

## Chapter 5.80      **MOBILE HOME PARK RENT STABILIZATION**

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### **5.80.010 Purpose**

The purpose of this Chapter is as follows:

- A.**      Mobile home owners have a substantial investment in their residences and appurtenances for which space is rented. Alternate sites for relocation of mobile homes are difficult to find due to restrictions of age, size, or style of mobile homes permitted in many mobile home parks, and related to the installation of mobile homes, including permits, landscaping and site preparation. Additionally, the cost of moving a mobile home may be substantial, and the risk of damage in moving is significant.
- B.**      Mobile homes are often occupied by senior citizens, persons on fixed income and persons of low or moderate income, on whom extreme rent increases fall with particular harshness. Many mobile home owners have a substantial portion of their net asset worth invested in their mobile homes. The continuing possibility of unreasonable mobile home space rental increases threatens to diminish the value of that investment.
- C.**      It is the goal of the City of Menifee's Housing Element to conserve and improve existing affordable housing in the City, and to prohibit conversion of mobile home spaces available for rent or mobile home parks to other uses unless conditions exist to maintain existing affordability.

**D.** The economic conditions and recognized housing shortage in Southern California has the potential to detrimentally impact a substantial number of residents in the City, and impose a particular hardship on senior citizens, persons living on fixed incomes, and other vulnerable persons living in mobile home parks in the City.

**E.** It is necessary to facilitate and encourage fair bargaining between tenants and mobile home park owners in order to achieve mutually satisfactory agreements regarding space rent which preserve the value of a tenants' mobile home and the value of the mobile home park itself. It is also necessary to protect the tenants from unreasonable space rent increases while simultaneously recognizing and providing a fair return to mobile home park owners.

**F.** Riverside County Ordinance No. 760, as amended, enacted in 1996, and adopted by the City in 2008 upon incorporation, has been reviewed and evaluated and found to be inadequate for the needs and purposes of the City as reflected in the above findings, and the City's adoption thereof is therefore repealed with the adoption of this Chapter.

**G.** Administration of this Chapter shall be under the general direction of the Community Development Director with general oversight responsibility vested in the City Manager.

## **5.80.020 Applicability**

The provisions of this Chapter shall apply to all mobile home parks located within the City unless otherwise exempt from the provisions of this Chapter. Nothing in this Chapter shall be deemed to supersede any provision of the California Civil Code Section 798 *et seq.*, and as it may be amended.

## **5.80.030 Exemptions**

Pursuant to the Mobile Home Residency Law, the provisions of this Chapter shall not apply to the following:

**A.** Rental agreements in excess of 12 months duration, entered into before February 13, 2020 for the personal and actual residence of the tenant which meet all of the criteria in Civil Code Section 798.17(b), as the same may be amended from time to time (Civ. Code, §798.17). However, agreements entered into on or after February 13, 2020, including agreement or contract renewals, even when they meet these requirements, do not qualify for this exemption. Upon expiration of or other termination of an exempt rental agreement pursuant to this Paragraph, this Chapter shall apply unless another exemption applies. Notwithstanding the above, the above-described exemption shall end for all rental agreements regardless of when signed, as of the date upon which the exemption contained in Civil Code 798.17 is repealed.

**B.** Any newly constructed spaces or new mobile home park construction as defined in Civil Code 798.7, and which are exempt as provided in Civil Code 798.45.

**C.** Mobile homes not being used as a person's primary residence that are not being leased

to another person (Civ. Code § 798.21). Mobile homes not being used as a person's primary residence that the tenant is otherwise permitted to lease or rent to another person, or which are not being actively held available for sale by the tenant, as set forth in Civil Code 798.21.

**D.** Any other provisions of the Mobile Home Residency Law or other applicable law addressing exemptions, as applicable.

**E.** Any space rent increase or other action to which this Chapter would otherwise apply, whereby two-thirds (2/3) of all mobile home tenants affected by a space rent increase or other action give their approval in writing as evidenced by the signature of one tenant for each space or in an election called to consider the matter with each space casting one vote. These actions include, but are not limited to, capital improvement projects. The mobile home park owner shall supply satisfactory proof of such approval to the Director for verification prior to the date where such space rent increase shall become effective.

## 5.80.040 Definitions

As used in this Chapter, the following terms shall have the following meanings:

**Base Year.** The calendar year 1991; or the year established by the most recent (prior) hearing before a hearing officer; or, if necessary, the year established by the City Council in mobile home parks first operating after 1991.

**Capital Improvements.** Those improvements, not previously located in the mobile home park, that materially add to the value of the mobile home park property, appreciably prolong its useful life or adapt it to new uses, which are claimed by the mobile home park owner as capital expenses for Internal Revenue Code purposes and which are required to be amortized over the useful life of the improvement pursuant to the Internal Revenue Code and the regulations issued pursuant thereto; provided, this definition shall be limited to capital improvements approved by more the fifty percent (50%) of the tenants in the affected mobile home park.

**City.** The City of Menifee, California.

**City Council.** The City Council of the City of Menifee, California.

**Consumer Price Index or "CPI".** The Index known as the "Consumer Price Index for All Urban Consumers, Riverside-San Bernadino-Ontario Area" (base year 1982-1984) published by the Bureau of Labor Statistics of the U.S. Department of Labor and thereafter, or any successor designation of that index which may replace this index if it is discontinued.

**Director.** The Community Development Director of the City of Menifee.

**Hearing Officer.** An official appointed by the City Manager, or the City Manager's designee, to conduct investigations or administrative hearings pursuant to this Chapter.

**Mobile Home.** A "mobile home" as defined in California Civil Code Section 798.3, as it may be amended, or a successor code section.

**Mobile Home Park.** An area of land where two or more mobile home spaces are rented, or held out for rent, to accommodate mobile homes used for human habitation.

**Mobile Home Park Owner.** Any owner, lessor, or sublessor or a mobile home park in the City of Menifee, and the representative, agent or successor of such owner, lessor or sublessor, who receives or is entitled to receive rent for the use or occupancy of any mobile home space thereof, and reports to the Internal Revenue Service any income received or loss of income resulting from such ownership or claims any expenses, credits or deductions because of such ownership.

**Mobile Home Residency Law.** California Civil Code Section 798 *et seq.*, as the same may be amended.

**Mobile Home Space or Space.** The site within a mobile home park intended, designed, or used for the location or accommodation of a mobile home and any accessory structures or appurtenances attached thereto or used in conjunction therewith.

**Rehabilitation Work.** Any renovation or repair work completed on or in a mobile home park performed in order to comply with the direction or order of a public agency or public utility, or to maintain existing improvements in a safe and usable condition, or to repair damage resulting from fire, earthquake, or other casualty.

**Rent Increase.** Any space rent increase demanded of or paid by a tenant, including any reduction in housing services without a corresponding reduction in the monies demanded or paid for rent.

**Rental Agreement.** An agreement, whether written or oral, between a mobile home park owner and tenant establishing the terms and conditions of a tenancy in a mobile home park. A lease is a rental agreement.

**Space Rent.** The consideration, including any bonuses, benefits, deposits, or gratuities demanded or received for and in connection with the use or occupancy of a mobile home space, including for facilities, services, and amenities accruing to tenants, but exclusive of any amounts paid for the use of the mobile home as a dwelling unit. "Space rent" shall not include any separately billed utility fees and charges such as for natural gas or liquid propane gas, electricity, water, cable television, garbage service or sewer service. "Space rent" shall not include separate charges from the mobile home park owner to tenants for the governmental fees and assessments authorized by Civil Code Section 798.49.

**Tenant.** Any person entitled to occupy such mobile home space pursuant to a rental agreement, or other written or oral agreement.

**Tenancy.** The right of a tenant to use a mobile home space on which to locate, maintain and occupy a mobile home, site improvements and accessory structures; for human habitation, including the use of the services and facilities of the mobile home park.

**Tenant-To-Be.** Any person who is not currently a tenant in a mobile home park but is a prospective tenant and has presented himself/herself to the mobile home park owner as a

prospective tenant, as well as a current tenant under a rental agreement of 12 months or less, who is being offered a rental agreement in excess of 12 months by the mobile home park owner.

### 5.80.050 Notice to Tenants and Tenants-To-Be

Every mobile home park owner shall provide each tenant and tenant-to-be with a written notification which shall state the following:

“PURSUANT TO CITY OF MENIFEE MUNICIPAL CODE SECTION 5.80.050 YOU ARE ADVISED THAT YOU ARE ENTITLED TO RENT STABILIZATION PROGRAM BENEFITS UNDER CHAPTER 5.80 IF YOU ELECT A RENTAL AGREEMENT OF LESS THAN 12 MONTHS IN DURATION, OR MORE THAN 12 MONTHS IN DURATION IF ENTERED INTO ON OR AFTER FEBRUARY 13, 2020, AND THAT RENTAL AGREEMENT MEETS THE REQUIREMENTS OF CALIFORNIA CIVIL CODE SECTION 798.17.”

This written notification shall be typewritten in capital letters and in a minimum 12-point font.

Every mobile home park owner shall also provide each tenant and tenant-to-be a copy of Chapter 5.80 of the City of Menifee Municipal Code.

### 5.80.060 Annual Registration and Fee

All mobile home park owners shall complete and submit the following:

- A. Registration.** A mobile home park owner must file a registration form with the City within ninety (90) days of adoption of this Chapter, and annually thereafter before July 1 of each year. The registration form shall include: the name(s), business address(es), business telephone number(s) of each person or legal entity possessing an ownership interest in the mobile home park, the total number of spaces in the mobile home park, and the number of spaces currently exempt from this Chapter.
- B. Claims of Exemption.** Any mobile home park owner claiming an exemption from this Chapter must provide a written declaration of such exemption with supporting documentation by July 1 of each year.
- C. Registration Fee.** As part of the registration process, each space in a mobile home park subject to this Chapter shall be invoiced by the City to pay a fee of twelve dollars (\$12) per space per year to cover administrative costs directly related to implementation of this Chapter. The mobile home park owner shall be responsible for the collection and payment of this fee within thirty (30) days. This fee may at any time be amended by a resolution of the City Council.

### 5.80.070 Vacancies

- 1.** Subject to the exceptions in paragraphs 2 and 3 below, if the mobile home space or mobile home is (a) voluntarily vacated, abandoned, or repossessed, or (b) vacated pursuant to CA Civil

Code Sections 798.56 or 798.75 the mobile home park owner may adjust the space rent to an amount as he or she in his or her discretion may determine.

**2.** Subject to the provisions of CA Civil Code Section 798.17, if a mobile home is sold in place and is to remain on site, the mobile home park owner may only increase the space rent to the new owner to an amount that is no greater than the average of the three highest rentals then currently being charged by the park owner for spaces occupied by tenants who own their mobile homes of comparable size, location, and amenities in the mobile home park.

**3.** In the event a tenant who owns his or her mobile home must move from his or her mobile home because of a need for long term medical or custodial care, the space shall remain subject to this Chapter during the time that the owner is absent and remains incapacitated. In those mobile home parks that allow subletting, the absent and incapacitated tenant may sublet the mobile home for a charge not to exceed the space rent and utilities and all legally allowable pass-through costs for a period of time not to exceed twenty-four (24) months without removing the mobile home space from the protection of this Chapter.

## 5.80.080 Permissive Annual Increase

**A. Permissive Annual Increase Permitted.** A mobile home park owner may increase space rent for a tenant by the permissive annual increase amount no more than once per twelve (12) month period.

**B. Permissive Annual Increase.** The permissive annual increase shall be equal to one hundred percent (100%) of CPI, or five percent (5%) of the space rent for the previous twelve (12) month period, whichever is lower. In the event an applicable State law becomes effective which requires a lower or higher permissive annual increase, the State law requirement will prevail.

**C. Notice of Rent Increase Required.** The permissive annual increase shall become effective only after the mobile home park owner provides written notice to the tenant in the manner prescribed by law, with at least ninety (90) days' advance written notice.

## 5.80.090 Adjusted Space Rent Increase Petition

**A. Eligibility.** A mobile home park owner may petition the City for an adjusted space rent increase in addition to the permissive annual increase set forth in Section 5.80.080 by following the procedures in this Section. A mobile home park owner shall be eligible for an adjusted space rent increase pursuant to this Section upon a showing by a preponderance of the evidence that the requested adjusted space rent increase is necessary to provide the mobile home park owner with a fair return.

**B. Adjusted Space Rent Increase Petition.** A mobile home park owner shall submit a petition for a proposed adjusted increase in rent. Such petition for review shall be filed with the City Manager, or their designee. The petition shall include a detailed explanation of the need for the

increase, the names and addresses of the tenants affected, and shall be under penalty of perjury. The petition shall be accompanied by a processing deposit equal to one dollar (\$1) per space subject to the Chapter to cover the cost of preparing the petition for review. Any actual cost of review in excess of the deposit shall be invoiced in advance by the City to the mobile home park owner and shall be paid within thirty (30) days. Until such invoice is paid, the processing of the petition will be paused. In the event the deposit fee exceeds the actual costs of review of the petition, the amount of the deposit in excess of the costs of review shall be returned to the mobile home park owner.

**C. Notice of Hearing.** The City Manager shall serve by mail notice of the date, time and place of hearing to the mobile home park owner and to each affected tenant.

**D. Hearings.** All hearings on petitions submitted pursuant to this Section shall be conducted by a hearing officer appointed by the City Manager in an informal manner consistent with due process of law. All parties to the hearing may have assistance in presenting evidence or in setting forth by argument their positions from an attorney or such other persons as may be designated by said party. The hearing may be continued by the hearing officer from time to time as may be reasonable and necessary. The hearing officer shall have the authority to administer oaths and affirmations, and to render a final decision on the merits of the application, subject to the provisions of this Chapter.

**E. Burden of Proof.** The decision of the hearing officer must be supported by the evidence submitted at the hearing. The petitioning party shall have the burden of establishing its entitlement to the adjusted space rent increase sought by the petition by a preponderance of the evidence. It shall be presumed that the net operating income (NOI) produced during the base year provided a fair return. The petitioner may rebut such presumption by presenting evidence to the hearing officer that the base year's operating expenses were unusually high or low, or that the NOI for that year did not provide a fair return.

**F. Factors for Consideration.** The hearing officer shall evaluate any request for an adjusted space rent increase based upon, but not limited to, the following factors:

1. Changes in the CPI, to the extent not already encompassed in the permissive annual increase set forth in Section 5.80.080.
2. The rent lawfully charged for comparable mobile home spaces in the City.
3. The length of time since the last ruling on a petition pursuant to this Section or the last increase in space rent if no previous petition has been submitted.
4. The completion of any capital improvements or rehabilitation work related to the mobile home space or spaces identified in the petition and the cost thereof, including materials, labor, construction interest, permit fees, and other items the hearing officer deems appropriate.
5. Changes in property taxes or other taxes related to the mobile home park.
6. Changes in the rent paid by the petitioner for the lease of the land on which the mobile



home park is located.

7. Changes in the utility charges for the mobile home park paid by the petitioner, and the extent, if any, of reimbursement from the tenants.
8. Changes in reasonable operating and maintenance expenses.
9. The need for repairs caused by circumstances other than ordinary wear and tear.
10. The amount and quality of services provided by the applicant to the affected tenant(s).
11. Any existing rental agreement lawfully entered into between the petitioner and the affected tenant(s).
12. The applicability of any State law requirement on allowable space rent increases, including but not limited to Civil Code Section 1947.12, as amended.

**G. Decision.** The decision of the hearing officer shall be given in writing to all parties. The findings and conclusions of the hearing officer shall be final and there shall be no right of appeal to the City Council.

**H. Appeal to Court.** An appeal of the findings and decision of the hearing officer may be made to a court of competent jurisdiction pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6.

**I. Collection Pending Hearing.** Following a mobile home park owners' submission of a petition, the mobile home park owner may collect the full amount of the adjusted space rent until the hearing officer makes a final decision on the merits, unless otherwise agreed upon by the affected tenants and mobile home park owner in writing. If the hearing officer denies the petition in whole or in part, any increased space rent collected from tenants in violation on this Chapter, in an amount determined by the hearing officer, shall be returned to the affected tenants along with the interest thereon computed at the current legal rate of interest on a judgement. This Paragraph does not authorize a mobile home park owner to collect retroactive increased space rent if a petition is granted.

## 5.80.100 Space Rent Increase Dispute Procedures

**A. Dispute Petition.** In the event any tenant contends that a space rent increase is unlawful pursuant to this Chapter, the tenant may file a dispute petition pursuant to this Section with the City Manager or their designee. The petition shall include a detailed explanation of the space rent increase, the name(s) and mailing address(es) of the mobile home park owner(s), and all other tenants affected by the increase as reasonably known to the petitioner. The petition shall be accompanied by a processing deposit equal to one dollar (\$1) per space subject to the Chapter to cover the cost of preparing the petition for review. Any actual cost of review in excess of the deposit shall be invoiced in advance by the City to the petitioner and shall be paid within thirty (30) days. Until such invoice is paid, the processing of the petition will be paused. In the event the deposit fee exceeds the actual costs of review of the petition, the amount of the deposit in excess of the costs of review shall be returned to the petitioner.



**B. Notice of Hearing.** The City Manager shall serve by mail notice of the date, time and place of hearing to the petitioner and the mobile home park owner.

**C. Hearings.** All dispute petition hearings shall be conducted by a hearing officer appointed by the City Manager in an informal manner consistent with due process of law. All parties to the hearing may have assistance in presenting evidence or in setting forth by argument their positions from an attorney or such other persons as may be designated by said party. The hearing may be continued by the hearing officer from time to time as may be reasonable and necessary. The hearing officer shall have the authority to administer oaths and affirmations, and to render a final decision on the merits of the application, subject to the provisions of this Chapter.

**D. Burden of Proof.** The decision of the hearing officer must be supported by the evidence submitted at the hearing. The petitioning party shall have the burden of establishing a space rent increase violates this Chapter by a preponderance of the evidence.

**E. Decision.** The decision of the hearing officer shall be given in writing to all parties. The findings and conclusions of the hearing officer shall be final and there shall be no right of appeal to the City Council. If the hearing officer determines that a space rent increase or any portion thereof was unlawful pursuant to this Chapter, such space rent increase or portion thereof determined to be contrary to the provisions of this Chapter which have been collected by a mobile home park owner together with the interest thereon computed at the current legal rate of interest on a judgement shall be returned to the affected tenant(s) by the mobile home park owner, together with the cost of the processing fee paid to the City for filing the dispute petition.

**F. Appeal to Court.** An appeal of the findings and decision of the hearing officer may be made to a court of competent jurisdiction pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6.

**G. Collection Pending Hearing.** When a dispute petition is pending, the mobile home park owner may collect the full amount of the increased space rent until the hearing officer makes a final decision on the merits, unless otherwise agreed by the affected tenants and mobile home park owner in writing.

## 5.80.110 Utility Service Billing

**A. Utility Billing.** If a mobile home park provides in the rent, without separate charge, utilities or similar services (including, but not limited to, natural gas, electricity, water, sewer, trash, and/or cable television) and converts to separate charge for such service by separate metering, separate charge or other lawful means of transferring to the tenant the obligation for payment for such services, the cost savings shall be passed through to tenants by an rent increase equal to the actual cost to the park of such transferred utility or similar service (less common area usage) based on costs for the 12-month period prior to notice to the tenants of the change. No hearing shall be required for utility service billing complying with this Section. Where a rental

agreement does not provide otherwise, a mobile home park may charge mobile home owners for utilities as provided in California Civil Code sections 798.40 and 798. 41.

**B. Installation Costs.** The cost of installation of separate utility meters, or similar costs shall not be considered for the purpose of separate utility billing space rent increases under California Code of Civil Procedure Section 798.41, provided that this Section shall not be construed to prohibit or prevent the consideration of inclusion of such costs as an increased operating expense for an adjusted space rent increase petition pursuant to Section 5.80.090.

## 5.80.120 Rental Agreement Restrictions

**A. Long-Term Rental Agreements.** It shall be unlawful for any mobile home park owner to directly or indirectly require any tenant or tenant-to-be to sign a rental agreement with a term in excess of 12 months as a condition of tenancy, or as a condition of approving the replacement of an existing mobile home.

**B. Duress, Menace, Undue Influence.** It shall be a violation of this Chapter for any person to perform any act of duress, menace, or undue influence with the intent of thereby obtaining the consent of any other person to enter into any rental agreement.

## 5.80.130 Penalties and Remedies

**A. Misdemeanor.** It shall be unlawful for any mobile home park owner to willfully and knowingly adjust any space rent in excess of that allowed under this Chapter or by order of the hearing officer. Any mobile home park owner who willfully and knowingly violates any of the provisions of this Chapter or the orders of the hearing officer shall be guilty of a misdemeanor.

**B. Civil damages.** Any mobile home park owner who demands, accepts, receives or retains money as space rent to which said mobile home park owner is not entitled under the provisions of this Chapter shall be liable in a civil action to the tenant from whom such payment is demanded, accepted or retained for damages in the sum of three (3) times the amount by which the payment or payments demanded, accepted or retained exceed the maximum rent which could lawfully be demanded, accepted or retained, together with reasonable attorney's fees and costs as determined by the court. The tenant shall bear the burden of proving entitlement to these penalties.

**C. Other remedies.** The hearing officer, the Director, the City, and/or the tenants or mobile home park owners may seek relief from the appropriate court within the jurisdiction within which the mobile home park space is located to enforce any provision of this Chapter or its implementing regulations or to restrain or enjoin any violation of this Chapter and of the rules, regulations, orders and decisions of the hearing officer.

### **5.80.140 Non-Waiver of Rights**

Any waiver or purported waiver by a tenant or tenant-to-be of rights granted under this Chapter prior to the time when such rights may be exercised, whether oral or written, shall be void as contrary to public policy.

### **5.80.150 Severability**

If any section, subsection, sentence, clause or phrase in this Chapter is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council hereby declares that it would have passed this Chapter and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.