

ORDINANCE NO. 499
AN ORDINANCE OF THE CITY OF MORRO BAY
REPEALING, AMENDING, AND REENACTING
CHAPTER 5.32 OF THE MORRO BAY MUNICIPAL CODE
(MOBILEHOME AND RECREATIONAL VEHICLE
PARK RENT STABILIZATION ORDINANCE)

THE CITY COUNCIL
CITY OF MORRO BAY, CALIFORNIA

WHEREAS, in November 1986, the City Council adopted Ordinance No. 294 which codified the Mobilehome and Recreational Vehicle Park Rent Stabilization Ordinance as contained in Chapter 5.32 of the Morro Bay Municipal Code; and

WHEREAS, in April 2003, the City Council authorized the creation of an Ad Hoc Subcommittee to review the aforementioned Mobilehome and Recreational Vehicle Park Rent Stabilization Ordinance; and

WHEREAS, such Ad Hoc Subcommittee consisted of ten voting members, five of whom were selected by park owners and five of whom were selected by park residents; and

WHEREAS, the Ad Hoc Subcommittee met fifteen times and made numerous recommendations for changes to the existing Mobilehome and Recreational Vehicle Park Rent Stabilization Ordinance; and

WHEREAS, all ten members of the Ad Hoc Subcommittee unanimously approved the final draft of the attached revisions to the Mobilehome and Recreational Vehicle Park Rent Stabilization Ordinance, Chapter 5.32 of the Morro Bay Municipal Code; and

WHEREAS, City Council desires to implement the revisions to the Mobilehome and Recreational Vehicle Park Rent Stabilization Ordinance, Chapter 5.32 of the Morro Bay Municipal Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY DOES ORDAIN AS FOLLOWS:

Chapter 5.32 of the Morro Bay Municipal Code is hereby repealed, amended, and reenacted to read as follows:

Chapter 5.32

MOBILEHOME AND RECREATIONAL VEHICLE PARK RENT STABILIZATION

Sections:

5.32.010	Findings and purpose.
5.32.020	Definitions.
5.32.030	Exemptions.
5.32.040	Mobilehome rent review board—Established—Members—Terms.
5.32.050	Mobilehome rent review board—Powers and duties.
5.32.060	Residential rent increase limitations.
5.32.070	Increases upon change of occupancy.
5.32.080	Information to be supplied to tenants.
5.32.090	The rent dispute resolution process.
5.32.100	Standards of reasonableness to be applied to rent increases.
5.32.110	Obligations of the parties.
5.32.120	Rights of a “tenant-to-be.”
5.32.130	Tenants’ right of refusal.
5.32.140	Retaliatory acts—Tenants’ right to organize.
5.32.150	Solicitation of any petition by the park owner is without force or legal effect within city’s program.
5.32.160	Nonwaiverability.
5.32.170	Penalties and remedies.
5.32.180	Rights of affected tenants reserved.
5.32.190	Tenant complaints.
5.32.200	Severability.

5.32.010 Findings and purpose.

In November 1986, the city council adopted Ordinance No. 294, a mobilehome and recreational vehicle park rent stabilization ordinance providing a formula for maximum annual rent increases and providing a procedure for hardship exceptions, the provisions of which were set forth in former Chapter 5.32 of this code. The findings and purpose set forth in Ordinance No. 294 referred to the following conditions:

A. There is presently within the city a shortage of spaces for the location of existing mobilehomes and recreational vehicles. Because of this shortage, there is a very low vacancy rate.

B. Within the city there are a number of persons who reside permanently in units which today meet the legal definitions of recreational vehicles. Often these persons subsist on low fixed incomes and are unable to afford standard housing.

C. Because of the high cost and impracticability of moving mobilehomes, the potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, including permits, building requirements, landscaping and site preparation, the lack of alternative home sites for mobilehome residents, and the substantial investment of mobilehome owners in such homes, it is necessary to protect the owners of mobilehomes from unreasonable rent increases, while at the same time recognizing the need of park owners to receive a suitable profit on their property with rental income sufficient to cover increases in the costs of repair, insurance, maintenance, utilities, employee services, additional amenities, and other costs of operation, and to receive a fair return on their property.

D. However, it is recognized that a rent stabilization ordinance must be fair and equitable for all parties and must provide appropriate incentives for mobilehome park operators to continue their parks profitably and to upgrade and improve mobilehome parks, as well as to attract additional investors for new parks.

In April of 2003, the city council established a mobilehome rent stabilization subcommittee to review and consider amendments to the ordinance. The subcommittee consisted of ten members: five park owners and five tenants. The subcommittee held fifteen meetings to consider changes to the ordinance and received public comment. At the end of the meetings the subcommittee unanimously approved the recommended changes to the ordinance and submitted them to the city council.

The city council hereby finds that the conditions stated in subsections A through D of this section still exist; therefore, the purpose of the city council in enacting these provisions is: to prevent an exploitation of the shortage in vacant mobilehome spaces in the city, to preserve affordable housing as prescribed by the city's general plan/housing element, to provide mobilehome park owners a guaranteed rate of annual space rent increase that more accurately reflects the rate of inflation given their usual expenses, and to establish an improved process for providing mobilehome park owners a fair return on their property in those cases where the guaranteed annual space rent increase provided by these provisions proves to be insufficient. (Ord. 499 (part), 2004)

5.32.020 Definitions.

For the purposes of this chapter, certain words and phrases are defined as follows:

“Affected tenants” means those tenants whose space is not covered by a valid lease meeting the requirements as outlined in Section 798.17(b) of the California Civil Code or otherwise legally exempt from local rent control regulation as set forth in Section 798.21, or as set forth in Section 5.32.030 of this chapter. Affected tenants are to be notified that a space rent increase is to become effective. For purposes of providing notice of the increase, each space subject to a rental increase shall be deemed to have only one “affected tenant” for administrative convenience to the park owners. The reference to “all affected tenants” will refer to one representative tenant from each space subject to the proposed rental increase.

“Base rent” means the authorized space rent plus any rent increase allowed under Section 5.32.060 or any rent adjustment attributable to an increase upon change of occupancy as provided in Section 5.32.070. Base rent does not include rent increases for capital expenses or capital improvements.

“Capital improvements” means those improvements that materially add to the value of the property and appreciably prolong its useful life or adapt it to new uses, and which may be amortized over the useful remaining life of the improvement to the property. The term “capital improvements” does not include those costs associated with the normal maintenance and upkeep of facilities and premises which were reasonably intended to be part of consideration provided by the mobilehome park as rent. Substantial rehabilitation of the park that is necessitated as a result of the park owner's neglect, permissive waste, deferred maintenance or acts of God shall not be regarded to be capital improvements to the extent that they restore facilities and premises to the conditions reasonably bargained for by the mobilehome park tenants. Proposed capital improvements claims must set forth an amortization table spreading the cost of the improvement over its proven useful life. Rents based on such costs, if approved, must be separately itemized on the monthly rent invoice. In addition, the beginning date upon which such rents may be imposed and the ending date upon which such rents may no longer be imposed, must be stated on each monthly rent invoice submitted during the time such rents are charged to the tenant. Monthly rent shall be decreased for such amortized capital improvement expenses at the end of the amortization period. Failure to do so shall be regarded to be an unauthorized increase in rent. Capital improvements must be for the primary benefit, use and enjoyment of the tenants of the entire park, and costs must be allocated over all beneficiaries of the improvement.

“City manager” means the city manager of the city of Morro Bay or his or her designee.

“Consumer Price Index” means the Consumer Price Index for All Urban Consumers Los Angeles, Long Beach, Anaheim Area, published by the U.S. Department of Labor, Bureau of Labor Statistics.

“Debt service costs” means the periodic payment or payments due under any security or financing device which is applicable to the mobilehome park including any fees, commissions, or other charges incurred in obtaining such financing.

“Housing service” means a service provided by the owner related to the use or occupancy of a mobilehome space, which is neither a capital improvement nor substantial rehabilitation as those terms are defined in this chapter, including but not limited to, repairs, replacement, maintenance, painting, lighting, heat, water, laundry facilities, refuse removal, recreational facilities, parking, security service, and employee services.

“Just and reasonable return on the property” means there is a range of rents which could be allowed in any one mobilehome park subject to this chapter, all of which could be characterized as allowing a “just and reasonable return.” There is no one precise formulation; rather, there are a variety of formulations which produce a zone of reasonableness.

“Maintenance and operation expenses” means all expenses incurred in the operation and maintenance of the mobilehome park, including but not limited to: real estate taxes, business taxes and fees, insurance, sewer service charges, utilities, janitorial services, professional property management fees, pool maintenance, exterior building and grounds maintenance, supplies, equipment, refuse removal, and security services or systems.

“Mobilehome” means a structure designed for human habitation as defined by Section 798.3 of the California Civil Code, provided, however, that recreational vehicles, as defined in Section 799.29 of the California Civil Code and Section 18010 of the California Health and Safety Code, which have occupied the same mobilehome or recreational vehicle park space continuously for nine months or more shall be considered mobilehomes.

“Mobilehome park” or “recreational vehicle (RV) park” means an area of land where two or more mobilehome or RV sites are rented, or held out for rent, to accommodate mobilehomes or RVs used for human habitation. This rent stabilization chapter shall apply to those spaces in recreational vehicle parks that are continuously occupied by an affected tenant for nine months or longer.

“Mobilehome park owner” or “owner” means the owner, lessor, operator or manager of a mobilehome park.

“Mobilehome rent review board” or “board” means the mobilehome rent review board established by this chapter.

“Mobilehome space” means any site within a mobilehome park located in the incorporated areas of the city intended, designed, or used for the location or accommodation of a mobilehome and any accessory structures or appurtenances attached thereto or used in conjunction therewith except “new construction” as defined by Civil Code Section 798.45. The term “mobilehome space” shall also include, for purposes of this rent stabilization ordinance, rentable spaces within mobilehome parks which have been occupied by a “recreational vehicle” as defined by Civil Code Section 799.29 continuously for a period of nine months or more.

“Mobilehome tenant” or “tenant” means any person entitled to occupy a mobilehome within a mobilehome park pursuant to ownership of the mobilehome.

“Net operating income” means gross income less operating expenses. All operating expenses must be reasonable. Whenever a particular expense exceeds the normal industry or other comparable standard, the park owner shall bear the burden of proving 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.

“Nonpermanent resident” means any tenant who does not meet the criteria set forth for a permanent resident.

“Party” means any affected mobilehome tenant and/or owner involved in proceedings under this chapter.

“Percent change in Consumer Price Index” means the annual percent change in the Consumer Price Index (“CPI”), calculated to the nearest tenth, for the twelve-month period from September through August.

“Permanent resident” means any person who manifests intent to live or be located in a mobilehome park on more than a temporary or transient basis. Presence in a mobilehome park for two hundred seventy days or more in any twelve-month period shall establish permanent residence, or meeting at least half of the following criteria shall establish permanent residence within a mobilehome park:

1. Address where registered to vote;
2. Location of employment or place of business;
3. Attendance of dependents at a primary or secondary school;
4. Not receiving a homeowner’s exemption for another property or mobilehome in this state nor having a principal residence in another state;
5. DMV license address;
6. Mailing address;
7. Vehicle insurance address;
8. Bank account;
9. IRS address;
10. Local club/association membership.

“Rent increase” means any additional space rent demanded of or paid by a tenant for a mobilehome space including any reduction in housing services without a corresponding reduction in the amount demanded or paid for rent.

“Space rent” means the consideration, including any bonus, benefit, or gratuity, demanded or received by a mobilehome park owner for or in connection with the use or occupancy of a mobilehome space or any housing services provided with the mobilehome space, but exclusive of (1) any amount paid for the use of the mobilehome, (2) security deposits and special amortized or limited rent increases, (3) user fees for services or facilities which may be utilized at the option of the affected tenant and are not included in monthly space rent, and (4) utility charges for those mobilehome parks which charge affected tenants separately, whether or not the mobilehome homes are individually metered.

“Substantial rehabilitation” means that work done by an owner to a mobilehome space or to the common areas of the mobilehome park, exclusive of a capital improvement as that term is defined in this chapter, the value of which exceeds two hundred dollars and which is performed whether to secure compliance with any state or local law or to repair damage resulting from fire, earthquake, or other casualty or natural disaster, to the extent such work is not reimbursed by insurance.

“Tenant-to-be” means a person who is not currently a tenant in a mobilehome park but is a prospective mobilehome space tenant who desires the use of a mobilehome space as defined in this chapter and has presented himself or herself to the park owner as such and who would not be exempt under any of the provisions set forth in Section 5.32.030. (Ord. 499 (part), 2004)

5.32.030 Exemptions.

The provisions of this chapter shall not apply to the following tenancies in mobilehome parks:

- A. Mobilehome park spaces rented for nonresidential uses;
- B. Mobilehome parks managed or operated by the United States Government, the state of California, or the county of San Luis Obispo;
- C. Tenancies which do not exceed an occupancy of thirty days and which do not contemplate an occupancy of more than thirty days;

D. Tenancies exempt from rent regulation by federal or state law or regulation, including but not limited to, tenancies governed by Civil Code Sections 798.17 rental agreements and 798.21 not principal residence;

E. Mobilehome parks which sell lots for factory-built or manufactured housing, or which provide condominium ownership of such lots, even if one or more homes in the development are rented or leased out.

F. Mobilehomes that are owned by the park owner.

G. Spaces that are vacant or become vacant after the effective date of the ordinance codified in this chapter are, upon subsequent occupancy, exempt from this chapter. "Vacant," for the purposes of this section, means that the park owner has lawfully obtained the rights to occupancy of a space through, for example, the purchase of a mobilehome from a mobilehome owner, eviction or abandonment. This exemption does not apply if an affected tenant sells to a third party. This exemption shall apply only where the park owner, prior to entering into a rental or lease arrangement with subsequent homeowners, gives written notice that the unit or space is not subject to Morro Bay Municipal Code 5.32. The notice shall be in substantially the following form:

THE MOBILEHOME SPACE OR UNIT SPECIFIED BELOW IS NOT SUBJECT TO RENT CONTROL UNDER THE MORRO BAY MUNICIPAL CODE. BECAUSE THE MOBILEHOME SPACE OR UNIT SPECIFIED BELOW IS NOT SUBJECT TO RENT CONTROL, THE LANDLORD MAY RAISE THE RENT WITHOUT ANY LIMITATION OR REVIEW BY THE CITY OR OTHER GOVERNMENT OR ADMINISTRATIVE AGENCY. YOU ARE SOLELY RESPONSIBLE FOR INFORMING YOURSELF OF YOUR RIGHTS AND OBLIGATIONS IN THIS MATTER AND FOR PROTECTING YOURSELF AGAINST FUTURE RENT INCREASES. I HEREBY ACKNOWLEDGE THAT I HAVE READ AND HAVE RECEIVED A FULLY COMPLETED COPY OF THIS NOTICE PRIOR TO ENTERING INTO A RENTAL OR LEASE ARRANGEMENT INVOLVING THE BELOW DESCRIBED MOBILEHOME SPACE OR UNIT.

(Ord. 499 (part), 2004)

5.32.040 Mobilehome rent review board—Established—Members—Terms.

A. There is established a mobilehome rent review board consisting of seven members.

B. The city manager shall appoint a staff member to be liaison and secretary to facilitate the formation of the board. The secretary shall maintain an accurate public record of the activities and official actions of the board.

C. The mobilehome rent review board shall be comprised of: two Morro Bay mobilehome park owners; two Morro Bay mobilehome affected tenants (one permanent and one nonpermanent); and three individual members residing in San Luis Obispo County who are neither mobilehome park owners nor mobilehome tenants, nor have any financial interest (as defined by state law) in any mobilehome park. The first four board members shall be chosen by lottery from a list of candidates. The first four board members shall not have a stake or financial interest in the dispute. The list of candidates shall include all park owners and any affected tenants who have volunteered to serve on the board. The three at-large members shall be mutually acceptable to the first four members.

D. Board members shall not be compensated for their services as such, but may receive reimbursements as provided by the city budget for traveling.

E. The formation of the board shall occur upon receipt of a written petition as set forth in Section 5.32.090 and shall continue until a formal written statement of decision is rendered by the board. (Ord. 499 (part), 2004)

5.32.050 Mobilehome rent review board—Powers and duties.

Within the limitations provided by law, the board shall have the following powers and duties:

- A. To receive, investigate, hold hearings on and render opinions upon a dispute relating to this mobilehome and recreational vehicle park rent stabilization ordinance;
 - B. To make or conduct such independent hearings or investigations as may be appropriate to obtain such information as necessary to carry out its duties; and
 - C. To render after every rent review hearing a written report concerning its activities, holdings, actions, results of hearing, and all other matters pertinent to this chapter which may be of interest to the public in general.
- (Ord. 499 (part), 2004)

5.32.060 Residential rent increase limitations.

A. Except as provided in subsections C and D of this section, from and after the effective date of the ordinance codified in this chapter, the space rent payable for use or occupancy of any mobilehome space shall not be increased within twelve months of the effective date of any preceding rent increase.

Base rent increase shall not exceed:

- 1. Seventy-five percent of the percent change in the Consumer Price Index for permanent residents; or
- 2. One hundred twenty-five percent of the percent change in the Consumer Price Index for nonpermanent residents who are not exempt from this chapter pursuant to Civil Code Section 798.21.

B. Any dispute as to whether an affected tenant is a permanent or nonpermanent resident or is exempt from this chapter pursuant to Civil Code Section 798.21 shall be resolved pursuant to Section 5.32.190 and the tenant shall have the burden of proof to prove that he or she is a permanent resident or is not exempt from this chapter.

C. An owner shall be exempt from this section and the need to meet and confer as set forth in Section 5.32.090 if the owner is able to obtain written consent of sixty-six percent of all the affected tenants in the park agreeing to the increase in space rent to an amount greater than allowed in this chapter once each year.

D. In the event an owner wishes to increase the rent payable for any mobilehome space within the twelve-month period more than the amount permitted in subsection A of this section and the owner cannot obtain the consent of sixty-six percent of the affected tenants, a mandatory meet-and-confer meeting shall automatically be required to show good cause why such an increase is necessary.

E. Any notice of rent increase given by an owner pursuant to this section shall be given in writing at least ninety days before any rent increase is to take effect.

F. A notice of rent increase incorporating within it a proposed or completed capital improvement which is not otherwise authorized as a pass-through pursuant to Civil Code Section 798.49 must be claimed within twelve months of the completion of the project or construction or the owner's receipt of the final billing for same, whichever occurs later. (Ord. 499 (part), 2004)

5.32.070 Increases upon change of occupancy.

Notwithstanding the twelve-month limitation set forth in Section 5.32.060, upon change of occupancy of a mobilehome, the rent increase upon sale shall be limited to:

For affected tenants who are permanent residents, ten percent of the current existing space rent or the average of the lowest and highest space rent for all the affected tenants of that particular park, whichever is greater.

For affected tenants who are nonpermanent residents, fifteen percent of the current existing space rent or the average of the lowest and highest space rent for all the affected tenants of that particular park, whichever is greater.

Resident status pertains to the selling tenant, not the tenant-to-be.

The limitations of this increase shall not apply if change in occupancy is due to the involuntary eviction of a tenant.

No rent increase under this section shall be allowed due to the death of the tenant wherein the deceased tenant's spouse, parents or children take over the occupancy. (Ord. 499 (part), 2004)

5.32.080 Information to be supplied to tenants.

A. Within thirty days after the effective date of the ordinance codified in this chapter and prior to the re-renting of each mobilehome space thereafter, the owner shall supply each affected tenant with a current copy of this chapter.

B. Whenever the owner serves a notice of rent increase, except a notice of rent increase provided pursuant to Sections 5.32.060(A), (C), or (D) or 5.32.070, the owner shall at the same time and in the same manner serve the affected tenant with a notice that sets forth all of the following information:

1. The amount of the rent increase both in dollars and as a percentage of existing rent and documentation supporting the level of increase desired;

2. The identity of all other affected tenants and the spaces that they rent;

3. The park owner shall place on file with the city manager two copies of documentation supporting the level of increase desired.

C. An owner failing to provide an affected tenant and the city manager with the notices required by this section shall not be entitled to collect any rent increase otherwise authorized by this chapter from that tenant. (Ord. 499 (part), 2004)

5.32.090 The rent dispute resolution process.

A. Mandatory Meet-and-Confer Meeting. Except when a park owner elects rent increases permitted under Section 5.32.060(A) or is able to obtain written consent of sixty-six percent of the tenants as set forth in Section 5.32.060(C), the tenants and park owners must, within thirty working days of the notice of rent increase, meet and confer with each other's representatives. Written notice of the time, place and date of the meeting should be arranged within fourteen days of the notice of rent increase. If the park owners or tenants fail to agree on the time, place and date of the hearing and to provide due notice to the city manager, the meeting shall be set at the convenience of the city manager. At the meeting, representatives of the parties should exchange documentary evidence that the parties in good faith then know will be used to support their respective positions in any rent review board hearing and discuss the issues in dispute. In the case of a park owner, all financial data upon which any proposed increase is claimed shall be supplied to tenant representatives at the time of the meet-and-confer meeting.

1. Meet-and-Confer Information. The park owner has a duty and burden to provide adequate information in regard to the rental increase to allow the tenants to make a reasonably sophisticated inquiry into the requested rental increase.

B. Petition. If discussions between owner and tenants do not resolve the dispute between them, the tenants or their representative shall file with the city manager a petition for space rent review and a copy of the notice of rent increase within thirty days of the meet-and-confer meeting. The city manager shall not accept a petition for filing unless it has been signed by at least fifty-one percent of the affected tenants who are subject to the rent increase. Upon the filing of a petition, the rent increase is not effective and may not be collected until and to the extent it is awarded by the board or until the petition is abandoned. As used in this chapter, the term "abandoned" refers to lack of prosecution of the arbitration by the mobilehome tenants' representative(s). The term "prosecution" refers to actively pursuing necessary steps toward preparing the tenants' case for the arbitration hearing.

C. Contents of Petition.

1. The petition for space rent review shall set forth the total number of affected rented spaces in the mobilehome park, shall identify the space occupied by each tenant and shall state the date upon which the notice of the rent increase was received by the tenant(s).

2. After obtaining the required signatures, the tenant(s) shall deliver the petition or mail it by registered or certified mail to the city manager at the following address: 595 Harbor Street, Morro Bay, California 93442 (or other address as determined by the city manager). No petition shall be accepted unless it is accompanied by the requisite number of signatures and is received in the office of the city manager within the thirty-day period set forth in subsection B of this section. The city manager shall provide a copy of the completed petition form to both parties forthwith or within five working days of the petition's receipt.

D. Assignment to Board and Hearing Date. Upon receipt of the petition, or upon notice of any other dispute that requires board resolution, the city manager shall, within thirty working days, commission a mobile-home rent review board as established by Section 5.32.040. The owner and affected tenant(s) shall be notified immediately in writing by the city manager of the date, time, and place of the hearing and this notice shall be served either in person or by ordinary mail.

E. Rent Review Board Hearing.

1. The owner and tenant(s) may appear at the hearing and offer oral and documentary evidence. Both the owner and tenant(s) may designate up to three representatives to appear for them at the hearing. The board may grant or order one continuance not to exceed five days to each party from the date of the hearing. The burden of proving that the amount of rent increase is reasonable shall be on the owner by a preponderance of the evidence. The hearing need not be conducted according to technical rules relating to evidence and witnesses. The rules of evidence and manner of producing evidence shall be those rules set forth in Section 11513 of the California Government Code for the conduct of hearings under the Administrative Procedure Act. These rules may be relaxed at the discretion of the board in the interests of justice. The board shall have the ability to close the hearing to the general public if confidential financial information may be disclosed during the hearing.

2. The board shall, within fourteen days of the hearing, submit by mail a written statement of decision and the reasons for the decision to the city manager who shall forthwith distribute by mail copies of the decision to the owner and tenant(s). The board shall determine the amount of rent increase, if any, which is reasonable based upon all the provisions of this chapter.

3. Excluding rent increases permitted under Sections 5.32.060(A) and 5.32.070, the board shall not allow more than one rent increase per park per twelve-month period.

4. The decision of the board, rendered in accordance with this section, shall be final and binding upon the owner and all affected tenants. The decision of the board will be subject to the provision of Code of Civil Procedure Section 1094.5.

5. Any party may have electronic recording equipment or a court reporter present to record and prepare a transcript of the hearing before the board; however, such equipment or reporter shall be provided at that party's own expense.

6. The board is authorized to modify the basic time periods set forth in this chapter at its discretion to promote the purposes of this program provided a final decision is rendered within ninety days of the notice of rent increase.

7. Any procedural or jurisdictional dispute regarding the processes set forth in this chapter may be decided by the board. (Ord. 499 (part), 2004)

5.32.100 Standards of reasonableness to be applied to rent increases.

A. The board shall determine whether rent increases that exceed Section 5.32.060(A) are reasonable under the circumstances, taking into consideration that the purpose of this chapter is to protect home owners from arbitrary, capricious, or unreasonable rent increases, and at the same time permit park owners to receive a just and reasonable return on their investment. The board, in making the determination, may, but is not required to, look at the following standards:

1. Beneficial increases in maintenance and operating expenses, including but not limited to the reasonable value of the owner's labor and any increased costs for services provided by a public agency, public utility, or quasi-public agency or utility;
2. The substantial rehabilitation or the addition of capital improvements, including the reasonable value of the owner's labor, as long as such rehabilitation or improvement has been completed and is:
 - a. Distinguished from ordinary repair or maintenance,
 - b. For the primary benefit, use, and enjoyment of the tenants,
 - c. Permanently fixed in place or relatively immobile and dedicated to the use of the property,
 - d. Not coin-operated nor one for which a "use fee" or other charge is imposed on tenants for its use,
 - e. Cost-factored and amortized over the good faith estimate of the remaining useful life of the rehabilitation or improvement, and
 - f. Does not constitute maintenance of the infrastructure of gas or electrical lines within the mobilehome park for which the public utility has permitted the park owner a special premium with the intent that it be used to replace or otherwise maintain the system within the mobilehome park;
3. The rental history of the mobilehome park;
4. The occupancy rate of the mobilehome park in comparison to comparable parks in the same general area;
5. Existing rents for spaces in other Morro Bay mobilehome parks;
6. The physical condition of the mobilehome park, including the quantity and quality of maintenance and repairs performed during the last twelve months, provided, however, that if the home owners raise a lack of maintenance or physical deterioration as an issue, the board shall also consider to what extent the home owners notified the park owner of the physical condition, and to what extent the home owners gave the park owner a reasonable opportunity to cure the physical condition;
7. Any increases or reduction in housing services during the twelve months prior to the effective date of the proposed rent increase;
8. Debt service costs used for the servicing of existing debt;
9. Debt Service Costs Due to Refinancing. If the refinancing is used for extracting equity from the park, the rent increase shall be deemed unreasonable, and the rent increase shall not be allowed. The board may also require that the debt service costs be amortized over a period of years which is determined by the board to be reasonable;
10. A decrease in "net operating income" as defined in Section 5.32.020(P);
11. A decrease in the owner's "just and reasonable return on the property" as defined in Section 5.32.020(H);
12. Other financial information that the owner is willing to provide;
13. Any costs incurred as a result of a natural disaster and only to the extent such costs have not been reimbursed to the owner by insurance or other sources and where such costs could not have been prevented by normal maintenance and repair.

B. In any determination of what constitutes a reasonable rent increase under the circumstances, the board shall consider and weigh evidence establishing the nature and extent of any existing and/or outstanding

violations by either the park owners or home owners. Any rent increase or decrease may be disallowed, reduced, or made subject to reasonable conditions, depending on the severity of such violations.

C. Changes in ownership of the park after the effective date of this chapter shall not entitle any succeeding park owner to higher rents than would have been paid if the original owner had remained the park owner without board approval. (Ord. 499 (part), 2004)

5.32.110 Obligations of the parties.

A. If a final decision by the board finds that a proposed increase or any portion thereof that was previously inoperative is justified, the tenant shall pay the amount found justified to the owner within thirty days after the decision is made or as otherwise ordered by the board.

B. If a final decision by the board finds that an increase or any portion thereof is not justified, the owner shall refund any amount found to be unjustified, but that had been paid, to the tenant within thirty days after the decision is made or as otherwise ordered by the board. If such refund is not made within the applicable time period, the tenant may withhold the amount from the next space rent(s) due until the full amount of the refund has been made. Notwithstanding the foregoing, in the event that the tenancy of tenant is terminated for any reason prior to full credit against rent, the balance of the credit due the tenant shall be paid by the owner within thirty days from the date of the termination of the tenancy.

C. Any sum of money that under the provisions of this section is the obligation of the owner or tenant, as the case may be, shall constitute a debt and, subject to the foregoing provisions of this section, may be collected in any manner provided by law for the collection of debts. (Ord. 499 (part), 2004)

5.32.120 Rights of a “tenant-to-be.”

Any person who is a “tenant-to-be” as defined in Section 5.32.020(X) must be offered the option of renting a mobilehome space in a manner which will permit the tenant-to-be to receive the benefits of the mobilehome space rent stabilization program described in this chapter, which includes, but is not limited to, rental of a mobilehome space on a month-to-month basis, and a new base rent. Such a person cannot be denied the option of a tenancy twelve months or less in duration. The park owner shall provide each “tenant-to-be” with a written notification of the option which shall make the following recitation:

UNDER MORRO BAY MUNICIPAL CODE SECTION 5.32 YOU ARE LEGALLY ENTITLED TO ELECT A MONTH-TO-MONTH TENANCY OVER ANY OTHER LONGER PERIODIC TENANCY. YOU ARE ADVISED THAT YOU MAY NOT BE ENTITLED TO RENT STABILIZATION (RENT CONTROL) PROGRAM BENEFITS IF YOU ELECT A LEASE OF MORE THAN TWELVE MONTHS IN DURATION IF THAT LEASE MEETS THE REQUIREMENTS OF CIVIL CODE SECTION 798.17 WHICH HAS BEEN ATTACHED HERETO.

Any effort to circumvent the requirements of this section is unlawful, as well as an unfair business practice subject to enforcement under Business and Professions Code Section 17200 et seq. The rights set forth in this section have no application to mobilehome spaces subject to a more-than-twelve-month lease. By definition, tenants-to-be are prospective “mobilehome tenants,” and such “affected tenants” are defined by Section 5.32.020.

Providing a copy of this chapter to tenants shall be deemed compliance with this section. (Ord. 499 (part), 2004)

5.32.130 Tenants' right of refusal.

A tenant may refuse to pay any increase in rent which is in violation of this chapter, provided a petition has been filed and either no final decision has been reached by the board or the increase has been determined to violate the provisions of this chapter. Such refusal to pay shall be a defense in any action brought to recover possession of a mobilehome space or to collect the rent increase. (Ord. 499 (part), 2004)

5.32.140 Retaliatory acts—Tenants' right to organize.

No owner may retaliate against a tenant or tenant-to-be for the tenant's or tenant-to-be's assertion or exercise of rights under this chapter in any manner, including but not limited to, threatening to bring or bringing an action to recover possession of a mobilehome space; engaging in any form of harassment that causes a tenant to quit the premises; dissuading a tenant-to-be from freely exercising his or her legal options to choose a month-to-month rental; decreasing housing services; increasing the space rent; or imposing or increasing a security deposit or any other charge payable by a tenant. The tenants have a right to organize a tenants' association without hindrance from the park owner to exercise the rights provided under the provisions of the Morro Bay Municipal Code. This association may be referred to as "The Park Tenants' Association at (Park Name)." (Ord. 499 (part), 2004)

5.32.150 Solicitation of any petition by the park owner is without force or legal effect within city's program.

The distribution of a petition or other documents seeking to have mobilehome tenants waive rights, abandon a filed petition or in any way affect the entitlement of the tenants to participate in the rent stabilization process authorized under this chapter shall be without force or legal effect within the city's rent stabilization program. Such documents shall not affect the right of any tenant to participate in the rights, remedies, procedures and processes set forth in this chapter. Efforts to utilize such documents to discourage participation in the city's rent stabilization program may be deemed retaliatory. (Ord. 499 (part), 2004)

5.32.160 Nonwaiverability.

Any provision, whether oral or written, in or pertaining to a rental agreement whereby any provision of this chapter is waived or modified, is against public policy and void, except with respect to any rental agreement complying with all of the terms and conditions set forth in Section 798.17 of the California Civil Code. (Ord. 499 (part), 2004)

5.32.170 Penalties and remedies.

Any owner who demands, accepts, receives, or retains any money as rent from a tenant to which the owner is not entitled under the provisions of this chapter shall be liable to the tenant for any actual damages, attorney's fees, and costs incurred by the tenant as a consequence and the tenant may seek relief in a court of appropriate jurisdiction for injunctive relief and damages. (Ord. 499 (part), 2004)

5.32.180 Rights of affected tenants reserved.

This chapter shall not be construed to limit or curtail any other action or proceeding which may be pursued by an affected tenant against an owner before any court or other body having jurisdiction thereof. (Ord. 499 (part), 2004)

5.32.190 Tenant complaints.

Any affected tenant may file a complaint with the city manager for the purpose of contesting any rent increase and/or to enforce any provision of this chapter. Prior to and as a condition to such filing, the tenant must meet and confer with the owner to attempt to informally resolve their differences. The owner shall make himself or herself available for the meeting and conferring within a reasonable time after being requested to do so by the tenant, but no later than thirty days thereafter. If applicable, the owner shall comply with Section 5.32.080. If such informal resolution cannot be had, then the tenant (hereinafter referred to as "complainant") may file with the city manager (and contemporaneously deliver a copy to the owner) his or her complaint. All such complaints shall describe in detail the basis therefor and shall attach, where available and necessary to a full understanding of the complaint, documents and writings which support the complaint. Upon receiving such a complaint, the city manager shall assign the matter to the board in accordance with Section 5.32.090(D) and the matter shall be arbitrated in conformance with Section 5.32.090(E). (Ord. 499 (part), 2004)

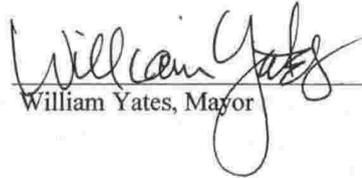
5.32.200 Severability.

The ordinance enacting this chapter shall be liberally construed to achieve its purposes and preserve its validity. If any provision or clause of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable and are intended to have independent validity. (Ord. 499 (part), 2004)

INTRODUCED at the regular meeting of the City Council held on the 8th day of December 2003, by motion of Councilmember Peters and seconded by Councilmember Winholtz.

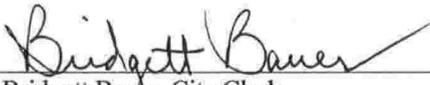
PASSED, APPROVED AND ADOPTED by the City Council of the City of Morro Bay on the 12th day of January 2004, by the following vote to wit:

AYES: Elliott, Peirce, Peters, Winholtz, Yates
NOES: None
ABSENT: None



William Yates, Mayor

ATTEST:



Bridgett Bauer, City Clerk