

MOBILEHOME RENT REVIEW BOARD GUIDELINES

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Amended by Resolution No. 2005-132

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 City Clerk's Department 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 75% 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 75% 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.

Section 13: Board Rules of Order for Hearings.

A. Time of Regular Meetings

The Board shall hold regular meetings at 4:00 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. Order of Business

Regular business of the Board shall be taken up for consideration in substantially the following order, except as may be otherwise ordered by the Chair or Boardmembers:

1. Roll Call
2. Consent Calendar
3. Ordinances and Resolutions
4. Affidavits of Publications, Mailing, Posting
5. Current Business and Hearings
6. Briefing
7. Written Communications
8. Oral Communications
9. Closed Session
10. Boardmembers
11. City Manager and Staff
12. City Attorney
13. Adjournment

D. Consent Calendar Defined

Those items on the Board agenda which are considered routine by the City Manager, e.g., approval of minutes, resolutions affirming rent increases granted by the Board, and various leases and agreements are listed on the "Consent Calendar" and shall be adopted by one motion unless the Board, staff or the public requests specific items to be discussed and/or removed for separate action. Those items so approved under the heading "Consent Calendar" will appear in the Board minutes in their proper form, i.e. resolution affirming rent increase, approval of minutes, etc.

E. Oral Communications

Time has been reserved on each regular meeting agenda to provide an opportunity for members of the public to directly address the Board on items of interest to the public. Comments on an item already appearing on the agenda shall be reserved for discussion of that agenda item. Action will not be taken by the Board on items discussed under Oral Communications.

Issues suitable for administrative action shall be referred automatically to the City Manager for disposition.

Issues which require detailed Board discussion and/or action shall be placed automatically on the agenda for the Board meeting two (2) weeks following the meeting on which the item was raised before the Board.

Requests for work, information or assistance from City staff by individual members of the Board which will require anything other than a nominal expenditure of staff time, as determined by the City Manager, shall be placed on the next available Board agenda for action by the full Board.

F. Boardmembers

"Boardmembers" provides members of the Board an opportunity to introduce items not currently before the Board for consideration. Any Boardmember may submit "Boardmember" items on a regular meeting agenda to the City Manager prior to the deadline for submitting items for that meeting Selection of Chair. The Mayor shall be the Chair of the Rent Review Board.

G. Board Action

Upon motion being made by any Boardmember except the presiding officer, a roll call vote using the voting machine shall be taken. A motion that fails to obtain a majority vote shall die.

H. Manner of Addressing Board --Time Limit

1. Each person addressing the Board shall step up to the microphone, shall give their name and address in an audible tone of voice for the record and, unless further time is granted by concurrence of the Board, shall limit their address to five (5) minutes. One applicant or their representative, and one affected resident or their representative shall be given fifteen (15) minutes to address the Board.
2. Whenever any group of persons wishes to address the Council on the same subject matter, it shall be proper for the presiding officer to request that a spokesperson be chosen by the group to address the Board and, in case additional matters are to be presented at the time by any other member of the said group, to limit the number of persons so addressing the Board so as to avoid unnecessary repetitions before the Board.
3. Any member of the Board may require any person giving testimony to respond to questions or clarify any portions of their testimony.

I. Posting of Agenda

At least seventy-two (72) hours before a regular meeting the City Manager shall post a certified copy of the agenda specifying the time and location of the regular meeting. Said agenda shall be posted near the Council Chambers.

J. Closing Time of Board Meetings

No agenda item may be introduced after the hour of 10:30 p.m.; however, the meeting may be extended beyond 10:30 p.m. upon a majority vote of the Boardmembers.

K. Processing of Motions

1. When a motion is made, it shall be stated clearly and concisely by its mover. After a motion is made, it shall be stated by the presiding officer before debate. A motion may be withdrawn by the mover without consent of the Boardmembers.
2. The presiding officer shall at any time by majority consent of the Boardmembers, permit a Boardmember to propose the reordering of agenda items.
3. If the question contains two or more divisionable propositions, the presiding officer may, upon request of a Boardmember, divide the same.

L. Precedence of Motions

1. When a motion is before the Board, no motion shall be entertained except (precedence in order indicated):
 - (a) to adjourn
 - (b) to fix hour of adjournment
 - (c) to lay on the table
 - (d) for the previous question
 - (e) to postpone to a certain day
 - (f) to refer
 - (g) to amend
 - (h) to postpone indefinitely
2. A motion to adjourn shall be in order any time, except as follows:
 - (a) when repeated without intervening business or discussion
 - (b) when made as an interruption of a member while speaking
 - (c) when the previous question has been ordered
 - (d) while a vote is being taken
3. A motion to adjourn "to another time" is debatable only as to the time to which the meeting is adjourned.
4. A motion to table or lay on the table is not debatable and shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the matter may be "taken from the table" only by adding it to the agenda of the next regular meeting, to be discussed at the following regular meeting.
5. A motion for previous question shall close debate on the main motion and shall be undebatable. The statement by Boardmember of "question" does not accomplish the same purpose. If a motion fails, debate is reopened, if motion passes, then vote shall be taken on the main motion.
6. A motion to amend shall be in order and is debatable only as to amendment. A motion to amend an amendment shall not be in order. An amendment modifying the

- intention of a motion shall be in order but an amendment relating to a different matter shall not be in order. A substitute motion on the same subject shall be acceptable and amendments are to be voted first, then the main motion is amended.
7. A motion to postpone indefinitely shall be fully debatable and if the same is adopted the principal motion shall be declared lost. A motion postponed to a definite time shall be amendable and debatable as to propriety of postponement and time set.
 8. A motion to refer shall not be debatable except for the propriety of referring.

M. Administrative Mandamus

Persons who are dissatisfied with a decision of the Mobilehome Rent Review Board may have the right to seek review of that decision by a court. In addition, the City has adopted Section 1094.6 of the Code of Civil Procedure which generally limits to ninety (90) days the time within which the decision of City boards and agencies may be judicially challenged.

N. Reconsideration

Any member of the Board not voting in the minority on any action of the Board may, at the same meeting, or at any subsequent meeting, move to reconsider such action. A reconsideration motion--made by a member of the Board voting in the minority shall not be allowed except when made more than one (1) year after the date of the original action.

Written requests for reconsideration of a Board action shall be provided to each Boardmember on an informational basis. Requests for reconsideration shall be submitted by Boardmembers to the City Manager and shall be placed on a Board agenda under "Boardmembers." At the Board meeting, the request shall be introduced at which time the Board, by majority vote, shall determine if the action is to be reconsidered. If the action is to be reconsidered, the procedure as specified above will be followed.

O. Personal Privilege

The right of any Boardmember to address the Board on a question of personal privilege shall be limited to cases in which his/her integrity, character or motives are questioned.

P. Board Conduct

No member of the Board shall act in such a manner as to call into disrepute the public image of the Board or which is discourteous to or results in the constant interruption of other members of the Board or members of the public.

Q. Parliamentarian

The City Attorney shall decide all questions of interpretations of these rules and any other questions of a parliamentary nature which may arise at a Mobilehome Rent Review Board meeting.