



County of Santa Cruz 799

OFFICE OF THE COUNTY COUNSEL

701 OCEAN STREET, SUITE 505, SANTA CRUZ, CA 950604068
(831) 454-2040 FAX: (831) 454-2115

DWIGHT L. HERR, COUNTY COUNSEL
CHIEF ASSISTANTS
Deborah Steen
Samuel Torres, Jr.

Assistants
Harry A. Oberhelman III
Marie Costa
Jane M. Scott
Rahn Garcia
Tamyra Rice
Pamela Fyfe
Ellen Lewis
Kim Baskett
Lee Gulliver
Dana McRae

September 13, 1999

Agenda: September 21, 1999

Board of Supervisors
County of Santa Cruz
701 Ocean Street, Room 500
Santa Cruz, California 95060

Re: Ordinance Amending Chapter 13.32 to Add Notice of Rent Adjustment Form

Dear Members of the Board:

On July 9, 1999, your Board gave final approval to a series of amendments to the County's Mobilehome Rent Adjustment Ordinance ("the Ordinance") which have subsequently gone into effect as Ordinance No. 4548. One of the provisions amended at that time was Section 13.32.030, which establishes the requirements and the procedures used to process annual general space rent adjustments.

The final ordinance containing the amendments to Section 13.32.030 approved on July 9th, inadvertently left out a form which mobilehome park owners were required to provide to each resident prior to the general rent adjustment going into effect. This form entitled "Notice of Rent Adjustment Form" had been added by Ordinance No. 445 1 which was approved by your Board on April 8, 1997. Attached is a draft ordinance amending Section 13.32.030 by reinserting the form inadvertently eliminated by the adoption of Ordinance No. 4548.

IT IS THEREFORE RECOMMENDED that your Board approve in concept the amendments to Section 13.32.030, reinserting the Notice of General Rent Adjustment Form, and direct that the proposed ordinance be returned to the Board for final

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consideration on October 5, 1999.

Very truly yours,

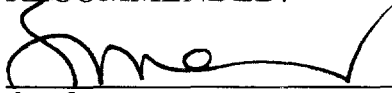
DWIGHT L. HERR, COUNTY COUNSEL

By


RAHN GARCIA

Assistant County Counsel

RECOMMENDED:



SUSAN A. MAURIELLO
County Administrative Officer

Enclosure: Proposed Ordinance Amendment

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ORDINANCE NO. __

**ORDINANCE AMENDING SECTIONS 13.32.030
OF THE SANTA CRUZ COUNTY CODE
RELATING TO RENTAL ADJUSTMENT
PROCEDURES FOR MOBILEHOME PARKS**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Section 13.32.030 of the Santa Cruz County Code is hereby amended to read as follows:

13.32.030 GENERAL RENT ADJUSTMENTS.

- (a) General Rent Adjustments may be made once each calendar year by the owner without notice to the County. A General Rent Adjustment notice, in the form specified in Section 13.32.030(f), shall be mailed to the residents prior to the making of such a General Rent Adjustment.
- (b) This annual General Rent Adjustment may only be made on or after the anniversary date of the resident.
- (c) The maximum allowable monthly rent increase under this section shall be limited to the amount by which the base rent together with the adjustments hereafter provided varies from the current monthly rent.
- (d) The following criteria shall determine the maximum increases allowed the owner in connection with general rent adjustments permitted by this chapter:
 - 1. Reduction or Elimination of Services. An owner shall not reduce or eliminate the level or kind of services provided to residents unless such reduction or elimination of services is otherwise lawful and is accompanied by a reduction of rent equal to the cost savings resulting from such reduction or elimination of services. The amount determined to be the cost savings shall be subtracted from the base rent.
 - 2. Changes in Property Taxes. The difference between the amount of

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property taxes payable for the 198 1 calendar year and the amount of property taxes payable for the calendar year preceding the current anniversary date may be pro-rated to each resident on a per space basis.

3. Changes to the Consumer Price Index. An amount equal to or less than fifty percent of the percentage change in the price index level for the San Francisco-Oakland Consumer Price Index-All Urban Consumer Category CPI between July 1, 198 1 and the July 1 prior to the year in which the rental increase is to go into effect multiplied by the base rent, may be added to the rent of each unit.

4. Return on Capital Improvements. A reasonable return on capital improvements not financed by ~~pass-throughs~~ to residents or by insurance coverage at a rate determined annually as of July 1, by resolution of the Board of Supervisors may be allowed on capital improvements made at the park prior to the anniversary date and pro-rated to residents on a per-space basis. Entitlement to a reasonable rate of return commences at the time when the capital improvement is operational and available for use by the park residents and terminates at the conclusion of the amortization period set forth in 13.32.030(d)(5)(G). (Ord. 4404, 2/27/96)

5. Costs of Capital Improvements. Fifty percent of capital improvement costs to the park owner for construction of capital improvements to the park may be passed-through to the residents prorated on a per-space basis. Such costs shall be charged to a capital account to be depreciated over the useful life of the asset in a manner similar to an item charged to an expense account under Internal Revenue Service Rules and Regulations; provided, however, that at the end of the amortization period for the capital improvement, the maximum allowable monthly rent shall be decreased by such amount as it was increased pursuant to this provision. Pass-throughs of capital improvement costs shall be subject to the following limitations:

A. The improvement shall primarily benefit the **majority** of park residents rather than the park owner(s) and be a functional improvement serving primarily the park residents.

B. The improvement shall have a life expectancy of five years or more and must be treated as a capital improvement for Federal and State income tax purposes and may not be deducted for such tax purposes as expenses.

C. Normal routine maintenance and repair do not constitute a capital improvement.

D. The owner has the responsibility to provide and maintain physical improvements in the common facilities in good working order and condition pursuant to California Civil Code Section 798.15. Costs of maintenance and repair (as opposed to replacement) of such improvements shall not be passed-through to residents, nor shall costs of replacement be passed-through if the replacement was necessary because of owners failure to carry out said maintenance responsibility.

E. Insured repairs and replacements do not constitute a capital improvement.

F. The improvement shall be permanently fixed in place or relatively immobile.

G. Subject to the vote requirements and the capital improvement limitations herein described, fifty percent (50%) of the actual net costs of a capital improvement may be passed-through to the park residents upon sixty (60) days written notice upon the following formula: fifty percent (50%) of the principal amount actually paid by the park owner for the capital improvement, divided by the total number of mobilehome spaces in the park affected by the improvement divided by one hundred twenty (120) months (the amortization period for the capital improvement), equals the monthly sum for the capital improvement to be passed-through to the park residents at their first anniversary date after the capital improvement becomes operational and available for use by the park residents. The one hundred twenty (120) month period represents the amount of time required for fully amortizing the cost of capital improvements. If so agreed in writing between the park owner and all current park residents an alternative amortization period may be used.

H. At no time shall the aggregate capital improvement pass-through of costs exceed ten percent (10%) of the monthly rent (excluding any portion of the rent attributable to capital improvement pass-&roughs) unless approved by the residents of fifty percent (50%) plus one of the mobilehome spaces of the park. Pass-through of the cost of any single capital improvement which would

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exceed five percent of the current monthly rent (excluding capital improvement pass-throughs), shall only be allowed if approved by residents of fifty percent (50%) plus one of the mobilehome spaces of the park. No more than one capital improvement which would result in a pass-through exceeding five percent of the monthly rent may have its costs passed-through in any twelve month period. Fifty percent (50%) of the cost of capital improvement projects mandated by governmental authority shall be included in the calculation of the ten percent of monthly rent limitation described in this section.

I. For the purpose of obtaining the approvals required by subsection 13.32.030(d)(5)(H), elections shall be conducted by the park owner on whether to approve or reject a proposed capital improvement cost pass-through prior to the time the capital improvement becomes operational and available for use by the park residents. Residents shall be entitled to one (1) written ballot vote per affected mobilehome space in said park. Each ballot shall specify the proposed capital improvement to be voted upon and the amount and dates of commencement and expiration of the monthly pass-through resulting from said capital improvement. Each ballot shall be delivered by first class mail to the park residents and the deadline and park location for casting such ballot shall be set forth clearly thereon. Such deadline shall be no less than twenty days (20) from the postmark date of ballot mailing to the resident.

J. Capital improvements include shall meet all of the eligibility criteria contained in subsection 5. of subdivision (d) of Section 13.32.030, and may include (without limitation) construction, installation, or replacement of a clubhouse, laundry facility or other common area facility, swimming pools, sauna or hot tub, or other recreational amenity, street and driveway, security gate, outdoor or common area lighting, retaining wall, sewer, electrical, plumbing unless associated with a non-eligible capital improvement, water, or television reception system, sprinkler system, or any similar improvement which represents an addition to or an upgrading of existing improvements which primarily benefits the park residents. Routine maintenance or repair, including, but not limited to routine maintenance or repair of a street or driveway by means of patching, a seal coat or slurry seal, shall not qualify as a capital improvement.

K. An owner shall separately bill the cost pass-through for each

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capital improvement only during the period the park owner amortizes such capital improvement.

L. Capital improvement costs otherwise eligible for pass-through are not eligible to the extent that the park owner recovers such costs through charges of a use fee such as where the park resident must deposit coins to use a park-owned washer and dryer.

M. Where a park owner receives a discount or rate differential (including, but not limited to, a "Readiness to Serve Charge") that is intended to subsidize or offset the cost of owning, operating, maintaining and replacing the park's utility distribution system, the repair, maintenance, or replacement of such utility distribution system shall not qualify as a capital improvement.

N. The park owner's responsibility for the cost of owning, operating, maintaining or replacing a utility distribution system as established by subsection 13.32.030(d)5., M., shall transfer to and become the responsibility of any subsequent purchaser of the park, or successor in interest to the park owner..

6. Government Required Service Charges. Government required service charges are those charges which are legally levied and actually billed to a park owner by a governmental agency, such as fees, bonds, and assessments. Such charges shall be passed-through to residents. The difference between the amount of government required service charges payable for the 198 1 calendar year, if any, and the amount payable for the calendar year preceding the current anniversary date may be prorated to each resident on a per space basis. Such fees do not include predictable expenses for operation of said park such as common area utility expenses. The park owner shall pass-through to the residents only those costs for government required service charges which are not reimbursed by insurance or other sources. (Ord. 4404, 2/27/96)

7. Space Fee. The owner may pass-through to the residents of each mobilehome space the space fee established pursuant to this chapter.

8. No debt service costs or interest expenses as a result of the park owner's borrowing or refinancing for any purpose shall be passed-through to the residents.

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9. Utility Readiness-To-Serve Charge. No utility readiness-to-serve charge shall be charged by a Park Owner nor in any manner be passed-through to the residents of a mobilehome park except where the charge is set at the same rate established by the utility provider for a similar class of customer, and park residents receive any lifeline rate discount for which they would be eligible if they were direct customers of the utility provider. (Ord. 3916, 6/21/88; 3975, 2/14/89; 4059, 5/1/90)

(e) The following examples illustrate how the maximum allowable General Rent Adjustment shall be calculated. The Notice of General Rent Adjustment shall include dollar figures and calculations used to arrive at the final computation of rent. The sample computation of rent provided below shall serve as an example of the proper form.

NOTICE OF GENERAL RENT ADJUSTMENT:

“In accordance with the provisions of the County of Santa Cruz Mobilehome Rent Adjustment Ordinance, we are providing you with the following information. The General Rent Adjustment allowed is itemized as follows:”

Assume the following facts:

- (1) The park has 150 mobilehome spaces.
- (2) The 1982 base rent is \$175.00 per month. (See Section 13.32.020 for definition of base rent.)
- (3) The park owner eliminates the recreation room of the park (upon agreement by written consent by 50 percent plus one of the residents) bringing cost savings to the owner of \$9,000. The cost savings resulting from such elimination amounts to \$5.00 per space which is subtracted from the base rent.
- (4) Property taxes of the park payable for the calendar year preceding the current anniversary date have increased by \$3,600 over the taxes payable for the 1981 calendar year.
- (5) The Consumer Price Index has increased 29 percent between the level in existence on July 1, 1981 and the level in existence on July 1 preceding the current anniversary date. (50 percent of CPI increase = 14.5 percent).

- (6) The park owner has installed additional recreational facilities at a cost to park owner of \$30,000 for 150 spaces with the reasonable rate of return assumed to be established at 12 percent by resolution of the Board of Supervisors and such addition meets all pass-through criteria for a capital improvement under this chapter.
- (7) Government required service charges payable for the calendar year preceding the current anniversary date have increased by \$180 over the fees payable for the 1981 calendar year.
- (8) The newly enacted space fee is \$.84 per space per month.
- (9) Current rent is \$190.00 per month prior to adjustment.

The maximum allowable monthly rental adjustment would be computed as shown below and would amount to \$9.42 for each mobilehome space:

Sample Computation:

- (1) THE 1982 BASE MONTHLY RENT \$175.00
- (2) ADJUSTMENTS TO BASE MONTHLY RENT
 - (a) Elimination of Recreation Room resulting in a cost savings per space to the owner subtracted from the base monthly rent \$9,000 in savings divided by 150 spaces divided by 12 months = \$5
 (\$175.00 - \$5.00 = \$170.00)
 ADJUSTED BASE MONTHLY RENT 170.00
 - (b) Property tax adjustment
 1987/88 taxes \$4,800
 Minus 1981/82 taxes \$1,200
 equals \$3,600
 (\$3,600 ÷ 150 spaces ÷ 12 months) 2.00
 - (c) Consumer Price Index adjustment -
 7/1/87 CPI for use in 1988 353.5
 Minus 7/1/81 CPI for use in 1982 274 0
 equals 79.5
 79.5 is an increase of 29% over the 1981 CPI

50% of this percentage CPI increase = 14.5%
 14.5% times \$170 = \$24.65

(d) Capital Improvements

Return:

(\$30,000 X 50% X 12 % ÷ 150 units ÷
 12 months) 1.00

Cost Pass-Through:

(\$30,000 X 50% ÷ 150 units ÷ 120 months) 0.83

(e) Government Required Service Charge
 Adjustment (\$180 ÷ 150 ÷ 12) 0.10

(f) Space Fee .84

(3) NEW TOTAL MONTHLY RENT 199.42

(4) CURRENT MONTHLY RENT PRIOR TO
 ADJUSTMENT - 190.00

(5) AMOUNT OF MAXIMUM ALLOWABLE
 GENERAL MONTHLY RENT ADJUSTMENT \$ 9.42
 OTHER EXAMPLES

EXAMPLES OF CAPITAL IMPROVEMENT INCLUDE,
 BUT ARE NOT LIMITED TO THE FOLLOWING:

Constructing a new swimming pool where none existed
 before; installing air conditioning in the clubhouse where
 none existed before; replacing the old roof on the existing
 clubhouse; replacing pump and filter for the swimming pool.

EXAMPLES OF NORMAL ROUTINE MAINTENANCE
 AND REPAIR WHICH ARE EXCLUDED FROM PASS-
 THROUGH: patch repair of the clubhouse roof; repairing the
 pool pump and filter; maintaining landscaping; maintenance

of septic systems; routine maintenance or repair of a street or driveway by means of patching, a seal coat or slurry seal; and other activities which may be deducted in accordance with IRS Rules and Regulations. These examples are not included by way of limitation. (Ord. 3950, 10/4/88; 4059, 5/1/90)

- (f) The owner shall give residents of each mobilehome space a written notice ninety (90) days before the General Rent Adjustment is due to go into effect. The form notice set forth below shall be used by the owner when notifying residents of the general rent adjustment. A rent adjustment notice not on this form shall be invalid.

NOTICE OF GENERAL RENT ADJUSTMENT FORM

Name of Park: _____ Date: _____

Dear Resident of Space Number _____:

California Civil Code Section 798.30 provides for a 90-day notice of any rent increases. Effective _____, your rent will be adjusted as follows:

(1) 1982 BASE MONTHLY RENT \$ _____

(2) ADJUSTMENTS TO BASE MONTHLY RENT:

(a) Elimination or Reduction of Services
(list effected services): _____

Cost savings to owner \$ _____
subtracted from base monthly rent
÷ _____ ÷ 12 months = \$ _____
(# of spaces)

ADJUSTED BASE RENT

(b) Property Tax Adjustment:

Previous Year's Taxes: \$ _____
Minus 1981/82 Taxes \$ _____

Difference of \$ _____

$$\frac{\div}{(\# \text{ of spaces})} \div 12 \text{ months} = \$$$

(c) Consumer Price Index Adjustment

CPI as of July 1 of previous year
for use in current year = 100.00
7/1/81 CPI = 100.00

Difference is an increase
over the 1981 CPI of

50% of this percentage CPI
increase = 0.00 %
x 10 adjusted base rent = \$ 0.00

(d) Capital Improvements (list individually for each capital improvement):

1) Type of Improvement: _____
Beginning date: _____
Ending date: _____
Cost: \$ _____

Return Calculation:

$$\frac{\$ \text{ (cost)} \times 50\% \times \text{ (current rate of return as set by Board of Supervisors)}}{\div \text{ (\# of spaces)} \div 12 \text{ months}} = \$$$

Pass-Through Calculation:

$$\frac{\$ \text{ (cost)} \times 50\%}{\div \text{ (number of spaces)} \div 120 \text{ months}} = \$$$

(e) Government Required Service Charge Adjustment
(list individually for each government required service):

1) Type of Charge: _____
 Previous year's service charge: \$ _____
 1981 service charge: \$ _____

$$\frac{\text{Difference of \$}}{\div \frac{\text{}}{\div 12 \text{ months}} \div \frac{\text{}}{\text{(# of spaces)}}} = \$ \frac{\text{}}{\text{}}$$

(f) Space Fee (If billed monthly): \$

(3) NEW TOTAL MONTHLY RENT = \$

(4) CURRENT MONTHLY RENT PRIOR TO ADJUSTMENT = \$

(5) AMOUNT OF MAXIMUM ALLOWABLE MONTHLY RENT = \$

Attach additional pages for other capital improvements and/or service charges.

Pursuant to section 13.32.030(h) of the Mobile Home Rent Adjustment Ordinance (Santa Cruz County Code Chapter 13.32), you have the right to examine copies of certain documents which relate to increases or decreases in rent sought by the owner in your rent adjustment notice. Please refer to this section for more information.

Residents representing at least 25% of the spaces within the park have the right to challenge any portion of this rent adjustment notice by filing a petition with the Santa Cruz County Mobilehome Commission within 45 days of the postmark on this Notice. You are encouraged to meet and confer prior to filing a petition. Please consult sections 13.32.060(b)(1) and 13.32.060(b)(2)(A) for more detailed information on these requirements.

Petitions may be obtained by phoning the Mobilehome Commission at 454-2040. (Ord. 4451, 4/8/97; Ord. 4548, 7/9/99; Ord. , / /)

(g) The owner shall not adjust rents in excess of the amount permitted pursuant to this General Rent Adjustment procedure, except as expressly provided elsewhere in this chapter.

(h) For purposes of this section, the owner shall make available for examination within 5 business days of the written request, of any resident, copies of bills for property taxes, government required service charges, copies of insurance policies and records of insurance payments, the books and records of the owner which relate to the original and depreciated cost of capital improvements, and all relevant portions of Federal and State Income Tax Returns relating to capital improvements to verify any increases or decreases sought by the owner under this section, shall also be made available to residents. The owner has the

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option of providing income tax information either in a declaration filled out under penalty of perjury, or by producing copies of the relevant portions of the actual Federal and State Income Tax Return themselves. (Ord. 2843, 1/15/80; 2912, 5/6/80; 3027, 12/23/80; 3224, 4/27/82; 3854, 8/11/87; 3916, 6/21/88; 4059, 5/1/90; 4404 2/27/96)

SECTION II

This ordinance shall take effect on the 3 1st day after the date of final passage.

PASSED AND ADOPTED this ____ day of _____, 1999, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

Chairperson of the
Board of Supervisors

Attest: _____
Clerk of the Board

APPROVED AS TO FORM:

RAHN GARCIA
Assistant County Counsel