



DATE: June 5, 2023

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Eric Danly, City Attorney
Dylan Brady, Assistant City Attorney
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SUBJECT: Workshop to Receive Stakeholder Input and Public Comment, and for Council Deliberation and Direction on Potential Amendments to Petaluma Municipal Code Chapter 6.50 Entitled “Mobilehome Park Rent Stabilization Program”

RECOMMENDATION

It is recommended that the City Council receive stakeholder input and public comments, deliberate, and provide direction to staff on options for amending Chapter 6.50 of the Petaluma Municipal Code entitled “Mobilehome Rent Stabilization Program.”

BACKGROUND

The City’s Mobilehome Rent Stabilization regulations were enacted in 1994 and have not subsequently been amended. On May 2, 2022, the City Council adopted a top ten list of goals and priorities which included “Amending and strengthening the Mobile Home Ordinance.” This workshop is intended to provide the City Council an opportunity to hear from community stakeholders, receive staff analysis and recommendations and to give direction to staff regarding potential amendments to the City’s mobilehome rent control regulations.

City staff conducted stakeholder meetings with mobilehome park tenant representatives on April 27, with mobilehome park owners and owner representatives on May 4, and a community wide meeting including all interested stakeholders on May 24. The May 24 meeting was a hybrid meeting and offered translation services. Staff also created a mailing list Mobilehomes@cityofpetaluma.org to receive feedback and answer questions about the City’s mobile home rent stabilization regulations and potential amendments to the regulations.

The City’s mobilehome rent control regulations apply to tenants with leases with terms of 12 months or less. When the ordinance was enacted, the City’s mobilehome rent regulations accommodated section 798.17 of the State’s Mobilehome Residence Law, which exempted mobilehome rental agreements with terms longer than 12 months. However, AB-2782, adopted

August 31, 2020, amended the State Mobilehome Residence Law to eliminate the exception for longer-term leases for leases entered beginning on February 13, 2020. As a result of AB-2782, mobilehome rental agreements entered after February 13, 2020 that have terms longer than 12 months are not exempt from local rent control and are now protected. Also, AB-2782 provides that Section 798.17 of the State Mobilehome Resident Law is repealed effective January 1, 2025, and that any exemptions from local mobilehome rent control regulations will expire at that time. As a result, longer-term leases entered prior to February 13, 2020 will no longer be exempt from local mobilehome rent control as of January 1, 2025. Accordingly, with AB 2782 now even long-term leases above 12 months will be protected under the City's mobilehome rent stabilization ordinance.

For mobilehome tenants protected under the City's mobilehome rent control regulations, annual rent increases may not exceed 6% of the base rent or 100% of the local consumer price index (CPI), whichever is less. This is the annual rent cap for mobilehome spaces subject to Petaluma's mobilehome rent control regulations. A tenant's base rent is their initial rent at the start of the tenancy plus any subsequent increase allowed under the City's regulations. Under the City's regulations, mobilehome space rent increases generally cannot occur within the 12 months following the prior increase. The City's mobilehome rent control regulations also require park owners to provide tenants notice of rent increases at least 90 days before they take effect.

If a mobilehome space in Petaluma becomes a "lawfully vacant space," due to removal of the mobilehome or termination of tenancy, the City's regulations permit the park owner to charge a new base rent. Several neighboring jurisdictions place a cap on the base rent if a mobilehome space becomes a lawfully vacant space. Limiting the new base rent that can be charged for a lawfully vacant mobile home space is known as "vacancy control." Lawfully vacant spaces result when a tenant either relocates their mobilehome from their space or when a tenancy is terminated pursuant to the Mobilehome Residency Law. Examples of lawful grounds for terminations under the Mobilehome Residency Law include: failure to pay rent, committing violations of local ordinances or the park rules, or condemnation or conversion of the park.

In December, the City of Santa Rosa amended the annual rent cap in their mobilehome rent control ordinance from 6% or 100% of the CPI, whichever is less, to 4% or 70% of the CPI, whichever is less. Similarly, the town of Windsor amended their mobilehome rent control annual cap to 4% or 75% of CPI, whichever is less. Below is a comparison of the annual rent cap and vacancy control cap for other neighboring jurisdictions.

Comparison of Annual Rent Increase Cap and Vacancy Control Cap

Public Entity	Annual Rent Increase Cap	Vacancy Control Cap
Petaluma	6% or 100% CPI whichever is less	No cap
Santa Rosa	4% or 70% CPI whichever is less	10%
Ukiah	5% or 100% CPI whichever is less	10%
Windsor	4% or 75% CPI whichever is less	No cap; except 15% cap for in-park transfer.
Sebastopol	100% CPI	None
Rohnert Park	4% or 75% CPI whichever is less	0 (No increase permitted)
Sonoma County	100% CPI	None
Cloverdale	Board approves	10%
Cotati	6% or 100% CPI whichever is less	None
Vallejo	100% CPI	Cannot be more than 50% of average price of a 2 bedroom home in Solano County
San Rafael	75% CPI	

The consumer price index that applies under the City's regulations is the San Francisco Oakland index published each August by the Federal Bureau of Labor Statistics. Below is a table that shows the annual CPI change for the past 22 years.

Annual CPI Changes

Year	% Change in CPI for 12-month Period Ending in August
2022	5.7%
2021	3.7%
2020	1.6%
2019	2.7%
2018	4.3%
2017	3.0%
2016	3.1%
2015	2.6%
2014	3.0%
2013	2.0%
2012	2.8%
2011	2.9%
2010	1.0%
2009	0.2%
2008	4.2%

2007	2.6%
2006	3.8%
2005	2.2%
2004	1.2%
2003	1.4%
2002	1.3%
2001	5.1%

Mobilehome park owners are entitled to receive a “fair rate of return” on their investment. This means that mobilehome rent control ordinances like the City’s must provide for a reasonable rate of return for mobilehome park owners, and cannot set rent caps so low that they deprive the park owner of the ability to earn a reasonable profit on their investment. In order to ensure that mobilehome park owners receive a fair rate of return, mobilehome rent control ordinances provide mechanisms to adjust rent. Under the City’s regulations, if a park owner proposes rent increases above the annual rent cap, an arbitrator determines if a rent increase above the annual rent cap is reasonable.

Rent increase arbitration under the City’s current regulations can occur in two ways. First, arbitration automatically occurs if a park owner gives notice of a proposed rent increase that is 300% or more above the annual rent cap. Second, if a park owner increases rent above the annual rent cap, but below 300% of CPI, then 51% of the tenants affected by the rent increase may petition the City for rent arbitration. The City’s mobile home rent control arbitrators are neutral third parties that meet the City’s eligibility requirements and that are selected by the Sonoma County Community Development Commission, which administers the City’s mobile home rent control dispute procedures. Arbitrators of City mobile home rent disputes are presented evidence from both park owners and tenants and use a non-exhaustive list of factors specified in the City’s regulations to determine if a park owner’s proposed rent increase is reasonable. Park owners bear the burden of proving that the proposed increase above the annual rent cap is reasonable.

The cost of retaining an arbitrator and administering the rent stabilization program is supported by an administrative fee based on the amount of protected mobilehome spaces in the City. Park owners are responsible for paying the fee and are permitted to pass 50% of the fee on to the tenants. The administrative fee is currently about \$65.00 per space. The fee has not been increased in the past two years due to concerns about financial hardship caused by COVID-19.

On January 12 and 13, 2022, pursuant to the City’s mobilehome rent control regulations, an arbitration was held between Youngstown Mobile Home Park and its affected tenants. The park owner sought rent increases over 300% of the CPI for the affected tenants, which included the park owners’ debt costs in acquiring the park. The park owner provided no information regarding the owner’s rate of return, and the arbitrator ruled in favor of the tenants, denying the rent increase in its entirety. Staff have reviewed the arbitrator’s decision, attached to this staff report as Attachment 2. The staff recommendations concerning potential amendments to the City’s mobilehome park rent control regulations include amendments that would address considerations raised in the arbitration decision and that can result in a more equitable determination regarding “fair rate of return” for mobilehome park owners and their tenants.

The potential mobilehome rent control amendments being offered for City Council consideration in this staff report are also a result of stakeholder meetings and community outreach, in addition to staff's review of the recent Youngstown arbitration and of rent stabilization ordinances in neighboring jurisdictions.

DISCUSSION

Annual Rent Cap

Under the City's current mobilehome rent control regulations, increases to a protected mobilehome space's rent are capped at 6% of the base rent or 100% of the local consumer price index, whichever is less. During the City's stakeholder outreach process, mobilehome tenants and affordable housing advocates recommended lowering the annual rent cap similar to the recent amendments in Santa Rosa and Windsor. Tenants believe this is necessary to keep rents affordable in view of the recent substantial CPI increases. Park owners want to keep the current rent cap as is and note low CPI rates in most of the past 21 years. One park owner recommended a policy under which, if the CPI increased above a specified percentage, qualified tenants could defer the increased rent corresponding with the CPI increase above the specified percentage until the tenant sells their mobilehome. Upon sale of the mobilehome, the seller would pay the park owner the deferred increased rent, presumably from the sale proceeds. (See attachment 4) The park owner proposed that the policy be implemented by a memorandum of understanding between mobilehome tenants and park owners. Staff are not aware of another City that has a similar approach, and would have concerns— including enforceability concerns and bargaining power imbalance concerns - about relying on private agreements for capping future mobilehome rent increases. The first table above shows the annual mobilehome space rent caps, including the recent amendments in Santa Rosa, Windsor and Rohnert Park. Currently, the lowest cap in our region is Santa Rosa's at the lower of 70% of CPI or 4%. The highest caps in our region are those of Sebastopol, Sonoma County and Vallejo that allow annual rent increases of 100% of CPI and are not subject to a cap. **Staff are recommending lowering the annual cap to be in alignment with neighboring jurisdictions and on par with fluctuations in historic CPI trends as an amendment to the rent cap in the City's regulations.**

Vacancy Control

Under the City's current regulations, if there is a "lawful vacant space," either due to removal of the mobilehome or termination of tenancy under the Mobilehome Residency law, the park owner may charge a new base rent without restriction. In our outreach meetings, park tenants and affordable housing advocates recommended capping new base rents to keep spaces affordable for future tenants. Park owners recommended against vacancy control and in favor of allowing the park owners to increase the rent for lawful vacant spaces up to the market rental value, to help ensure park owners are able to pay for maintenance of the park and any needed capital improvements. Park owners provided information (see Attachment 4 and Attachment 3, starting at page 32 in the PDF), that they believe shows that vacancy control can inflate the sale price of the mobilehomes, which can make buying mobilehomes difficult, and discourage upgrading older mobilehomes. Some of the park owners indicate that they currently increase the rents for lawful vacant spaces to equal the current highest rent in the park or the average of the 3 highest rents in

the park. These are the approaches that the park owners appear to favor if the Council were to set a vacancy control cap. The first table above shows other neighboring jurisdictions' approaches to vacancy control caps. The most restrictive vacancy control cap is that of Rohnert Park at 0%, followed by Santa Rosa and Ukiah with 10% vacancy control caps. The least restrictive jurisdictions are Petaluma, Sebastopol, Sonoma and Cotati, where there are no vacancy control caps. Windsor only has vacancy control for in place transfers, meaning tenants relocating their mobilehome to another site in the park, and caps this in place transfer at 15%. **Staff are recommending establishing a vacancy control cap, as to keep the spaces affordable for future tenants and seek direction from Council on what the vacancy control cap should be.**

Arbitration Process

Staff also recommend potential amendments that staff believe can improve the arbitration process. These potential amendments include:

1. Reversing the party who petitions for arbitration. The current City regulations require 50% of affected tenants to petition for an arbitration hearing if a park owner gives notice of a rent increase above the permitted annual rent cap but below the automatic arbitration threshold of 300% above CPI. With such an amendment, park owner seeking an increase above the permitted annual rent cap would be required to file a petition for arbitration. This amendment would place the burden of initiating arbitrations on park owners seeking to raise rents above the annual rent cap.
2. Adding a provision that obligates park owners to forward any rent arbitration petition to tenant service providers specified by the City (such as Petaluma People Services Center). Such a requirement can help make tenants and service providers aware of an impending arbitration and help ensure affected tenants have access to needed services.
3. Adding a provision providing that arbitration proceedings cannot be noticed for the month of December except in cases of exceptional, unforeseen circumstances as demonstrated by the park owner to the satisfaction of the arbitrator. Such an amendment would ensure that rent arbitrations would not dominate the holiday season when it may be harder for tenants to obtain needed services in response to an arbitration notice.
4. Adding a requirement for park owners and affected tenants and/or their representatives to meet and confer at least 10 days before a scheduled arbitration hearing. Such an amendment will hopefully result in settlement of rent disputes in lieu of arbitration hearings, or at least, the sharing of information and positions of the parties to help focus a subsequent arbitration hearing.
5. Permitting consolidating arbitrations petitions within a single park regardless of the number of affected tenants. Such an amendment would lessen the cost and amount of resources required for arbitrations for all parties and make it easier for tenants to obtain needed services and coordinate regarding pending notices of rent increases.

6. Adding provisions on excessive rents which prohibit park owners from demanding rent in excess of that permitted under the City's regulations, or an arbitrator's decision, or while an arbitration hearing is pending. These provisions could also address how park owners must repay prohibited rent. Such amendments would help secure the intended benefits of the City's regulations for mobilehome tenants.

Fair Rate of Return

Staff also recommend potential amendments to strengthen and clarify the fair rate of return" factors in the City's regulations. These potential amendments include:

1. Clarifying the application of factors to be considered by arbitrators in determining whether a rent increase in excess of the annual permitted rent cap is necessary to achieve a fair rate of return. Such amendments could prevent park owners from unfairly recovering from tenants costs over which park owners have some control, such as costs of debt service from a park purchase or refinancing; or costs which park owners will separately recover, such as costs of improvements or programs to which user fees will apply; or costs that don't benefit tenants, such as costs of discretionary improvements that do not directly benefit or are not used by the tenants
2. Adding a provision to prohibit mobilehome park owners from attempting to recover from tenants costs they incur in seeking rent increases in excess of the permitted annual rent cap. Such an amendment would prevent park owners from attempting to use rent arbitrations to recover their costs of seeking rent increases in excess of the annual permitted rent cap.

Noticing

Staff also recommend potential amendments to strengthen the noticing process for current and potential mobilehome tenants and tenants to be. These potential amendments include:

1. Requiring park owners to post in prominent locations at the park and to make available to tenants on request the permitted annual rent increase cap pursuant to the City's mobilehome rent regulations using the form provided by the City for that purpose. Such an amendment would result in uniformity of information supplied to mobilehome tenants about permitted annual rent increases and allow greater transparency for park owners and tenants.
2. Requiring all notices required under the City's mobilehome rent control regulations be provided in English and Spanish, or the language used of the space lease if in a different language, using standard forms provided by the City for that purpose. Such required notices include notices of rights of tenants to be, notice of rental options, and notice of rent increases. Such amendments would provide for greater awareness of the City's regulations and in more tenants understanding their rights. It will also be simple and inexpensive for park owners to provide required notices provided by the City.
3. Adding a requirement obligating park owners to post the City's regulations in the office building or clubhouse of every mobilehome park using a copy provided by the City for that

purpose. Such an amendment should result in more tenants knowing their rights under the City's regulations.

Miscellaneous

Staff also recommend potential miscellaneous amendments to strengthen the City's Ordinance. These potential amendments include:

1. Adding updates to the "findings and purpose" portion of the City's regulations to address developments in the law and the availability of affordable housing and mobilehome park spaces since the City's regulations were enacted.
2. Clarifying definitions such as "Housing service" in the City's regulations to exclude services that mobilehome park owners are legally obligated to provide and the definitions for certain park owner costs such as mortgage payments and capital improvement costs to distinguish such costs from maintenance and repair and to provide that that capital improvement costs that may be taken into account in a rent arbitration are those that directly and primarily benefit the park tenants.
3. Requiring that mobilehome park owners register their mobilehome spaces with the City using forms provided by the City for that purpose and pay applicable annual space registration fees and be in compliance with state and local laws as conditions of lawfully increasing any space rent. Such an amendment would help ensure that mobilehome park owners comply with the City's regulations before they can seek rent increases.
4. Adding a provision prohibiting park owners that do not impose an annual rent fee within any 12-month period from "banking" the unused increase and adding it to a subsequent rent increase. Such an amendment would result in park owners waiving their ability to charge "catch-up" rent increases in subsequent years making it difficult for tenants to plan and remain in their spaces.
5. Adding provisions authorizing the City to institute civil suits to compel compliance with the City's regulations and to seek other appropriate remedies for violations consistent with the City's municipal code. Such amendments would provide the City greater ability to enforce the provisions of its regulations.

Making revisions to the City's regulations to make the text gender neutral.

PUBLIC OUTREACH

City staff conducted stakeholder meetings with representatives of mobilehome tenants on April 27, with mobilehome park owners on May 4, and at a community wide meeting on May 24. The May 24 meeting was a hybrid meeting as well as translated. Staff also created a mailing list Mobilehomes@cityofpetaluma.org to receive feedback and answer questions. Interested parties can continue to email this address and any public comments received will be posted online for upcoming meetings on this item.

Additionally, this item was included in the tentative agenda approved by the City Council at the May 15, 2023 City Council Meeting. Additionally, amending the City's Mobilehome Rent Stabilization Ordinance appeared and was discussed during the City Council goals and priorities workshops in 2022 and 2023.

COUNCIL GOAL ALIGNMENT

On May 2, 2022, City Council adopted a top ten list of goals and priorities which included amending and strengthening the City's mobilehome rent control regulations. The potential amendments discussed in this staff report would directly address this priority.

CLIMATE ACTION/SUSTAINABILITY EFFORTS

The options identified in this staff report for amending the City's mobilehome rent stabilization regulations may result in greater stability in the mobilehome rental market, resulting in fewer displacements which may in turn help reduce homelessness in the City and its impacts on community members and the environment.

ENVIRONMENTAL REVIEW

The potential amendments discussed in this staff report to the City's mobilehome rent control regulations are not a "project" within the meaning of Section 15378 of the California Environmental Quality Act Guidelines, because the adoption of such amendments would constitute an administrative activity that has no potential for resulting in physical change in the environment. The City's existing mobilehome rent stabilization regulations resulted from a solely administrative process resulting in no physical changes to the environment, and any potential amendments of the City's mobilehome rent regulations would involve no modifications to the physical design, development, or construction of residences or nonresidential structures. Additionally, the potential amendments discussed in this staff report are exempt pursuant to Section 15269(c) of the CEQA Guidelines, as specific actions necessary to prevent or mitigate an emergency, in view of the City Council's action on September 13, 2021, to declare a shelter crisis in the City.

FINANCIAL IMPACTS

There are no direct costs of the potential regulatory amendments discussed in this staff report other than staff time and outreach costs incurred in preparing these materials for the consideration of the public and the City Council.

ALTERNATIVES

The City Council may choose from among the options listed in this staff report for changes to the City's mobilehome rent control regulations, direct changes different from those listed in this staff report, refrain from amending the City's regulations, or provide alternative direction to staff.

ATTACHMENTS

1. Youngtown Mobilehome Park Arbitrator's Award
2. PowerPoint used for the stakeholder presentations
3. Public Comments
4. Park Proposal