of a Special Rent Increase by the Board under Subsections (H), (I) or (J) of this Section 5.44.080, an owner shall not apply for or impose a Permissive Rent Increase pursuant to Section 5.44.070, until the expiration of at least twelve (12) months following the approval of the Special Rent Increase under Subsections 5.44.090(H), (I) or (J) of this chapter. No Permissive Rent Increase shall be imposed on any space until at least twelve (12) months after imposition of any Special Rent Increase approved under this section.

(O) Following approval of a Special Rent Increase by the Board under Subsections (H), (I) or (J) of this Section 5.44.080, the owner shall not apply for an Special Rent Increase under this Section until the expiration of at least twelve (12) months following the approval of the Special Rent Increase.

**5.44.090 Hearing procedures.**

(A) All applications pursuant to Section 5.44.080 shall be filed on an application form provided by the Department. A total of eight (8) copies of the completed application and any additional back-up documentation submitted prior to the hearing, along with two sets of mailing labels for all affected spaces in the park, must be provided to the City in order for the application to be deemed complete by the Housing Manager. At the time the application is filed, the applicant shall also post in three (3) conspicuous places in the park, a notice advising the park residents that an application has been filed with the City.

(B) Written notice of the application shall be mailed to the affected residents by the Housing Manager on the date on which the application is determined to be complete. The notice shall inform the affected residents of their right to submit written, documentary and photographic responses to the application to the Housing Manager within twenty (20) days of the date notice of the complete application is mailed by the City. The affected residents shall provide the owner with copies of their response or opposition concurrently with their filing of their response or opposition to the City. One copy of the application shall be maintained by the owner in the park office during regular business hours, and one copy shall also be maintained by the owner in the club house or other mutually accessible area, at all times.

(1) If an owner submits additional information or documentation to the City after the initial submittal of the application, or if the owner submits additional information or documentation to the City after the City determines the application is not complete, the owner shall concurrently serve notice of filing of such additional information, and make such additional information available to the residents, in accordance with the procedures set out in this Subsection (B).

(C) Hearings on special rent increase applications.

(1) Upon receipt of a Special Rent Increase application under Subsections (H), (I) or (J) of PMC 5.44.080, the Housing Manager shall have thirty (30) days in which to declare the application complete. The term "complete" shall have the

meaning set forth in PMC 5.44.080(F). If the Housing Manager determines that the application is not complete, the Housing Manager shall send written notice to the owner that the application is incomplete, and will specify the information and documentation that must be submitted in order for the application to be deemed complete. In order for the City to further process the application, and deem it complete, the owner shall be required to submit all required information and documentation to the City. The City has thirty (30) days from submittal of any additional information or documentation to again determine if the application is complete, or shall notify the owner that the application cannot be determined to be complete. If the owner fails or refuses to submit the information and documentation required to deem the application complete within sixty (60) days of the original submittal, the application shall be deemed withdrawn, and the owner will be credited with any unused fee. Any further consideration of an Special Rent Increase for the park shall require submittal of a new application pursuant to PMC 5.44.080 and 5.44.090 of this chapter.

(2) A hearing of the Board shall commence not later than sixty (60) days from the date the application is determined complete.

(3) The Board shall render its decision in writing within sixty (60) days after the conclusion of the public hearing on the application. The Board's written decision shall include findings of fact, including but not limited to a calculation of the park's NOI in the base year and in the current year, with a breakdown of expense categories. A copy of the decision shall be served on the residents, owner and the City in accordance with Subsection (E).

(E) Notice of the Board's determination shall be mailed to the owner, all affected residents at the mobile home spaces designated in the application, and the City. The Board's decision may be appealed in accordance with PMC 5.44.100 of this chapter. If any party fails to file a timely appeal under PMC 5.44.100, the decision of the Board shall be final.

#### **5.44.100 Appeal to Hearing Officer.**

A park owner or resident may appeal any decision of the Board under PMC 5.44.090 in accordance with the following procedures.

(A) Deadline to file appeal; requirements. Either party may, and prior to commencing any action in a court of competent jurisdiction shall, appeal any final decision or order of the Board to a hearing officer by filing written notice of the appeal, a written summary of the basis of the appeal and any documents supporting the appeal with the Housing Manager not later than ten (10) days after the decision of the Board has been deposited in the mail, addressed to the owner and the affected residents. The appellant shall serve written notice of the filing of the appeal, the written summary of the basis of the appeal and any documents supporting the appeal, on the opposing party. Such service may either be in person or by mail to the last known address of the opposing party. No appeal shall be considered filed until a complete appeal, along with proof of service of such notice and all supporting documentation (under penalty of

perjury) is received by the Housing Manager, and the cost of the appeal is deposited with the City Manager. The Housing Manager shall estimate the cost of the appeal based on the fee resolution adopted by the City Council. Proof of service shall be on a form provided by the Housing Manager.

(B) Selection of hearing officer. Upon receipt of a complete appeal, the Housing Manager shall obtain a list of retired judges or justices from the California State and Federal courts, and from that list of retired judges/justices shall develop and maintain a list of hearing officers. Within five (5) days after the appeal is deemed effective, each party (the owner and the residents' representative) will be given the opportunity to review the hearing officer list and agree on the selection of the hearing officer. In the event the parties are unable to agree on a hearing officer within five (5) days, the Housing Manager will designate a panel of five (5) hearing officers from its list. Within five (5) days of notification by the Housing Manager of the names on the panel, the parties (the owner and the residents' representative) shall meet and select the hearing officer from that panel. The process for selection will require a coin toss, the winner (either owner or residents' representative) shall strike one name from the panel. The other party shall strike one name, and the parties shall then alternate in striking names until only one name remains who shall serve as the hearing officer. Within five (5) days of this selection, the Housing Manager shall issue a notice of appointment of the hearing officer to the owner and the affected residents.

(C) Disqualification of hearing officer. Any potential hearing officer shall be disqualified from consideration as a hearing officer if he/she owns, leases or resides in any mobile home park, or has ever been an owner, lessee or resident of a mobile home park; or if he/she has owned or leased any property subject to rent control; or if he/she has ever been party to any litigation challenging or defending any rent control ordinance or decision on any rent increase application in any rent control jurisdiction. Each potential hearing officer shall be required to submit a form, under penalty of perjury, that he/she does not have any such disqualifying interest, as a condition of his/her selection as a hearing officer.

(D) Costs and expenses of the hearing officer.

(1) Within five (5) days of the Housing Manager's notice of appointment of the hearing officer, the Housing Manager shall inform the appealing party of the hearing officer's estimated costs to conduct the appeal.

(2) Within five (5) days of such notification, the appealing party shall deposit those estimated costs with the City Clerk. As soon as the deposit is made, the hearing officer shall commence his/her duties as set forth below. Failure to timely deposit such estimated costs shall result in a dismissal of the administrative appeal.

(3) If, at the close of the hearing, an appealing owner is deemed to be the "successful party" by the hearing officer, the costs and expenses of the hearing officer may be included in the hearing officer's rent decision and the affected residents' rents adjusted in the form of higher rents. Any such hearing officer costs and expenses

shall be amortized over several years so that the residents shall be required to pay only a reasonable amount each year and each month, and the amortized portion of the hearing officer's costs and expenses shall be separately itemized on the monthly rent invoice and shall not be included in the space rent for purposes of determining any future rent increase under this chapter. If, at the close of the hearing, the appealing residents are deemed to be the "successful party" by the hearing officer, the cost and expenses of the hearing officer may be included in the hearing officer's rent decision and the affected residents' rents adjusted in the form of lower rents, subject to a reasonable amortization period.

(D) Powers and duties of hearing officer.

(1) Within five (5) days of the Housing Manager's receipt of the hearing officer deposit from the appealing party, the hearing officer shall receive the complete Board file, including copies of taped recordings of the Board hearing(s), and a transcript. The cost of the transcript shall be deposited by the appealing party as a condition of deeming the appeal complete.

(2) Within thirty (30) days of the Housing Manager's receipt of the hearing officer deposit from the appealing party, the hearing officer shall commence the administrative appeal hearing. By stipulation, the parties may extend this thirty (30) day hearing period for any length of time. In the absence of such stipulation, the hearing officer may, on his/her own motion, extend the thirty (30) day hearing period for up to an additional fifteen (15) days.

(3) Not less than twenty (20) days prior to the appeal hearing date, the hearing officer shall provide the parties (park owner and residents' representative) and the City with written notification of the date, place and time of the hearing. The same notice shall set forth a time schedule for the filing of written argument and/or any request to file additional evidence which the parties wish the hearing officer to consider at the appeal hearing, subject to Subparagraph (4), below.

(4) The hearing officer shall exercise his/her independent judgment as to whether the owner is entitled to a Special Rent Increase, and if so, the amount of such increase. The hearing officer is not bound by the prior determinations, findings, or decision of the Board. Provided that, the hearing shall be conducted on the record previously presented to the Board, as provided in subparagraph (3), above. The hearing officer shall review the Board's decision based on the record before the Board, including the Board resolution deciding the application, the verbatim transcripts of the proceedings, staff reports, and exhibits and reports, which were considered and/or approved by the Board during its hearings. In conducting a hearing on any appeal, no new or additional witness testimony or other evidence shall be permitted at the appeal hearing by the hearing officer, unless the party offering the evidence establishes that the evidence is relevant and, in the exercise of reasonable diligence, could not have been produced or that was improperly excluded at the hearing before the Board. The hearing officer may provide guidelines for the submission of briefs and may (but is not required to) permit oral argument on certain issues. On appeal, the hearing officer

reviews the Board's decision based on whether there was substantial evidence existing in the record to support the Board's decision.

(5) The hearing officer shall have no authority to issue a decision based on factors not authorized or included in this chapter, or otherwise inconsistent with the purposes of this chapter.

(6) The hearing officer shall issue his/her decision including written findings and conclusions within ten (10) days after the close of the hearing. If the hearing officer determines that substantial evidence is found to exist in the record, the decision of the Board shall be upheld. If it is found lacking, the hearing officer may either decide the matter differently or refer it back to the Board, with directions, for further consideration. The hearing officer may affirm, modify or rescind the decision of the Board. The decision shall be in writing, and a copy shall be served on the Housing Manager, the appealing party, and the opposing party.

(E) Procedures Following Hearing Officer Decision.

(1) If the hearing officer remands the application to the Board, the Board's remand proceedings shall be conducted in accordance with PMC 5.44.090.

(2) If the hearing officer issues a decision modifying, upholding or rejecting the appeal, the decision of the hearing officer shall be the final administrative decision within the City.

(F) Judicial Challenge. Any party dissatisfied with a final decision of the hearing officer's decision may seek judicial review in the Superior Court in accordance with Section 5.44.160.

(G) Notwithstanding any of the foregoing provisions, the City Council may enter into a court settlement agreement that allows an owner or affected residents the ability to apply, utilize, modify, or amend the provisions of this Section 5.44.100 for any special adjustment decision of the Board which is not final as of the effective date of such agreement. For the purposes of this rule, a Board decision is not final when it remains subject to review by a court of competent jurisdiction.

**5.44.110 Fees.**

A resident whose residency is not regulated by the provisions of the Mobilehome Residency Law (Civil Code Sections 798 through 799.6) shall not be charged a fee for anything other than rent or utilities with the exception of incidental reasonable charges for services actually rendered.

**5.44.120 Permissible reasons for termination of or refusal to renew residency.**

(A) A residency which is not subject to the provisions of the Mobile Home Residency Law (Civil Code Sections 798 through 799.6) shall not be terminated nor shall its renewal be refused, except for one or more of the following reasons:

(1) Failure of the resident to comply with a local ordinance or state law or regulation relating to mobile home spaces within a reasonable time after the resident receives a notice of noncompliance from the appropriate governmental agency;

(2) Conduct by the resident, upon the mobile home park premises, which constitutes a substantial annoyance to other residents;

(3) Failure of the resident to comply with reasonable rules or regulations of the mobile home park. No act or omission of the resident constitutes such a failure to comply unless and until the owner has given the resident written notice of the alleged rule or regulation violation and the resident has failed to adhere to the rule or regulation within seven days;

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

(5) Condemnation of the mobile home park;

(6) Change of use of the mobile home park; provided, that the provisions of subsection (f) of Section 798.56 of the California Civil Code are followed:

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

(b) The owner gives each prospective resident whose residency will commence within 12 months of the proposed changes written notice thereof prior to the inception of his/her residency.

(B) 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 60 days prior to the termination date of the residency. The notice shall state the date the residency terminates, the reason for the termination or refusal to renew, and the specific facts upon which the owner is relying. (Ord. 556 § 2, 1985)

#### **5.44.130 Refusal of resident to pay illegal rent.**

A resident may refuse to pay any rent in excess of the maximum rent permitted by this chapter. 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 mobile home space for nonpayment of rent or to collect the illegal rent. (Ord. 556 § 2, 1985)

#### **5.44.140 No Retaliation.**

No resident shall be subjected to retaliation for the exercise of his/her rights under the provisions of this chapter.

**5.44.150 Posting of ordinance.**

A copy of this chapter shall be posted in every park in the City, in (1) the park office; and (2) park and in the recreation building or clubhouse (if any).

**5.44.160 Remedies.**

(A) Any person who demands, accepts or retains any payment of rent in violation of the provisions of this chapter 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 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 attorneys' fees and costs as determined by the court.

(B) Any person violating any of the provisions of this chapter shall be punishable as set forth in PMC Title 1. Where the conduct constituting the violation is of a continuing nature, each day that the conduct continues shall be deemed a separate and distinct violation.

(C) The City may institute a civil action to compel compliance with this chapter.

(D) Any legal challenge to a determination of the hearing officer's decision granting or denying an appeal must be filed within ninety (90) days of the date of the hearing officer's final decision as set forth in his/her resolution making findings. The hearing officer's decision shall state that judicial review must be sought within 90 days and is governed by Code of Civil Procedure Section 1094.6. The hearing officer's decision is final upon the date that it is mailed by first-class mail, postage prepaid, including a copy of the affidavit or certificate of mailing, to each party to the appeal.

**5.44.170 City Council review of this chapter.**

The City Council shall review the provisions of this chapter six months after the date of adoption of the ordinance from which it derives, and at any other time deemed appropriate, in order to consider the following:

(A) Whether mobile home space rent control continues to be necessary to protect the public health, safety and welfare;

(B) Whether the implementation of the provisions of this chapter has been adequate; and

(C) Whether the provisions of this chapter should be amended to provide more effective regulation or to avoid unnecessary hardship.

**5.44.180 Exemptions.**

(A) Any mobile home space that is within an exemption created by the State Mobile Home Residency Law, Civil Code Section 798 et seq. is exempt from the provisions of this chapter (except PMC 5.44.041 and 5.44.080).

(B) Any mobile home space that was not subject to the provisions of this chapter as of June 11, 1997, and is within a mobile home park that is owned or operated by either the Palmdale Housing Authority or an organization that is exempt from federal income taxes under Section 501 (c)(3) of the Internal Revenue Code, is exempt from the provisions of this chapter (except PMC 5.44.041 and 5.44.120). The exemption created by this subsection (B) is effective only if a covenant has been recorded against the park documenting that the owner or operator of the mobile home park has an existing agreement with the City regulating the rental rates for mobile home spaces within the mobile home park, and said agreement includes a commitment to provide affordable housing so that at least 20 percent of the spaces/coaches in the park are set aside for rental to persons of low or moderate income, as defined in Health and Safety Code Section 50093.

**5.44.190 Park inspections and audits.**

City staff shall have the right to inspect mobile home parks within the City, including, without limitation, inspection of the notices required by PMC 5.44.060, documentation regarding any rent increases imposed on any regulated spaces in the park, and courtesy inspections by the Code Enforcement Division of the City. City staff also shall have the right to conduct an annual audit the records being maintained by any mobile home park within the City during the park's regular business hours, following a written request therefor, made at least five business days prior to the time of the audit. City staff shall determine the location where the audit is to be conducted and may conduct the audit at the mobile home park or at the location where the park's business records are maintained, if the records are not maintained at the mobile home park.

**5.44.200 Regulations and Forms**

The City Council may adopt regulations and forms from time to time as the Council deems necessary to implement the provisions of this chapter. Except as otherwise provided by this chapter or any regulations of the City Council, the City Manager may adopt such regulations and/or forms as he/she deems necessary for the City to implement and administer the provisions of this chapter.

