

MOBILEHOME RENT REVIEW BOARD GUIDELINES

Adopted by Minute Action September 28, 1988

Amendment by Minute Action January 11, 1989

Amended by Minute Action February 8, 1989

Amended by Resolution RRB 89-5 May 17, 1989

Amended by Resolution RRB 90-7 April 4, 1990

Amended by Resolution RRB 94-05 April 13, 1994

Amended by Resolution RRB 94-12 January 11, 1995

Amended by Resolution RRB 97-05 December 3, 1997

Amended by Resolution RRB 97-07, December 17, 1997

Amended by Resolution RRB 98-07, June 10, 1998

Amended by Resolution No. 2005-132

Amended by Resolution RRB 2017-02R, June 28, 2017

Amended by Resolution RRB 2020-04R, June 24, 2020

CITY OF ESCONDIDO
MOBILEHOME RENT REVIEW BOARD GUIDELINES

Following are the guidelines for the rent review process including staff review, the staff report, and the rent review hearings. Also included are Board rules of order.

Section 1: Staff Review.

When a park owner submits an application for a rent increase request, staff shall review the application to determine whether or not it is complete. If the application is determined to be incomplete, the park owner shall be notified of the deficiencies.

Once an application is determined to be complete, staff will notify all affected residents that they can review the application and any supporting documents and that they have thirty (30) days to respond with written comments or other forms of documentation. The applicant and tenant representative(s) will be provided with a copy of these guidelines at that time.

A thirty (30) day notice is mailed to residents, which informs them of their right to review the park owner's application and all supporting documents. A copy of the application is provided to the park tenant representative(s) for review. A copy is also available at the at City Hall.

Any information submitted by the park owner after the application is determined to be complete will not be incorporated into the staff report because the residents may not have had an opportunity to review the information during their thirty (30) day review period. (Please see the "Written Communication" section under "Hearing Process" for other policies concerning the submittal of written information.)

Staff will then compile a report for the Rent Review Board which summarizes the application.

The City's Code Enforcement Division will inspect the common areas of the park and submit a report concerning the condition of the facilities. Also, any past violations and any corrective actions will be reported.

Section 2: Staff Report.

The Rent Review Board members will be given a written staff report which describes the park, summarizes the park owner's application, and analyzes the rent increase request. A copy of the park owner's application and the residents' responses will be attached to the report.

Section 3: Hearing Process.

While the Rent Review Ordinance spells out certain requirements for the hearing process, it is deemed beneficial to further refine the process so that the Board and the parties involved all have a clear understanding of the hearing process, and will know what to expect on the day of the hearing.

Section 4: Notice of Public Hearing.

In accordance with the rent protection ordinance, park residents and the park owner will be noticed at least ten (10) days prior to the hearing date. The Code Enforcement Division report will be available for review ten (10) days in advance of the hearing. The staff report will be available for public review when the report is delivered to the Board for review, and the notice will inform the parties of this fact. A copy of the staff report will either be sent by certified mail or picked up by the park owner, and a designated resident representative(s).

Section 5: Staff Presentation.

On the date of the hearing, staff will give a brief summary of the report and application. The Board members may then ask questions of the staff. A representative from the City Attorney's Office will attend meetings to offer legal assistance as needed. Minutes will be taken by the City Clerk staff.

Section 6: Public Input.

As specified in the ordinance, the park owner and the affected tenants will be given an opportunity to address the Board. Designated representatives for either party will also be allowed to present testimony. Slips indicating a "request to speak" are provided at the meeting. The park owners present their testimony first. As detailed in the ordinance, the applicant and affected residents can only offer written information for the first time at the hearing if good cause is shown as to why such evidence was not previously filed with the City Clerk's Department. The Board encourages the applicant and the affected residents to appoint one or two representatives to present information at the hearing. Time limits for speakers are described in the Guidelines under "Board Rules of Order...Manner of Addressing Board—Time Limit."

If the Board determines that they have sufficient information to reach a decision, they will close the hearing. If they require further information, the hearing will be continued to a specified date to allow the parties or staff an opportunity to collect the necessary data.

Once the Board has all the information they deem necessary, they will close the hearing. Once the hearing is closed the Board has fifteen (15) days to make a determination. The Board may consider the option of making a determination at the hearing in an attempt to resolve the issue as quickly as possible. Whether or not the Board reaches a decision on the day of the hearing, the Board will be required, under the Brown Act, to deliberate and reach a decision at a public meeting rather than in closed session.

Section 7: Policies Governing Board Review.

- A. CPI - The Board will consider increases in the San Diego Metropolitan Area Consumer Price Index, All Items/All Urban Consumers component, as one of the relevant factors, when reviewing an application for rent increase.

In considering increases in the Consumer Price Index, the Board concludes that many components of CPI (such as food, entertainment, medical care, shelter, and apparel & upkeep) do not pertain to the cost of owning and operating a mobilehome park. Therefore, the Board shall take into account no more than 60% of increases in the CPI which portion of the CPI shall include costs properly associated with the operation of a mobilehome park (such as property taxes, fuel, and utilities).

Section 8: Capital Improvements.

- A. Definition and Examples of Capital Improvements - Capital Improvement is defined by Section 1(b) of the Mobilehome Space Rent Control Ordinance to mean "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."
1. Normal routine maintenance and repair of a park is not a capital improvement. For example, patching of potholes and slurring of asphalt streets and roadways constitute ordinary repairs and are not capital improvements within the meaning of the Ordinance.
 2. Major replacement or major reconstruction of an existing facility or improvement constitute capital improvements. For example, the major replacement and/or reconstruction of streets or roadways, sewer lines, water lines and gas lines constitute capital improvements.
 3. Addition of new facilities in a park, such as a new office or utility room, a sauna, a jacuzzi or an addition to a recreation room, are also examples of capital improvements.
 4. Capital improvements which would otherwise form the basis for a capital improvement rent increase cannot be the basis of such an increase if the park owner charges a fee for the use of the improvement. For example, additional washers and dryers installed for the use of residents cannot be the basis for a capital improvement rent increase if the tenants must pay to use them.
 5. Portable items, such as pool furniture and landscaping or gardening equipment, do not constitute capital improvements.
 6. Rent increase requests based entirely or in part on capital improvements can be brought before the Board prior to the initiation of the proposed work. In these cases, the applicant is encouraged to seek the approval of his/her residents for the improvement, prior to the submittal of an application.
- B. Capital Improvement/Rehabilitation Work - In any case where a park owner submits a rent increase application that is based in part, or entirely on the cost of capital improvements and/or rehabilitation work, the Board shall calculate the cost utilizing the following:

The work is amortized over the expected life of the improvement. Standard depreciation tables used to determine deductions for taxes shall be used to determine the expected life of the work. Any increase that is granted shall be temporary unless otherwise noted by the Board.

At the time an increase is granted, the Board will list separately any increase for capital improvements or rehabilitation work.

Section 9: Code Violations.

No increase granted for any park shall go into effect until any existing code deficiencies are corrected. Such violations shall not be utilized by the Rent Review Board as a reason for not granting an increase or reducing the amount of a requested increase. A provision regarding the effective date of the Rent Review Board's action shall be included in each Resolution of the Board approving a rent-increase.

Section 10: General policies governing the Board's deliberations and determination.

- A. The Park Survey which compares the condition and quality of each park in the City, shall be regularly updated every two years. Park Appraiser shall contact an officer or designee from the organized residents group who shall participate in all inspections of the park.

When periodically conducting the Park Survey, the appraiser shall contact an officer or designee from the organized residents group who shall participate in all inspections of the park.

- B. To assist in determining a reasonable rate of return, the Board always shall be provided with information setting forth the rate of return for the applicant mobilehome park since the date the last application for a rent increase was deemed complete based on return on cash investment, return on book value, and maintenance of net operating income. The Board recognizes that each application must be evaluated on its own facts and that not every rate of return analysis will be relevant in each application. The Board shall consider the facts of each application and, based on those facts and circumstances, may utilize any, all or none of the rate of return analyses in making its determination of what, if any, rent increase may be warranted.
- C. In order to avoid repetitive hearings and unreasonable burdens on City staff and Park residents no application for a rent increase shall be accepted within a period of one year from the date the last application was deemed complete.
- D. The Board generally prefers to avoid continuing hearings. All persons wishing to make presentations to the Board should come to the hearing fully prepared.
- E. All applications for rent increases shall be accompanied by financial statements covering the period from the date the last application for a rent increase was deemed complete.
- F. All applications shall be accompanied by a statement attesting to the truth and accuracy of all information set forth in the application, which statement shall be signed by the applicant and shall be sworn under penalty of perjury.
- G. All applications shall be accompanied by all documents, receipts, invoices and other data which support and substantiate the claims and assertions set forth in the application.
- H. The application, including all its supporting data and documentation and all other information used to form the basis of any staff presentation or recommendation, shall be available for public review during normal business hours.
- I. Where it determines that an applicant has knowingly falsified any information in the application for a rent increase, the Rent Review Board immediately shall suspend further proceedings on the application and no new application for a rent increase shall be accepted for processing for a period of one year from the date of such action.
- J. The applicant shall be required to deposit the sum of \$5,800 at the time of filing the application with the City. This amount will be used to reimburse the City for costs associated with evaluation of the application and preparation of information regarding the rate of return for the park under criteria established by the Board and to defray the costs of any supplementary work which may be required to insure that the application is complete. This deposit will also be available to pay for analysis of any claims set forth in the application or materials supplied to substantiate claims made in the application to determine their validity and veracity.

Where the deposit is exhausted prior to completion of the review of the rent increase application, no further work on the application shall be conducted until further amounts are deposited, as the Rent Review Board may deem appropriate.

- K. In its evaluation of information submitted to support any application for a rent increase, the Board shall take into account only information, facts and circumstances arising from the date the last application for a rent increase was deemed complete.
- L. The applicant shall bear the burden of proof of establishing, on the basis of substantial evidence, all claims set forth in the application including, without limitation, all claims for expenses, depreciation and other costs incurred in connection with the operation of the subject mobilehome park. Invoices, receipts and other similar documents shall not, by themselves, necessarily establish that such expenses were properly incurred.

Section 11: Written Communication.

- A. If a park owner or any affected resident wishes to submit written information after their respective cutoff dates, said information must be received by the City Clerk's Department at least seven (7) days prior to the hearing.

City staff will distribute the information to the Board members and the affected parties no later than five (5) days prior to the hearing. Any information going to the residents will be given to the designated resident representative.

- B. At the rent review hearing concerning the application, the party submitting said written information shall explain in the course of his/her oral testimony why the Board should consider the late presented material, and why it was not presented earlier. Said party shall ask the Board to consider the late presented written material. If the Board wishes to consider such late presented material, the Board shall:
 - 1. Give the opposing party an opportunity to object to the introduction of such new material.
 - 2. After considering any opposition, determine if "good cause exists" to permit the late presented material be made part of the hearing record, and
 - 3. Give the opposing parties and staff an opportunity to respond orally at the hearing to the new material. Depending upon the type of written material presented, the Board may also decide to keep the hearing open for a limited period of time in order to permit the opposing party or staff an opportunity to further review and comment in writing upon the new written material.
- C. At a particular hearing, the Board may decide that additional written evidence or testimony is required, and ask that a party or staff submit it to the Board. In those circumstances, it is recommended that the Board:
 - 1. Continue the hearing to a date certain by which time the additional information will be available.
 - 2. Require that the party preparing the additional material give copies of the material to staff at least seven (7) calendar days prior to the date of the continued hearing. City staff will distribute the information to the Board members and the affected parties. Any information going to the residents will be given to the designated resident representative, and

3. Give the opposing parties and staff an opportunity to respond in writing at least three (3) days before the hearing. Depending upon the type of written material, the Board may also decide to keep the hearing open for a limited period of time in order to permit the opposing party or staff more opportunity to review and comment in writing upon the new written material.

Section 12: The Short-Form Rent Increase Application.

- A. In lieu of using the hearing process and policies set forth in Sections 1 through 9, a park owner may request an increase using the “short form” process. The following principles for the application review and public hearing process will apply only to the “short form” application:
- B. The park owner must use the standard short-form application prepared by the City of Escondido.
- C. A short-form application will only be considered if the park owner’s request applies to 100% of all spaces in the park which are subject to rent control.
- D. The park owner’s request for a rent increase must be based solely on the change in the San Diego Metropolitan Area Consumer Price Index, All Items/All Urban Consumers component ("CPI") since the last increase granted by the Board. The requested increase may not exceed ninety percent (90%) of the increase in CPI since the last increase granted by the Board, or 8% of the current rent, whichever is less, subject to the two year limit in Section J.
- E. The Board will consider the short-form application at a public hearing. The staff report will not contain analysis of any of the factors required by Section 29-104(g) of the Rent Protection Ordinance other than the change in CPI. In determining whether the amount of the park owner’s requested increase is appropriate, the Board must presume that up to ninety percent (90%) of the Consumer Price Index is a fair, just, and reasonable rent increase. However, the Board may consider any of the other Ordinance factors at the request of either the park owner or the affected residents in determining that a lesser increase is fair, just, and reasonable.
- F. No application fee is required for a short-form application. Any park owner granted any increase as a result of using the short-form application is exempt from the annual per space administration fee imposed by the City pursuant to Resolution No. 2005-132, or any successor resolution. The period of exemption applies to those spaces for which the rent level was set as a result of the short-form application process, and lasts until another increase is granted by the Board.
- G. The City must notify the residents of the park owner’s request for a short-form rent increase at least 30 days prior to the hearing. The park owner must provide to the City the names, addresses, and mailing labels for all individuals affected by the application, and the City will mail notice of the application and the date of the hearing to the affected residents.
- H. Any interested person will be allowed to speak at the public hearing on their own behalf, and the Board’s consideration of their comments will be limited to the factors set forth in Section 29-104(g) of the Rent Protection Ordinance. If residents from a majority of the spaces in the park which are subject to rent control personally appear at any time prior to the close of the public hearing and state their objection to the short-form application, the

Board shall have the option (after verifying the residency status of those objecting) not to approve the short-form application.

- I. If the Board denies a short form application or grants an increase less than the amount requested in the short-form application, the owner must be permitted to submit a regular application pursuant to Sections 1 through 10. The park owner shall have 30 days from the date of the board's decision on the short-form application to notify the City whether or not they are accepting the decision from the short form application, or whether they wish to file a regular application. The filing of a regular application shall render all of the proceedings from the short form application null and void.
- J. The short form process may not apply to any period in excess of 2 years.
- K. No application for a short-form rent increase will be accepted within a period of one year from the date the last application was submitted.
- L. The City's Code Enforcement Division will inspect the common areas of the park for health and safety violations, and submit a report concerning the condition of the facilities. No increase shall go into effect until any existing code deficiencies are corrected.
- M. As a condition of using a short form application, the park owner agrees to the following:
 - 1. Upon the closure of an in-place transfer, or other conveyance of a rent-controlled mobilehome, the park owner may increase the space rent, up to and including, eight percent (8%) of the Average space rent or eight percent (8%) of the Final space rent. Park owner further agrees that rent-controlled space rent shall not exceed \$950 on July 1, 2020. Beginning in 2021, the City shall adjust the \$950 limit each year, on July 1, to reflect any increase in the CPI. Space rents above \$950 on July 1, 2020, shall not be automatically decreased because of this Subsection.
 - 2. As used herein, the following definitions apply:
 - a. "Average space rent" means the total amount of rent charged for all spaces in a mobilehome park occupied by a resident owned mobilehome, divided by the number of spaces in the park occupied by a resident owned mobilehome, calculated on the most recent annual rent control survey.
 - b. "Final space rent" means the rent charged by the owner to the departing tenant for the final month of rent before the in-place transfer.
 - c. "In-place transfer" means the transfer of the ownership of a mobilehome with the mobilehome remaining on the mobilehome lot following the transfer.
 - 3. No increase may be imposed pursuant to Subsection M when an existing mobilehome owner or resident replaces an existing mobilehome with another mobilehome, occupying the same mobilehome space. However, space rent may be increased to market rate when a park owner also owns the mobilehome or no mobilehome sits on a space.
 - 4. No increase may be imposed pursuant to Subsection M where title to the mobilehome passes to one or more person(s) who, at the time of the title transfer, (a) was/were also lawful, authorized resident(s) of the mobilehome, or (b)

were/are parents, siblings, children, of the mobilehome owner and the mobilehome remains in the same space.

5. Space rent may be increased pursuant to Subsection M once every twelve months.
6. Rent increases authorized by this regulation shall be in addition to any other space rent increases authorized by the City of Escondido's Mobilehome Rent Review Board.
7. To ensure effective oversight of vacancy control, each park owner shall submit an accurate and complete annual rent control survey to the City, using a spreadsheet provided by the City, no later than October 15th each year. At a minimum, the annual rent control survey shall identify:
 - a. each space
 - b. the tenant's last name,
 - c. the amount of monthly rent charged for each space on July 1st,
 - d. a list of itemized utilities included in the space rent,
 - e. the type of space (rent controlled, park owned, long-term leased, vacant, or other),
 - f. a calculation of the Average space rent for spaces occupied by a resident owned mobilehome in the mobilehome park, including both rent controlled and non-rent controlled spaces,
 - g. the date of the last vacancy control rent increase, and
 - h. the date of last short-form rent increase hearing. The City shall validate the accuracy of the Average space rent calculations by making the report available to the public.
8. Park owner agrees to not use of the short form application process for five years if the City's Mobilehome Park Rent Review Board determines that the park owner increased space rent beyond the levels provided in Subsection M.

Section 13: Board Rules of Order for Hearings.

A. Time of Regular Meetings

The Board shall hold regular meetings at 4:30 p.m. on Wednesdays at the City Hall as scheduled by the Board.

If any regular meeting falls on a holiday, such meeting shall be held on the next business day or on such other day as the Board may designate.

B. Matters Covered

The Board shall not consider any resolution, motion or matter which does not affect the conduct of the business of the City of Escondido or its corporate powers or duties as a municipal corporation nor shall the Board consider any resolution or motion supporting or disapproving any legislation or action pending in the Legislature of the State of California, the Congress of the United States or before any officer or agency of said State or nation unless such proposed legislation or action, if adopted, will affect the conduct of the municipal business or the powers and duties of the City of Escondido or its offices or

employees as such. Such communications shall be provided to the Board on an information basis only.

C. Rules of Order and Procedure

The Board shall comply with the Rules of Order and Procedure applicable to the City Council and adopted by Resolution of the Escondido City Council.