

§ 5.68.010. Purpose.

The city council finds and declares it necessary to protect the owners and occupants of mobilehomes from unreasonable rent increases while at the same time recognizing the need of the park owners to receive a just and reasonable return on their property and rental increases sufficient to cover the increased costs of repairs, maintenance, insurance, upkeep and additional amenities.

(Prior code § 6803.01)

§ 5.68.020. Applicability.

- A. The provisions of this chapter shall apply to any mobilehome park within the city.
- B. None of the provisions of this chapter shall prohibit any tenant of a mobilehome park from entering into a written lease with the owner of such park which, by its terms, provides for rental increases different than would be allowed by this chapter.
- C. Each park shall have a separate homeowners' association. Within 30 days after the enactment of this chapter and the commencement of each new term of the officers, the association shall file a statement under penalty of perjury with the city clerk specifying the date of the election, the number of homeowners voting for the officers representing them and such other matters as the city clerk may deem necessary for the purpose of identifying the association as being truly representative of the homeowners in the park. If it appears that a majority of the homeowners elected the officers and the association duly represents the majority of the homeowners of the particular mobilehome park, the city clerk shall certify the homeowners' association and the officers thereof as the then duly authorized representatives of a particular mobilehome park. The certification shall set forth the address to which all notices of the association must be given. After certification is given to the organization, the certification shall continue unless it becomes apparent to the city clerk that the organization no longer represents the homeowners of the park and/or the homeowners' organization files a statement changing the representation. A statement shall further be filed with the city clerk at the commencement of the term of each of the officers to the end that the city clerk has on file a list of the current officers of the organization at all times.

(Prior code § 6803.21)

§ 5.68.030. Definitions.

For the purpose of this chapter, the words set out in this section shall have the following meanings:

"Arbitration" means the formal, binding procedure by which rental increases in excess of those permitted under this part are resolved.

"Arbitrator" means a member of the American Arbitration Association selected by the procedures set forth in Section 5.68.070(C)(1).

"Base rent" means the money charged for any mobilehome dwelling unit space in effect for that space on January 1, 1985, subject to the maximum permitted rent increases per

annum as provided for in Sections 5.68.040(A) and (B). In the event that the space under consideration for rent review has been previously rented and the rental agreement is not extended and no new rental agreement in excess of 12 months' duration is entered into, then the last rental rate charged for the space under the previous rental agreement shall be the base rent for purposes of applicable provisions of law concerning rent regulation. This base rental is then subject to the maximum permitted rent increase as provided for in Sections 5.68.040(A) and (B).

Where a lease agreement has expired and no new lease agreement is entered into, then the last rental rate charged for the space under the previous rental agreement shall be the base rent.

"Capital improvement" means the installation of new improvements and facilities and/or the replacement or reconstruction of existing improvements and facilities which consist of more than ordinary maintenance and/or repairs.

"City clerk" means the duly appointed city clerk for the city of Upland.

"Consumer price index" means the consumer price index for all urban consumers (CPI-U) published for the Los Angeles - Long Beach - Anaheim Area for the year 1984, or any successor index.

"Homeowner" means any person entitled to occupy a mobilehome dwelling unit pursuant to ownership thereof or a rental or lease agreement with the owner thereof.

"Homeowners' association" or "association" means a nonprofit unincorporated or incorporated association with membership open to all homeowners of a particular park, duly certified as such by the city clerk, with elected officers for a specified period of time.

"Meet and confer" means the informal process whereby mobilehome park owners and association representatives meet to discuss and resolve issues, including rent increases, prior to the exercise of the right to demand arbitration.

"Mobilehome park owners" means the owner, lessor, operator or manager of a mobilehome park within the purview of this chapter.

"Space rent" means the consideration, demanded or received in connection with the use and occupancy of a mobilehome space in a mobilehome park, or for the transfer of a lease for park space, services and amenities, but exclusive of any amounts paid for the use of the mobilehome dwelling unit. Also excluded are costs for water, gas and electrical charges if the dwelling unit has individual usage meters.

(Prior code § 6803.03)

§ 5.68.040. Permitted rent increases without meet and confer or arbitration.

A mobilehome park owner may assess a rental increase without the necessity of invoking the procedure for meet and confer or for arbitration upon the following conditions:

- A. There have been no prior rent increases within the affected spaces of the mobilehome park for the 12-month period immediately preceding the date of increase.

- B. That the rental increase assessed by the mobilehome park owner does not exceed 80 percent of the increase in the United States Department of Labor Consumer Price Index (all urban consumers) in the Los Angeles Long Beach Metropolitan area for the preceding calendar year, up to a total increase not to exceed seven percent of the base rent for the affected homeowner. Provided, however, in the event that the increase in the C.P.I. shall itself exceed eight and three-quarters percent, such permitted increase shall be seven percent plus 50 percent of the increase of the C.P.I. in excess of eight and three-quarters percent.
- C. Existing leases containing rental provisions between the mobilehome park and the homeowner or the person in possession of the residence of the homeowner, the term of which is in force as of the date of the ordinance codified in this chapter, and any rental agreement which is exempt from any ordinance, rule, regulation or initiative measure adopted by the city establishing a maximum amount that the mobilehome park may charge a tenant for rent in pursuance to subsection (1) of Section 798.17 of the Civil Code of the state of California as it is now proposed and as may be amended from time to time.
- D. Each space's proportional share of:
1. An increase due under a valid existing land lease, binding upon the owner and tenant in existence on September 1, 1992; and/or
 2. An increase in any government imposed taxes, benefit assessments or services (city, county or state) over the fiscal year immediately last past, excluding the first year of any tax increase occasioned by a re-sale of the park, and further excluding water, sewer and refuse charges, and including but not limited to paramedic fees and/or lighting and/or landscaping assessment districts.

(Prior code § 6803.05)

§ 5.68.050. Rental increases in excess of chapter guidelines.

A mobilehome park owner may make application for a rent increase in excess of the guidelines permitted by this chapter upon appropriate application for arbitration under the provisions of Section 5.68.070(B)(3) hereinafter set forth.

(Prior code § 6803.07)

§ 5.68.060. Permissible rental agreements.

Nothing in this chapter shall operate to restrict the right of the homeowner and/or prospective homeowner and mobilehome park owner to enter into an agreement in accordance with Civil Code 798.17. Pursuant to Civil Code 798.17(c) the homeowner and/or prospective homeowner shall have the right to reject the offered rental agreement and accept a rental agreement for 12 months or less, including a month-to-month agreement. No mobilehome park owner may request directly or indirectly that as a condition to the continued tenancy for an existing tenant of the park or a new tenancy for a prospective homeowner in the park, that the tenants sign a lease or rental agreement for a term in excess of one year which has been reviewed and rejected by the homeowner and/or prospective homeowner.

No prospective homeowner or purchaser shall be charged by the park owner a rental fee for the space which he proposes to rent on a lease of one year or less, in excess of the increased rental allowed under Section 5.68.100 of this chapter.

I, the homeowner, have been presented a copy of the Upland Mobilehome Rent Review Ordinance this _____ day of _____ in the year _____. Signed:

(Prior code § 6803.08)

§ 5.68.070. Request for additional rent increases.

- A. In order to implement a rent increase in excess of the guidelines of Section 5.68.050, the mobilehome park owner must file with the association a 60-day written notice of a proposed rent schedule on a form approved by the city council. The rent schedule shall show the existing and proposed rents for each space. The mobilehome park owner shall serve each affected homeowner, either personally or by mail, with such 60-day written notice of the proposed increase in accordance with California Civil Code, Section 798.30, or its successor, and in addition, with notice that a request for approval of the increase is being filed with the city clerk. The mobilehome park owner shall file proof of service with the city clerk concurrent with the filing of the rent increase request.
- B. Within 10 days of such notification, the city clerk shall mail written notice to the homeowners' association at its address specified in its certification and the owners of the mobilehome park specifying the proposed rent increase setting a place, date and time for the holding of a meet and confer session on the subject of the proposed rent increase. If the meet and confer session results in an agreement between the mobilehome park owner and the association as to the amount for the proposed rent increase, the rent schedule agreed upon shall be submitted to the city clerk, setting forth the agreed upon rent schedules and executed by the parties to be affected by such revised schedule. The meet and confer proceeding shall be conducted according to the following rules and procedures:
 - 1. The session shall be conducted by the chair of the association and the authorized representative of the park owner.
 - 2. The proceeding shall be an informal, nonbinding proceeding for the purpose of reaching agreement as to the amount of the proposed rent increase.
 - 3. Any party, i.e., homeowners' association or park owner, unsatisfied with the result of the meet and confer proceeding may, within 10 days of the date of such meeting, file a written request for formal arbitration. The request is to be filed with the office of the city clerk between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.
 - 4. The party requesting arbitration shall have the burden of proof at the hearing. Such burden shall be satisfied if the party proves their case by a preponderance of the evidence.

- C. If arbitration is requested the following procedures shall be used:
1. Immediately upon notice of a request for arbitration, the city clerk shall secure a list of three arbitrators available to serve in this matter. The list shall be mailed to each participating association who shall be entitled to strike one name from the list, returning the list to the city clerk showing the name of the person removed from the list. The name remaining shall be the arbitrator. If both parties strike the same name from the list, the clerk shall select the arbitrator from the remaining names.
 2. Within a period of 30 days following the selection of an arbitrator, a hearing shall be held for the presentation of evidence as to the propriety and/or reasonableness of the subject rent increase. Written notice of the time and place of the hearing shall be given to the parties thereto not less than 20 days prior to the hearing. The notice shall be given by personal delivery or by depositing in the United States mail directed to the addresses on file with the clerk. A reasonable continuance, not to exceed 30 days may be granted by stipulation of the parties or at the discretion of the arbitrator.
 3. Each party shall file with the arbitrator and serve copies on the opposing party no less than seven days prior to the arbitration all documentary evidence that party intends to introduce into evidence at the time of hearing. Failure to file such documentary evidence under this schedule shall preclude the use of such documents at the hearing except as otherwise stipulated to by the parties, or as permitted by the arbitrator.
- D. In the consideration of the reasonableness of a proposed rent increase, the arbitrator shall consider all relevant factors in determining whether such increase yields a just and reasonable return on the mobilehome park owner's property, to include, but shall not be limited to the following:
1. Changes in the Consumer Price Index;
 2. The Voluntary Pay and Price Standards promulgated by the President of the United States or any other lawfully established state or federal government wage and price guidelines;
 3. The rent lawfully charged for comparable mobilehome spaces in the Inland Empire of Western San Bernardino County;
 4. The length of time since the last rent increase for the mobilehome space or spaces in the subject park;
 5. The arbitrator shall specify that an increase in rent or a portion of an increase in rent granted be limited to the length of time necessary to allow the park owner to reasonably amortize the cost of a capital improvement, including interest. Such increase granted as a result of the capital improvement shall not continue beyond the time necessary for reasonable amortization of the cost of such improvement;

6. Changes in the rent paid by the park owner for the lease on which the subject mobilehome park is located;
7. Changes in the utility charges for the subject mobilehome park paid by the park owner and the extent, if any, of reimbursement from the homeowners;
8. Changes in reasonable operating and maintenance expenses;
9. The need for repairs caused by circumstances other than ordinary wear and tear not covered by owner's insurance;
10. The amount and quality of services provided by the park owner to the affected homeowner;
11. Any existing written lease lawfully entered into between the park owner and other homeowners in the park;
12. The present market value of the mobilehome park owner's property;
13. The investment of the park owner in the subject park property.

E. At the hearing:

1. The parties may offer any testimony, documents, written declarations or other evidence that is relevant to the subject of the hearing.
2. The parties may have assistance in presenting evidence, or in setting forth by argument their position, from an attorney or such other person as may be designated by the parties; provided, however, that each party may have only one such spokesperson at the hearing.
3. In the event either party should fail to appear, the arbitrator may hear and review such evidence as may be presented and make such decisions as if both parties were present.
4. All testimony shall be taken and all documentary evidence shall be submitted under penalty of perjury according to the laws of the state of California.
5. It need not be conducted according to the technical rules relating to evidence and witnesses, as applicable in courts of law. To be admissible evidence shall be of the type of which responsible persons are accustomed to rely in the conduct of serious affairs. A full and fair hearing shall be accorded to the parties to the hearing.
6. The proceedings shall be tape recorded. Any party who desires that the proceedings be recorded stenographically shall make arrangements with the city clerk at least five days before the hearing. Any transcripts prepared by a reporter at the party's request shall be at his or her expense, and the original shall be filed with the city clerk. If the party makes a request for a transcript of the tape recording at the time of or after the hearing, he or she shall make arrangements to copy the official tape recording with the city clerk. All

expenses incurred for the transcript will be borne by the requesting party.

7. Any person may be excluded during the hearing by the arbitrator if that person is disruptive or otherwise interferes with the orderly conduct of the proceedings.
- F. The arbitrator shall make a final decision within 10 days of the conclusion of the hearing. The written decision, including all applicable findings, shall be delivered to the city clerk who shall mail the decision of the arbitrator to all parties.
- G. All mobilehome rent arbitration hearings shall be open to the public.
- H. Any decision of the arbitrator must be supported by a preponderance of the evidence.
- I. The conclusion and findings of the arbitrator shall be final and binding on all parties, subject to review by the city council as set forth in Section 5.68.080.
- J. In the event that a final determination on the proposed rent increase is not made prior to the effective date of said increase pursuant to California Civil Code, Section 798.30, the requested increase shall, nevertheless, become temporarily effective at the option of the park owner. Should the election be made to have the temporary increase pursuant to this subsection, the full amount of the increase which is in excess of that permitted under Section 5.68.050, shall be placed in a segregated interest-bearing account and shall not be used for the benefit of either homeowner or park owner. Upon a final determination as to the proposed rent increase, the deposited moneys, including any accrued interest, shall be distributed to the respective parties entitled thereto within 10 days of said final determination.
- K. Costs of arbitration shall initially be borne by the park owner. Fees for the arbitration process shall be established by resolution from time to time by the city council to defray the costs to the city in administering this chapter, including any attorney's fees incurred by the city, and such fees shall be estimated by the city clerk based upon such resolution and shall be advanced upon demand by the city clerk. Any park owner failing to post his or her fees for arbitration, including the fees above mentioned, shall be prohibited from participating in the arbitration proceedings.

The arbitrator shall determine the portions of costs to be paid by park owner and homeowner(s) on the expenses of each arbitration. Arbitration expenses shall not include attorney's fees incurred for proceedings or, in preparation of such proceedings, by the mobilehome park owner or by the homeowner(s). Arbitration expenses shall be awarded on the basis of considering which party prevailed and the rationality of the request of each of the parties. The determination as to how much of the expenses each of the parties shall pay based upon the criteria of this subsection, shall be in the sole discretion of the arbitrator.

(Prior code § 6803.09)

§ 5.68.080. Review by the city council.

- A. Conclusions and findings of the arbitrator shall be final and binding on all parties unless one of the parties appeals the decision of the arbitrator and files the appeal with the city clerk within 10 days after the decision of the arbitrator is mailed to the parties. The city council shall hear the appeal not less than 20 days nor more than 35 days after the appeal is filed.
- B. The initial appeal filed by the appealing party shall simply state that the appealing party has elected to appeal the decision of the arbitrator and state in general language the nature of the grounds for the appeal. Within 30 days after the preliminary notice of appeal, the appellant must serve and file with the respondent his or her proposed statement, consisting of:
1. The condensed statement in narrative form of all or part of the oral proceedings; and
 2. A summary statement of the written evidence produced and the grounds for the appeal of the appellant setting forth which parts of the oral testimony and/or the written evidence sustain the appellant's position. The appellant must serve and file the proposed statement on the respondent. Within 20 days after service of the appellant's proposed statement, the respondent must serve and file his statement prepared in like manner as the appellant's.
- C. The arbitrator shall within five days after receipt of the statement of respondent file a summary statement of the oral testimony and documentary evidence introduced in this proceeding with reference to the points raised by the statements of both appellant and respondent and shall further file with the council all documentary evidence introduced by the parties at the hearing of the matter, including tapes or any transcript of the proceeding before the arbitrator.
- D. The council, at the hearing of the matter on review, shall consider all summary statements received by it, together with the documentary evidence, including tapes and/or transcripts on file with the arbitrator and shall not be obliged to hear any further testimony or argument at the hearing except argument by one representative appointed by each of the parties, each of whom shall address the evidence both documentary and oral which he or she believes sustains his or her respective position on appeal.
- E. The council shall, upon hearing the evidence, both documentary and orally, consider whether the arbitrator's decision is supported by the preponderance of the evidence or whether the arbitrator's decision and/or the proceeding was arbitrary, capricious, unfair or contrary to the standard set forth in this chapter. If the council determines that the decision was not supported by the preponderance of the evidence and/or that the decision or proceeding was arbitrary, capricious, unfair or contrary to the standard set forth in this chapter, then the council may grant the appeal on terms and conditions as it deems just to achieve the purposes of this chapter. The decision of the council shall be made and mailed to each of the parties within 10 days after the hearing, and its decision shall be final.

(Prior code § 6803.11)

§ 5.68.090. Reduction in services provided.

No landlord shall reduce or eliminate any service in a mobilehome park or to any homeowner within any mobilehome park unless and until a proportionate share of the cost savings resulting from such reduction or elimination is passed on to the homeowner in the form of a decrease in rent.

(Prior code § 6803.13)

§ 5.68.100. Increase upon sale or transfer.

A. The owner, operator or manager shall provide the purchaser of a mobilehome that will remain in the park at the time of such purchase with a copy of this chapter prior to the execution of a rental agreement with the purchaser for the space in the park whether the space or the park is subject to this rent review chapter or not. A park owner may charge a rent increase of \$34.00 per month or seven percent of the rent in effect at the time of transfer, whichever is the greater, over the last monthly rental rate charged for a space, when ownership or occupancy of a mobilehome in the park is transferred, provided that:

1. Transfer of ownership or occupancy for purposes of this chapter shall not include transfers to the conservator, guardian or trustee of a homeowner, transfers to a homeowner's trust (provided that the beneficiaries entitled to ownership of the mobilehome are members of the homeowner's immediate family), transfers to a surviving spouse upon the death of the other spouse, interspousal transfers, or a transfer to the parent(s) or children of a homeowner.
2. Removal of a mobilehome from a park for purposes of this chapter shall not include removal of a mobilehome by a homeowner already residing in a park for the purpose of replacing a mobilehome with a new or different mobilehome.
3. After the increase provided in subsection A of this section has been charged, the rent for that space shall thereafter be subject to regulation under all the provisions of this chapter and no rent increases may be charged, collected or retained except as provided in this chapter. For the purposes of annual increase provided in Section 5.68.040, no such increase may be charged until 12 months after the increase permitted by this subsection.
4. A homeowner who intends to put a mobilehome up for sale may request a written statement from the park owner specifying the rent which will be charged the new homeowner. The park owner shall provide that statement to the homeowner within 15 days of the request, which shall be deemed received by the park owner upon the date of personal delivery to the park manager or owner or the third day after deposit in the U.S. mail, certified or registered mail return receipt requested. The statement from the park shall be deemed received by the homeowner upon the date of personal delivery to the homeowner or upon the third day after deposit in the U.S. mail, certified or registered mail return receipt requested. The park owner shall not impose any

rent higher than that set forth in that statement to a new homeowner for 120 days after the date it is provided to the homeowner. If the homeowner has not sold the mobilehome before the commitment in that statement expires, the homeowner shall have the right to obtain subsequent written statements pursuant to this subsection.

- B. No upward adjustment of rents shall be authorized by reason of increased interest or the expense resulting from the mobilehome park owner refinancing the mobilehome park if at the time owner refinanced, the owner could reasonably have foreseen that such increased expenses could not be covered by the rent schedule in existence except where such refinancing is reasonable, is needed for the owner to make capital improvements, or where such refinancing is required under the terms of the existing loan or mortgage. A park owner may negotiate with his or her association for a passthrough for capital costs. If agreement cannot be reached, request to the city clerk for arbitration is allowed.
- C. No upward adjustment of rents shall be authorized because of the owner's increased or other expenses resulting from a sale of the park, if at the time the owner acquired the park, the owner could have reasonably foreseen that such increased expenses would not be covered by the rent schedule then in effect. This section shall apply only to mobilehome parks acquired after the date of adoption of the ordinance codified in this chapter.

(Prior code § 6803.15)

§ 5.68.110. Violation.

- A. Any party aggrieved by the wilful violation of any of the provisions of this chapter may sue thereon and recover actual damages therefor, plus a civil penalty as provided herein. Any park owner or his or her agent who demands, accepts, receives or retains any payment of space rent in excess of the maximum lawful space rent, in violation of the provision of this chapter or any rule, regulation or order hereunder promulgated, shall be liable as hereinafter provided to the homeowner from whom such payments are demanded, accepted, received or retained, for damages as a civil penalty in an amount of \$500.00 or three times the amount by which the payment so demanded, accepted, received or retained exceeds the maximum lawful space rent, whichever is greater. The owner is also liable to the homeowner for any such payments actually collected and refunded, if any, plus interest from the date received, reasonable attorneys' fees, and costs as determined by the court.
- B. The fact of any wilful violation of this chapter may be used by the aggrieved homeowner as a defense to any action for unlawful detainer based on nonpayment of rent.
- C. Any wilful violation of this chapter shall be a misdemeanor and shall be punishable by a fine of not more than \$1,000.00 or by imprisonment in the county jail for a period not exceeding six months or by both such fine and imprisonment. Each continuing day of violation shall be deemed to be a separate violation.

§ 5.68.110

§ 5.68.120

(Prior code § 6803.17; Ord. 1812 § 1, 2006)

§ 5.68.120. Termination.

The provisions of this chapter will continue in effect and shall be valid and binding upon all parties affected thereby until these provisions are amended or revoked by a legislative enactment of the city council of the city.

(Prior code § 6803.19)