



# Council Agenda Report

To: Mayor Stewart and the Honorable Members of the City Council

Prepared by: Alexis Brown, Deputy City Manager

Reviewed by: Joseph D. Toney, Assistant City Manager

Approved by: Steve McClary, City Manager

Date prepared: October 10, 2024 Meeting date: October 28, 2024

Subject: Discussion and review of the Mobilehome Park Rent Stabilization Commission and the Mobilehome Park Rent Control Regulations

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**RECOMMENDED ACTION:** 1) Review the current standing of the Mobilehome Park Rent Stabilization Commission; and 2) Provide direction to staff as needed.

**FISCAL IMPACT:** There is no fiscal impact associated with the recommended action.

**STRATEGIC PRIORITY:** This item is part of the day-to-day operations identified in the Adopted FY 2023-24 Strategic Priority Project List. Staff continue to work on ongoing projects and normal business while the FY 2024-25 Strategic Priority Plan is finalized.

**DISCUSSION:** At its September 23, 2024, meeting, the City Council directed staff to bring back an item on the Mobilehome Park Rent Stabilization Commission and the Mobilehome Park Rent Control Regulations.

The Mobilehome Park Rent Stabilization Commission last met on March 13, 2008, and is charged under the City's ordinance with hearing applications for rent increases and rent decreases in accordance with the provisions of the ordinance.

Mobilehome parks are regulated by the Mobilehome Park Residency Law. California Civil Code, sections 789-799.7.1 The City does not have jurisdiction to enforce these laws. These laws define rights that are subject to enforcement by courts.

The City's rent stabilization ordinance is outlined in Chapter 5.16 of the Municipal Code, a copy of which is attached to this report (Attachment A). In essence, the Commission is

responsible for processing applications for both rent increases and decreases. Under the ordinance, the rent for spaces governed by this regulation (i.e., those not subject to a long-term lease compliant with state law) may be automatically adjusted annually by the Consumer Price Index (CPI), with a maximum increase of 5% (ceiling) and a minimum of 2% (floor). This adjustment is referred to as a "Formula Increase."

In addition to the annual CPI adjustments, the ordinance allows for an increase in space rent by up to 15% upon the sale of a mobile home, known as a "Vacancy Increase." The ordinance also provides for rent increases in certain other circumstances, such as when park owners are required by the government to offer additional services beyond those provided when the ordinance was enacted, or when a space is subleased. Additionally, a hardship exemption may apply in some cases.

The Commission's role is to conduct hearings and make decisions on applications from park owners seeking rent increases to ensure a fair return, or from mobile homeowners seeking rent decreases when housing services have been reduced. The procedures for processing these applications are outlined in the Commission Regulations, which are also attached to this report.

#### ATTACHMENTS:

1. Municipal Code - Chapter 2.28. Mobilehome Park Rent Stabilization Commission
2. Municipal Code - Chapter 5.16. - Mobilehome Park Rent Control Regulations
3. Mobilehome Park Rent Stabilization Commission Agenda Report

City of Malibu, CA  
Thursday, October 10, 2024

## Title 2. Administration and Personnel

### Chapter 2.28. MOBILEHOME PARK RENT STABILIZATION COMMISSION

#### § 2.28.010. Establishment and organization.

- A. There is established a commission to be known as the "Malibu mobilehome park rent stabilization commission" or "mobilehome park rent stabilization commission." The commission shall be comprised of five residents of the city. Each member of the city council shall appoint one member of the commission to serve at the pleasure of the appointing councilmember. Appointments shall be made at a regular city council meeting following a general municipal election. Vacancies on the mobilehome park rent stabilization commission shall be filled by appointment at a regular city council meeting by the individual councilmember who made the appointment to the seat which is vacant. In no event shall any member of the commission be or, at any time during the immediately preceding five years, have been a park owner or homeowner.
- B. The city manager shall provide all administrative staff necessary to serve the commission. The city clerk shall serve as secretary of the commission and shall be responsible for the maintenance of all records of the commission. The secretary shall keep a record of its proceedings, which shall be open for inspection by any member of the public. The city attorney or the designee of the city attorney shall act as legal counsel to the commission.

(Prior code § 2111; Ord. 127 § 1, 1995; Ord. 146 § 1, 1996)

#### § 2.28.020. Term.

Each member of the mobilehome park rent stabilization commission shall serve a four-year term. Commissioners shall be appointed at a regular city council meeting following a general municipal election. The commission seats shall be divided into two groups, one group of three commissioners and one group of two commissioners. Each group of commissioners' terms shall expire respectively after alternate municipal elections.

(Prior code § 2112; Ord. 127 § 1, 1995)

#### § 2.28.030. Mobilehome park rent stabilization commission— Powers and duties.

Within the limitations provided by law, the commission shall have the following powers and duties:

- A. To receive, investigate, hold hearings on, and pass upon all issues relating to mobilehome park rent stabilization, as set forth in this chapter;
- B. To make or conduct such independent hearings or investigations as may be appropriate to obtain such information as is necessary to carry out its duties;

- C. To adjust space rents either upward or downward upon completion of its hearings and investigations; and
- D. To adopt, promulgate, amend and rescind administrative rules to effectuate the purposes and policies of this chapter, within the limitations provided by law or by rules adopted by the city council.

(Prior code § 2113; Ord. 127 §1, 1995)

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## Title 5. Business Licenses and Regulations

### Chapter 5.16. MOBILEHOME PARK RENT CONTROL REGULATIONS

#### § 5.16.010. Purpose of provisions.

- A. When the county of Los Angeles adopted Chapter 8.57 of the Los Angeles County Code (Ordinance No. 87-0228) to regulate mobilehome parks in the unincorporated areas of the county, the county found that there was within the county of Los Angeles a shortage of spaces for the location of mobilehomes. The area that is now the city of Malibu was previously part of the unincorporated area of the county and was subject to Chapter 8.57 of the Los Angeles County Code. The city of Malibu incorporated on March 28, 1991. There continues to be a shortage of mobilehome spaces in the area that is now the city of Malibu. Because of this shortage, there is a low vacancy rate and rents are presently rising and causing concern among a substantial number of mobilehome park residents. Because of the high cost of moving mobilehomes; the potential for damage resulting therefrom; the requirements relating to the installation of mobilehomes, including permits, landscaping and site preparation; the lack of alternative homesites for mobilehome residents; and the substantial investment of homeowners in such homes, a virtual monopoly exists in the rental of mobilehome park spaces, creating a situation where park owners have unbridled discretion and ability to exploit mobilehome park residents and homeowners.
- B. Homeowners are in the unique position of having made a substantial investment in a mobilehome that is situated on land that is rented or leased. In this situation both the park owner and the homeowner have a financial stake in the relationship.
- C. Additionally, because park space is virtually unavailable and relocating difficult and costly, the closure of a mobilehome park or its change of use has disastrous implications or results for homeowners, who may find it impossible to relocate to a comparable park.
- D. For these reasons, among others, the city council finds and declares it necessary to protect the owners and occupiers of mobilehomes from unreasonable rent increases, while at the same time recognizing the need of park owners to receive a fair return on their property. In addition, the city council finds that it is necessary to provide for the preparation and approval of reports evaluating the impact of changes of use of the parks and provide for measures to mitigate the impact on residents of these changes of use.

(Prior code § 6700; Ord. 48U § 1, 1991)

#### § 5.16.020. Definitions.

"Allowable legal expenses" means attorney's fees and costs incurred in connection with successful good-faith attempts to recover rents owing, and successful good-faith unlawful detainer actions not in derogation of applicable law, to the extent same are not recovered from homeowners. Attorney's fees and costs incurred in proceedings before the commission, or in connection with civil actions against the commission, are not allowable as operating expenses.

"Base rent" means: (1) for spaces not subject to a long term lease that complies with the provisions of **Civil Code** Section 798.17, the space rent charged on March 28, 1991; and (2) for spaces subject to valid long term leases on March 28, 1991, which leases comply with the provisions of **Civil Code** Section 798.17, the last space rent charged under the long term lease.

"Capital improvements" means the park owner's cost of constructing new improvements or replacing old improvements in the mobilehome park, subject to the following limitations:

1. The improvement must: have a life expectancy of five years or more and must be treated as capital improvements for federal and state income tax purposes, and may not be deducted for such tax purposes as expenses.
2. Normal routine maintenance and repair are not capital improvements.
3. Insured repairs and replacement are not capital improvements.
4. The improvements must be permanently fixed in place or relatively immobile.
5. Those improvements that the park owner intends to pass through to the homeowner through special and limited rent increases, except for necessary infrastructure improvements, must be approved by 50% plus one of the homeowners.

"Capital improvements" include construction, installation or replacement of all or a portion of a clubhouse, laundry facility or other common area facilities a swimming pool, sauna, hot tub or other recreational amenities, streets, security gates, outdoor or common area lighting, retaining walls, sewer, electrical, plumbing, water or television reception systems, sprinkler systems, or any addition to or upgrade of existing improvements.

"Commission" means the mobilehome park rent stabilization commission, as established by this chapter.

"CPI" means the Consumer Price Index (All Items) prepared by the Bureau of Labor Statistics for the Los Angeles-Anaheim-Riverside area relating to all urban consumers. If the method of calculating the CPI is substantially revised after the adoption of the ordinance codified in this chapter, the method in effect upon adoption of such ordinance shall continue to be used, or the revised CPI shall be adjusted by the city to correspond to that method.

CPI Adjustment Period. The city shall calculate and furnish a figure constituting the CPI change for use as the basis of rent increases. Such figure need only be based upon available data. This figure shall be based on the changes in the CPI during the last available 12-month period for which information is available from the Bureau of Labor Statistics prior to the effective date of the base rent or current space rent.

"Gross income" means and includes the following:

1. Gross rent, computed as gross rental income at 100% paid occupancy; plus
2. Interest from rental deposits, unless directly paid by the park owner to the homeowner (interest shall be imputed at the rate of five and one-half percent of all deposits, unless such deposits earn greater interest); plus
3. Income from laundry facilities, cleaning fees or services, garage and parking fees attributable to mobilehome spaces; plus
4. All other income or consideration received or receivable for, or in connection with the housing services; minus
5. Uncollected rents due to vacancy and bad debts, to the extent that the same are beyond the owner's control. Uncollected rents in excess of three percent of gross rents shall be presumed to be unreasonable, unless proven otherwise. Where uncollected rent must be proven, the average of the preceding three years' experience shall be used, or other comparable method.

"Homeowner" means any person entitled to occupy a mobilehome which is located within a mobilehome park in the city.

"Housing services" means services provided by the park owner related to the use or occupancy of a mobilehome space, including, but not limited to, water and sewer, natural gas, electricity, refuse removal, management and administration (including employee salaries and fringe benefits), maintenance and repairs, supplies, advertising, recreation facilities, laundry facilities, parking, security services, insurance, property taxes, governmental assessments, and other costs reasonably attributable to the operation of the mobilehome park. The term "housing services" shall not include legal fees or mortgage payments, whether for principal, interest, or both.

"Mobilehome" means a structure designated or designed for human habitation, transported over the high-ways to a permanent occupancy site, and installed on the site either with or without a permanent foundation. "Mobile-home" includes a manufactured home, as defined in the Health and Safety Code, but does not include either a recreational vehicle or a commercial coach, as they are defined in the Health and Safety Code.

"Mobilehome park" means an area of land where two or more mobilehome spaces are rented or leased for mobilehomes used as residences. "Mobilehome park" does not include developments which sell lots for mobilehomes or which provide condominium ownership of such lots, even if one or more homes in the development are rented or leased out.

"Mobilehome park owner" or "park owner" means the owner, lessor, operator or manager of a mobilehome park in the city.

"Necessary infrastructure improvements" means maintenance (such as replacement of a necessary component of a system or improvement, and other than normal maintenance or repair which constitute "operating expenses" pursuant to this section of streets, electrical, gas, plumbing, sewer or water systems, except that costs of replacement or repair incurred or required as a result of the park owners negligence.

"Operating expenses" shall include the following:

1. Real property taxes;
2. Utility costs;
3. Management expenses (contracted or park owner-performed), including necessary and reasonable advertising, accounting, insurance, and other managerial expenses, and allowable legal expenses. Management expenses are presumed to be five percent of gross income, unless established otherwise;
4. Normal repair and maintenance expenses, including painting, normal cleaning, fumigation, landscaping, and repair of all standard services, including electrical, plumbing, carpentry, furnished appliances, drapes, carpets and furniture;
5. Park owner performed labor, which shall be compensated at a reasonable hourly rate, based upon documentation being provided, showing the date, time and nature of the work performed;
6. License and registration fees required by law, to the extent same are not otherwise paid by homeowners;
7. Capital expenses with a total cost of less than \$100 per year, benefited unit, and the amortized portion of other capital expenses otherwise allowed by regulation.

"Operating expenses" shall not include:

1. Avoidable and unnecessary expenses since the base year, including refinancing costs;
2. Mortgage principal and interest payments;

3. Any penalty, fees or interest assessed or awarded for violation of this or any other law;
4. Legal fees, except allowable legal expenses as defined in this section;
5. Depreciation of the property;
6. Any expense for which the park owner has been reimbursed by any security deposit, insurance settlement, judgment for damages, settlement or any other method;
7. Land lease payments;
8. Cost of replacement or repair incurred or necessary as a result of the park owner's negligence or failure to maintain.

"Space rent" means the consideration on a monthly basis, including any bonuses, benefits or gratuities, demanded or received in connection with the use and occupancy of a mobilehome space in a mobilehome park, or for housing services provided, but exclusive of:

1. Any amount paid for the use of a mobilehome;
2. Security deposits and special and limited rent increases;
3. User fees for services or facilities which may be utilized at the option of the homeowners and are not included in monthly space rent; and
4. Utility charges for those mobilehome parks which bill homeowners separately whether or not the mobilehomes are individually metered.

(Prior code § 6701; Ord. 48U § 1, 1991; Ord. 75 § 2, 1992; Ord. 115U §§ 2, 3, 1994; Ord. 116 § 2, 1994; Ord. 121 §§ 5—7, 1994)

## § 5.16.030. Exemptions.

The provisions of this chapter shall not apply to the following tenancies in mobilehome parks located in the city, except that all tenancies in mobilehome parks shall be subject to the registration provisions of Sections **5.16.060** and **5.16.070**:

- A. Mobilehome park spaces rented for nonresidential uses;
- B. Mobilehome parks managed or operated by the United States Government, the state of California, the county of Los Angeles or the city of Malibu;
- C. Tenancies which do not exceed an occupancy of 20 days and which do not contemplate an occupancy of more than 20 days;
- D. Tenancies for which any federal or state law or regulation specifically prohibits rent regulations;
- E. Tenancies subject to rental agreements exempt from local ordinances pursuant to **Civil Code** Section 798.17; and
- F. Tenancies covered by leases or rental agreements existing at the effective date of the ordinance codified in this chapter which are not exempt pursuant to subsection **E** of this section, but only for the duration of such leases or rental agreements. Upon the expiration or other termination of such lease or rental agreement, this chapter shall immediately be applicable to the tenancy, unless that lease or rental agreement immediately succeeded by a lease or rental agreement referred to in subsection **E** of this section.

(Prior code § 6702; Ord. 48U § 1, 1991)

## § 5.16.040. Mobilehome park rent stabilization commission— Establishment and organization.



- A. There is established a commission to be known as the "Malibu Mobilehome Park Rent Stabilization Commission." The commission shall be comprised of five residents of the city. A member of the commission shall be appointed to a vacant position by four-fifths vote of the city council and serve at the pleasure of the city council. In no event shall any member of the commission be or, at any time during the immediately five years have been, a park owner or homeowner.
- B. The city manager shall provide all administrative staff necessary to serve the commission. The city clerk shall serve as secretary of the commission and shall be responsible for the maintenance of all records of the commission. The secretary shall keep a record of its proceedings, which shall be open for inspection by any member of the public. The city attorney or the designee of the city attorney shall act as legal counsel to the commission.

(Prior code § 6703; Ord. 48U § 1, 1991)

## § 5.16.050. Mobilehome park rent stabilization commission— Powers and duties.

Within the limitations provided by law, the, commission shall have the following powers and duties:

- A. To receive, investigate, hold hearings on, and pass upon all issues relating to mobilehome park rent stabilization, as set forth in this chapter;
- B. To make or conduct such independent hearings or investigations as may be appropriate to obtain such information as is necessary to carry out its duties;
- C. To adjust space rents either upward or downward upon completion of its hearings and investigations; and
- D. To adopt, promulgate, amend and rescind administrative rules to effectuate the purposes and policies of this chapter, within the limitations provided by law or by rules adopted by the city council.

(Prior code § 6704; Ord. 48U §1, 1991)

## § 5.16.060. Registration.

- A. **Registration Required.** Within 60 calendar days after the effective date of the ordinance codified in this chapter, park owners shall register all mobilehome park spaces with the city clerk. No park owners shall be eligible to receive any rent increases as provided for in this chapter unless current registration information is on file with the city clerk.
- B. **Initial Registration.** The initial registration shall include the names, business addresses, and business telephone numbers of each person or legal entity possessing an ownership interest in the park and the nature of that interest, and all lienholders, (no later than 30 days after acquiring such interest); the number of mobilehome spaces within the park; the name and address of each resident; a rent schedule reflecting space rents within the park on December 31, 1984, for all spaces not exempt from this chapter pursuant to Section **5.16.030**; a listing of all other charges, including utilities, now included in space rent, paid by homeowners and the approximate amount of each such charge; a list of all spaces exempt from this chapter pursuant to Section **5.16.030** and the reason for the exemption and, for those exempt pursuant to leases or rental agreements, the date of the expiration of the lease or rental agreement and the amount of the rent; and the name and address to which all required notices and correspondence may be sent.
- C. **Determination of Rents.** The city manager or his or her designee shall determine the base rent. The decision of the city staff may be appealed to the commission. The decision of city staff, or the commission on appeal, shall be final. The city manager may promulgate regulations necessary to effectuate the purpose of this section.
- D. **Re-registration.**

1. The city manager or his or her designee may require re-registration as deemed necessary and may promulgate regulations to effectuate the purpose of this section.
2. The registration requirements provided in this section or which may be established by the city shall apply to all mobilehome parks and mobilehome park spaces, including those exempted from the provisions of this chapter by reason of the existence of a valid rental agreement.

(Prior code § 6705; Ord. 48U § 1, 1991; Ord. 75 § 3, 1992)

## § 5.16.070. Registration and administrative fees.

- A. **Establishment of Registration Fee.** At the time of initial registration or any subsequent registration, park owners shall pay to the city such registration fee for each mobilehome rental space within the park as may be established by resolution of the city council (not to exceed the reasonable and necessary costs of administration of this chapter). The city council may also provide that up to two-thirds of that fee may be passed through to homeowners as special and limited rent increases if apportioned equally among the spaces and charged in 12 equal consecutive installments.

Notwithstanding any other provision of this section, where the total annual amount of the fee to be passed through to each homeowner is less than \$48, the park owner may elect to recover the fee from the homeowners in one lump sum rather than in equal monthly installments.

- B. **Late Charge.** If a park owner does not pay the fee provided for in subsection **A** of this section within the time period established by the city council, a late charge shall be assessed in an amount established by resolution. No late charges may be passed through as special and limited rent increases to homeowners.
- C. **Unpaid Fee.** No hearing or other proceedings shall be scheduled to take place, and no rent increase will be granted or will take effect for any mobilehome park for which there are unpaid registration fees.
- D. **Purpose of the Fee.** The registration fee provided for by this section is intended to defray the reasonable and necessary costs associated with the administration of this chapter and the regulations promulgated pursuant thereto.
- E. **Other Administrative Fees.** The city council may set by resolution other administrative fees to cover the reasonable costs of processing various requests and appeals, as it deems necessary.

(Prior code § 6706; Ord. 48U § 1, 1991; Ord. 91 § 1, 1993; Ord. 116 § 2, 1994; Ord. 168 § 1, 1997)

## § 5.16.080. Rent increases—Commission approval.

On or after March 28, 1991, no increase in space rents in excess of the amounts permitted pursuant to Section **5.16.090(A)** and **(B)** shall be effective unless approved by the commission as set forth in this chapter.

(Prior code § 6707; Ord. 48U § 1, 1991)

## § 5.16.090. Rent increases—Computation and determination.

- A. **Formula Increases.** Space rents may be increased automatically and annually by no more than the total percentage change in the CPI for the applicable CPI adjustment period as determined by the city, except that space rent shall not be increased by more than five percent and may be increased by up to two percent. Calculation of the one-year limitation on formula increases shall be from the date the last formula increase became effective for that particular space.
- B. **Vacancy Increases.** Notwithstanding the provisions of subsection **A** of this section, upon vacancy, space rent may be increased up to fifteen percent of the then current maximum allowable rent permitted by this chapter prior to the vacancy.

### C. Special and Limited Rent and Rent Increases.

1. Government Required Services. The homeowner shall pay to the parks owner, on the herein described terms, no less than 60 days after the park owner has notified the homeowner in writing, the increased costs to the park owner of government required services, which are to be included as part of the homeowner's rent but separately listed items on the monthly statement.
  - a. For the purposes of this chapter, "government required services" shall be defined as services required by governmental agencies which are new or in addition to those services legally required to be provided by the park owner to homeowners or to the mobilehome park on March 28, 1991.
  - b. Such services include fees and charges legally levied by an agency of federal, state or local government upon the park owner. Such services do not include predictable expenses for operation of the mobilehome park, such as common-area utilities expenses or expenses which maintain the safe and healthful use of mobilehome park facilities.
  - c. The park owner's actual out-of-pocket costs of providing government required services may be charged to the homeowner upon 60 days' written notice, using the following formula: Amount actually paid by the park owner, divided by the total number of spaces in the mobilehome park, divided by 12 months, equals the sum for government-required services to be charged to the homeowner. Notwithstanding the formula described above, only those costs of providing governmental required services in the 12 months immediately preceding the proposed charge shall be reimbursed to the park owner by the homeowner in the manner herein described. The park owner shall charge the homeowner only those costs for government required services which are not reimbursed to the park owner by insurance or other sources.
2. Capital Improvements.
  - a. (i) Necessary infrastructure improvements subject only to the provisions of subsection (C) (2)(d) of this section; and (ii) subject to the vote requirements and the capital improvement limitations set forth in Section **5.16.020**, and also subject to review by the commission pursuant to Section **5.16.110**, the actual net costs of a capital improvement plus an interest charge to compensate the park owner for the use of money in making the improvement, as described below, may be charged to the homeowners upon 60 days' written notice, using the following formula: net amount actually paid by the park owner for the capital improvement, plus an interest charge as described below, divided by the total number of spaces in the mobilehome park affected by the improvement, divided by the amortization period for the capital improvement allowed by the Internal Revenue Service, equals the monthly sum for capital improvements to be charged to the homeowners and billed separately from space rent.
  - b. The interest charge that may be added to the costs of materials and labor is the current rate derived from the then-current prime interest rate, computed on a declining balance over a five-year period with equal monthly payments (the five-year period represents the amount of time allowed for fully amortizing the cost of capital improvements).
  - c. Notwithstanding the provisions of subsection (C)(2)(a) of this section and Section **5.16.100**, the city manager may approve special and limited rent increases for necessary infrastructure improvements upon a showing by the park owners that the proposed improvement meets the requirements of Section **5.16.020** and that the park owner obtained a minimum of three bids from qualified persons/entities to perform the work, if possible, and that the park owner selected the person/entity submitting the lowest responsible bid to perform the work for the proposed necessary infrastructure improvement. No commission review is required or permitted.

### D.

1. Sublease Surcharge. Notwithstanding the provisions of subsection **A** of this section, upon sublease of a space and/or lease of a mobilehome, the space rent may be increased up to

15% of the rent otherwise permitted under this chapter. This rent surcharge shall be effective only for the duration of the sublease and shall be eliminated when and if the sublease is terminated. A sublease surcharge shall not become effective until 12 months after the last vacancy increase pursuant to subsection **B** of this section. The sublease surcharge rent amount shall be calculated separately and shall not be included in the maximum allowable rent for the purposes of calculating formula increases pursuant to subsection **A** of this section. The provisions of this subsection shall not apply to those spaces granted hardship exemptions pursuant to subsection F of this section for as long as the space is eligible for such exemption.

2. Absentee Owner Surcharge. Notwithstanding the provisions of subsection **A** of this section, in the event that a homeowner does not use his or her mobilehome at a mobilehome park as a primary or principal residence and the homeowner is not otherwise subject to subsection (D)(1) of this section, the homeowner's space rent may be increased up to 15% of the rent otherwise permitted under this chapter. This rent increase shall be effective only until the homeowner occupies his or her mobilehome at the mobilehome park as a primary residence or the homeowner subleases his or her space or mobilehome and becomes subject to subsection (D)(1) of this section. For purposes of this chapter, a primary residence is a residence where the homeowner resides for over 185 days during a calendar year.
- E. Sublease Hardship Exemption. Upon application, the city manager may grant a hardship exemption in connection with the sublease surcharge, which exemption shall last for a term of one year. At the expiration of any particular term of the exemption, the applicant may apply to renew the one-year term by again establishing qualification for the exemption. The application and renewal application shall be in the forms provided by the city manager with a copy to the park owner and, shall include sufficient evidence to establish whether the applicant qualifies for an exemption pursuant to this section and shall be signed by the applicant under penalty of perjury. The city manager shall grant the exemption for any qualified applicant.
1. Qualification. To qualify for the sublease hardship exemption, the applicant must satisfy all of the following criteria:
    - a. The applicant must own a mobilehome at the applicable park, and must have occupied the mobilehome as his or her primary residence for a minimum of three years prior to applying for this exemption.
    - b. The applicant must present adequate evidence that he or she would qualify for the Low Income Rate Payer Assistance Program for Submetered Households.
    - c. The combined value of assets owned by the applicant must not exceed \$150,000 excluding the value of the mobilehome itself.
    - d. No person other than the applicant can declare the applicant as a dependent for purposes of federal or state taxes.

In the event that the applicant, after receiving the hardship exemption, at any time ceases to satisfy all of the foregoing criteria, from that point on, the applicant will not be qualified to receive, and shall not receive, the hardship exemption.

2. Effect of Exemption. Each applicant who qualifies for the hardship exemption shall be exempt from the sublease surcharge provided in subsection **D** of this section.

(Prior code § 6708; Ord. 48U § 1, 1991; Ord. 74 § 3, 1992; Ord. 115U § 3, 1994; Ord. 121 §§ 2—4, 8, 9, 1994)

## § 5.16.100. Rent adjustments—Commission review.

- A.
  1. In order to implement a rent increase as permitted under Section **5.16.090** of this chapter or a rent decrease based on a reduction of housing services, the applicant must file with the

commission a proposed rent schedule on the form provided by the commission. Any proposed capital improvement to be passed through to homeowners must be approved by the commission after the park owner files an application showing the amount of the expense, the amount to be passed through and proof of a majority vote in favor of the special and limited rent increases.

2. Where the park owner is the applicant, the park owner shall serve each affected homeowner, either personally or by mail, with written notice of the proposed increase, in accordance with state law, and with notice that a request for approval of same is being filed with the commission. Where a homeowner (or homeowners) is the applicant, the homeowner shall serve the affected park owner by mail or personally at the address and to the person designated in the registration form submitted by the park owner to receive notices on behalf of the park owner. The applicant shall file proof of such service with the commission concurrent with the filing of the rent increase or decrease application. Copies of the rent schedule, request for increase and supporting documentation shall be available to any homeowner requesting same at the park owner's office in the affected mobilehome park.
- B. If the city determines that the application is not complete, accurate, or not in compliance with this chapter, within 21 days of the date on which the application was filed, the city shall give written notice of the deficiencies to the applicant.
  - C. The city shall set a hearing on any request complying with the requirements of this chapter no sooner than 50 days and no later than 70 days after the application is accepted as complete. The city shall send written notice to the park owner, who shall post such notice in a conspicuous place, of the time and place set for the hearing. If the commission approves an increase as requested, or lower than requested, the same shall take effect as noticed by the owner or as the commission may otherwise direct.
  - D. In the application for rent adjustment under this chapter, the park owner shall indicate which, if any, of the mobilehome spaces are covered by leases or contracts which provide for more than a month-to-month tenancy, together with expiration date of each such lease or contract. Any rent increase approved by the commission under this chapter shall not be applicable to spaces covered by such leases or contracts during the term of such leases or contracts.
  - E. Homeowner(s) in a mobilehome park may initiate commission review of a proposed land rent increase by filing with the city clerk a written petition. The petition shall be in substantially such form and contain such information as may be required by the commission.

(Prior code § 6710; Ord. 48U § 1, 1991; Ord. 116 § 2, 1994)

## § 5.16.110. Review hearings.

- A. All review hearings conducted by the commission shall be open to the public.
- B. All parties to the hearing may have assistance from an attorney or such other person as may be designated by the parties in presenting evidence or arguing their position. All witnesses shall be sworn in and all testimony shall be under penalty of perjury.
- C. In the event that either the park owner or the homeowner(s) should fail to appear at the hearing at the specified time and place, the commission: may hear and review such evidence as may be presented and make such decisions as if both parties had been present.
- D. All review hearings shall be tape-recorded. Tapes shall be preserved for six months, or longer, if requested by either party affected by the hearing.
- E. The commission may promulgate regulations to effect the purpose of this section and to assure fair hearings.

(Prior code § 6711; Ord. 48U § 1, 1991)

## § 5.16.120. Rent adjustments—Commission decision authority.

- A. The commission's decision shall be based on the preponderance of the evidence at the hearing. All parties to the hearing shall be advised of the commission's decision and given a copy of the findings upon which the decision is based.
- B. Consistent with its findings, the commission may:
  - 1. Permit the requested increase to become effective, in whole or in part;
  - 2. Deny the increase;
  - 3. If circumstances justify, order a reduction in rent to a rate determined by the commission; or
  - 4. Order that the park owner reimburse the applicant(s) the full amount, or any part of the amount, of the application fee where: (a) the applicant for a rent reduction was successful; (b) the park owner has not proven that the rent reduction ordered or the award of costs would deprive the park owner of a fair return as defined in this chapter; and (c) circumstances otherwise warrant the award of costs to the applicant.
- C. If the commission finds that an increase that went into effect, or any portion thereof, is not justified, the park owner shall refund the amount found to be unjustified to the homeowner within 60 days after the decision of the commission is announced.
- D. If the commission finds that a proposed increase, or any portion thereof that was previously inoperative, is justified, the homeowner shall pay the amount found justified to the park owner within 60 days after the decision of the commission is announced.
- E. The conclusions and findings of the commission shall be final.
- F. Any party disputing the final conclusions and findings of the commission may seek review of the commission's actions pursuant to Sections 1094.5 and 1094.6 of the California **Code of Civil Procedure**.

(Prior code § 6713; Ord. 48U § 1, 1991; Ord. 135 § 1, 1995)

## § 5.16.130. Hearing—Evidence and procedural irregularities.

Formal rules of evidence or procedure which must be followed in court shall not apply to commission proceedings, except to the extent that the commission shall determine. No action of the commission hereunder shall be held void or invalid or be set aside by any court on the grounds of any improper admission or rejection of evidence, or by reason of any error, irregularity, informality, neglect or omission (hereinafter called "error") as to any matter pertaining to applications, notices, findings, records, hearings, reports, recommendations, or any matters of procedure whatever, including but not limited to those included in this section, unless after an examination of the entire case, including the evidence, the court shall be of the opinion that the error complained of was prejudicial, and that by reason of such error the party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error had not occurred or existed. There shall be no presumption that error is prejudicial or that injury was done if error is shown.

(Prior code § 6714; Ord. 48U § 1, 1991)

## § 5.16.140. Implementation guidelines.

After a noticed-public hearing, as it deems necessary, the city council may adopt by resolution guidelines to aid in the implementation of this chapter.

(Prior code § 6715; Ord. 48U § 1, 1991)

### § 5.16.150. New and prospective homeowners.

- A. Prior to or at the time of agreeing to rent space to a new homeowner in a mobilehome park, the owner shall provide each new homeowner or prospective homeowner with a copy of the mobilehome park rent stabilization ordinance, as currently in force.
- B. No owner may require, directly or indirectly, that any resident or prospective resident sign a lease or rental agreement that provides that it shall be exempt from local rent control or provides for space rent in excess of that permitted by this chapter as a condition of tenancy in the park and no owner may deny a tenancy to a prospective purchaser of a mobilehome in the park on the ground that the prospective purchaser will not sign such a lease or rental agreement.
- C. The notice shall contain a place for the homeowner to acknowledge receipt of the notice. The park owner shall sign an acknowledgment that the required notice has been given to the homeowner and provide the homeowner with a copy of the executed acknowledgment.

(Prior code § 6716; Ord. 48U § 1, 1991; Ord. 74 § 1, 1992)

### § 5.16.160. Homeowner's right of refusal.

A homeowner may refuse to pay any increase in rent which is in violation of this chapter. Such refusal to pay shall be a defense in any action brought to recover possession of a mobilehome space or to collect the rent increase.

(Prior code § 6717; Ord. 48U § 1, 1991)

### § 5.16.170. Retaliatory eviction.

Notwithstanding Section **5.16.160**, in any action brought to recover possession of a mobilehome space, the court shall consider as grounds for denial any violation of any provision of this chapter. Further, the determination that the action was brought in retaliation for the exercise of any rights conferred by this chapter shall be grounds for denial. Any action brought within one year of a petition or complaint filed with the commission by the homeowner pursuant to this chapter shall be presumed to be retaliatory; this presumption affects the burden of proof, and is rebuttable by the park owner.

(Prior code § 6718; Ord. 48U § 1, 1991)

### § 5.16.180. Violation—Civil remedies.

If any park owner demands, accepts, receives or retains any payment of rent in excess of the maximum lawful space rent, as determined under this chapter, then the homeowners in such mobilehome park affected by such violation, individually or by class action, may seek relief in a court of appropriate jurisdiction for injunctive relief and damages. The prevailing party will recover costs and reasonable attorneys' fees as part of any court judgment.

(Prior code § 6719; Ord. 48U § 1, 1991)

### § 5.16.190. Violation—Penalty.

Any person violating any provision, or failing to comply with any requirement of this chapter shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this chapter shall be punished by a fine of not more than \$500 or by imprisonment for a period of not more than six months, or by both. Each violation of any provision of this chapter, and each day during which any such violation is committed, permitted or continued, shall constitute a separate offense.

(Prior code § 6720; Ord. 48U § 1, 1991)

## § 5.16.200. Just and reasonable return.

A park owner may file a rent adjustment application for one, some or all the spaces in a mobilehome park in order to establish the maximum allowable rent or to achieve a fair and reasonable return. Homeowners may file a rent adjustment application based on reduction in services or other grounds established by this chapter or regulations promulgated pursuant thereto. Nothing in this chapter shall be construed to prevent the grant of a rent adjustment upon application by a park owner when required to permit a fair and reasonable return to the park owner. The city shall receive relevant evidence, in accordance with applicable regulations, demonstrating that a landlord is not receiving a fair and reasonable return in determining these applications.

(Prior code § 6721; Ord. 48U § 1, 1991; Ord. 115U § 4, 1994)

## § 5.16.210. Mobilehome park relocation impact reports.

- A. **Statement of Purpose.** The purpose of this section is to implement the provisions of state law addressing the adverse impacts on the residents and homeowners in a park which is converted, closed or where the park's use is changed or ceased.
- B. **Definitions.** For purposes of this section, the following definitions shall apply in addition to those listed in Section **5.16.020**.

"Advisory agency" means the planning department, commission, or hearing officer as designated by the city council.

"Change of use" means a use of a mobilehome park for a purpose other than the rental, or the holding out for rent, of two or more mobilehome sites to accommodate mobilehomes for human habitation. "Change of use" includes, but is not limited to, a change of the park or any portion thereof to a condominium, stock cooperative, or any form of ownership wherein spaces within the park are to be sold, and the cessation of use of all or a portion of the park, whether immediately or on a gradual basis, or the closure of the park. "Change of use" shall not include mere purchase of the park by its existing homeowners.

"Comparable housing" means housing which is comparable in floor space area, deck and lot size, and number of bedrooms and other relevant factors to the mobilehome to which comparison is being made, which housing meets the minimum standards of the State Uniform Housing Code.

"Comparable mobilehome park" means any other mobilehome park substantially equivalent in terms of park condition, amenities, ocean views and beach access and other relevant factors.

"Date of application for change of use" means the date of filing of an application for rezoning, general plan amendment, use permit, site development permit or other discretionary development approval under this code, which application seeks approval of a change of use of a mobilehome park or the date of the closure or cessation of use.

"Eligible homeowner" means a homeowner whose mobilehome or manufactured home was located in a mobilehome park on the date of the application for a change of use.

- C. **General Requirements.**

- 1. Any person who files an application for a rezoning, general plan amendment, subdivision map, use permit, site development permit or for any other discretionary development approval, for the purpose of a change of use of a mobilehome park or closure, shall file with the advisory agency a report on the impact of the conversion, closure, or cessation of use (hereinafter "closure") upon the residents of the mobilehome park who will be displaced, no later than the filing of the first such application necessary to authorize such closure.



2. No application shall be considered or deemed completed or processed for consideration and approval unless and until such conversion impact report shall have been filed as required by this subsection.
3. Use of a property as mobilehome park shall not be terminated for the purpose of conversion to another land use or cessation of use until approval by the advisory agency and the city council, or appeal, has been received.
4. No building permit shall be issued on property occupied by a mobilehome park at the effective date of this chapter or hereinafter for uses other than those associated with the mobile home park use and allowed under the special use permit, until approval under this section has been received.

D. Conversion Impact Report.

1. The conversion impact report shall address the availability of adequate replacement housing in mobilehome parks and the cost of relocating displaced residents.
2. In order to evaluate adequately and address those issues, the conversion impact report shall contain the following information:
  - a. The names, addresses and mobilehome site identification numbers of all persons owning mobilehomes within the mobilehome park and of all mobilehome residents on the date of application for change of use;
  - b. The age, including date of manufacture, of each mobilehome within such park, including the type of mobilehome, width characteristics, size, and number identifying the mobilehome site being occupied;
  - c. A list of vacant mobilehome sites in comparable mobilehome parks within a 50 mile radius of the park which is the subject of the application or request;
  - d. The list shall contain a schedule of site rental rates for each park listed and the criteria of the management of each park for acceptance of new homeowners and used mobilehomes;
  - e. The names, addresses and telephone numbers of one or more housing specialists from the list compiled by the advisory agency, and the names, addresses and telephone numbers and fee schedules of persons qualified as mobilehome movers and of persons who are qualified appraisers of mobilehomes and an explanation of the services the housing specialists will provide;
  - f. The applicant may designate other housing specialists, and mobilehome movers and appraisers; provided, that use of any such persons pursuant to this chapter shall be subject to approval by the advisory agency;
  - g. A relocation plan which will include:
    - i. Timetable for implementing the physical relocation of mobilehomes,
    - ii. Implementation of relocation assistance,
    - iii. Payment of relocation costs, and
    - iv. Conversion of the park to one or more other uses.
3. The application shall include within the conversion impact report the steps proposed to mitigate any adverse impact on the ability of displaced homeowners to find adequate housing in a mobilehome park, including the reasonable costs of relocation.
  - a. All eligible homeowners and all mobilehome tenants of eligible homeowners shall be provided with the services of one or more housing experts to assist them in relocating to

available and adequate housing upon their request. Any such experts shall be those approved pursuant to this section.

- i. A factor to be considered is that the conversion will not result in the displacement of low-income individuals or households who cannot afford rents charged in other parks.
- ii. A factor to be considered is it the conversion is to another residential use, the homeowners have first opportunity to occupy and the construction schedule will not result in long-term displacement.
- b. No benefits shall be provided to any person who is renting a mobilehome from the owner of the mobilehome park where such person shall have executed a written agreement with such mobilehome park owner waiving his or her rights to any such benefits. No such waiver shall be valid unless it contains the text of this section, and unless such person shall have executed a written acknowledgment that he or she has read and understands his or her rights pursuant to this chapter and knowingly agrees to waive them.
- c. In order to facilitate the intentions of the homeowners or tenants and an applicant for a change of use with regard to a change of use, the parties may agree to mutually satisfactory relocation assistance. To be valid such an agreement shall be in writing, shall include a provision stating that the homeowner is aware of the provisions of this chapter, shall include a copy of this chapter as an attachment, shall include a provision in at least 10 point type which clearly states the right to seek and the importance of obtaining an attorney's advice prior to signing the agreement, and shall be drafted in form and content otherwise required by applicable state law. Any person signing such an agreement may rescind it in writing within 10 business days of final approval of change of use. Any such agreement which is procured by fraud, misrepresentation, coercion or duress of any kind shall be void and unenforceable.

#### E. Hearing and Notice.

1. Upon the receipt of an impact report, within 30 days the advisory agency shall examine the same and advise the applicant whether it is complete. When a complete impact report has been filed and accepted by the advisory agency, within 30 days the advisory agency shall set a time, place and date for a hearing.
2. At least 30 days prior to the hearing, the advisory agency shall mail notice to the applicant and the homeowners of the date, time and place of the meeting.
3. At least 15 days prior to the scheduled public hearing before the advisory agency on the conversion impact report, the applicant shall provide the homeowner and all other persons described with a copy of this chapter, a copy of the conversion impact report, and date and time for an informational meeting pursuant to subsection (E)(4) of this section.
4. Not less than 10 days prior to the date of the scheduled public hearing before the advisory agency, the applicant shall conduct an informational meeting for the residents of the mobilehome park regarding the status of the application, the timing of proposed relocation of residents, proposed relocation costs and assistance, and the contents of the conversion impact report. The meeting shall be conducted on the premises of the mobilehome park. The housing specialist(s) designated in the impact report shall be present at such meeting.
5. Within five days prior to the public hearing, the applicant shall file with the advisory agency a statement made under penalty of perjury that all requirements pursuant to subsections (E)(3) and (4) of this section have been complied with and include date, time, and place where such meeting as required by subsection (E)(4) of this section occurred.

- F. Findings and Decision. At the conclusion of the hearing, the advisory agency shall render its decision. The advisory agency shall approve, conditionally approve or disapprove the relocation impact report. The advisory agency shall approve the relocation impact report if it finds that the relocation impact report contains the information required pursuant to this section. In approving the

relocation impact report, the advisory agency may impose such conditions as it finds necessary to mitigate the adverse impacts on the residents; however, any steps required to be taken by the park owner pursuant to this section shall not exceed the reasonable costs of relocation. Notice of the advisory agency action shall be mailed to the park owner, to all homeowners and to all persons who have filed written request therefor.

- G. Request for Appeal. The park owner or any homeowner may appeal the advisory agency's decision to the city council. The appeal shall be filed with the city on a form provided for that purpose within 10 days after the action of the advisory agency. When an appeal is filed, it shall be accompanied by a fee in an amount determined according to Section **5.16.070**. The city shall, within 45 days, set a time and date for a hearing, and shall mail written notice of such hearing to the park owner, all homeowners, the person requesting the hearing, the advisory agency and all persons who have filed written request therefor, at least 15 days prior to the hearing.

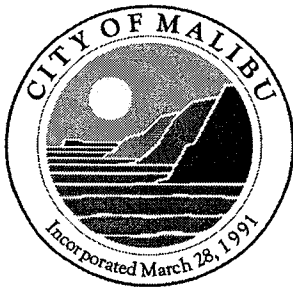
For all requests for hearing, the city council may sustain, modify, reject or overrule any recommendations or rulings of the advisory agency and may make such findings as are not inconsistent with the provisions of this section.

- H. Extensions. Any of the time limits specified in this section may be extended by mutual consent of park owner and the advisory agency, or the city council, on appeal, with notice to affected homeowners, except where prohibited by state law.
- I. Expiration and Extension of Relocation Impact Report. The approval of a relocation impact report shall become null and void after 36 months from the date of the mailing of the final approval of the relocation impact report. Thereafter, the park owner shall not convert, close or cease the use of the park until such time as a new relocation impact report is approved. However, upon application of the park owner, filed with the advisory agency on or before the date of expiration, the relocation impact report may be extended by the advisory agency up to an additional 36 months. An application for an extension shall be subject to the notice and hearing procedures of this section.
- J. Conditions. In the approval of a mobilehome park conversion, the city may attach conditions deemed reasonable in order to mitigate the impacts associated with the conversion. Such conditions shall not be limited to, but may include, the following:
1. If the land occupied by the park is to be sold, the homeowners shall be given the right of first negotiation (from the seller) and matching rights (right of last refusal) for the purchase of the park and all the improvements.
  2. The homeowners be given the option of a long-term lease of the land and purchase of the improvements.
  3. The city may attach an effective date upon their approval of the conversion. This date will provide sufficient time for the relocation of the mobilehome to other parks.
- K. Revocation and Amendment. Any time prior to the closure of the mobilehome park, the advisory agency may, in its discretion, and upon good cause shown, initiate proceedings for the revocation or amendment of an impact report. Good cause may include, but is not limited to, change of circumstances which render the conditions or requirements of the relocation impact report no longer necessary or appropriate, negligent or fraudulent misrepresentation of fact relating to the relocation impact report, or noncompliance with the conditions of the impact report. Prior to revoking or amending a relocation impact report, the advisory agency shall conduct a hearing in accordance with the applicable procedures set forth in subsection **E** of this section. Upon revocation, the park owner shall not convert, close, cease or change the use of the park until such time as a new relocation impact report is approved. Such revocation or amendment is subject to the same request for hearing as is provided in subsection **G** of this section.
- L. Evictions Pending Compliance with Relocation Impact Report. Termination of a tenancy of any resident pursuant to **Civil Code** Section 798.56 or any other provision of law shall not relieve the park owner of its obligation to comply with the conditions or requirements of the relocation impact report applicable to that resident. However, if the termination of tenancy is based on subdivisions

(a), (b), (c), (d), (e) or (f) of Section 798.56 of the **Civil Code**, the advisory agency, upon request by the park owner, may grant to the park owner extensions of time within which to comply with the conditions of the relocation impact report.

- M. **Additional Authority of the Advisory Agency.** If, notwithstanding the fact that the park owner has not served a six months' or 12 months' notice on the residents, the advisory agency finds that the park owner is attempting to close or convert a park, then the advisory agency shall require the filing of a relocation impact report.
- N. **Obligations of Applicant After Approval of Conversion Impact Report.** After the date of determination that the conversion impact report complies with the requirements of this chapter, the applicant shall undertake or be responsible for performance of the following obligations:
  - 1. Not later than 30 days from the date of such determination, the housing specialist or specialists shall make personal contact with each homeowner of the mobilehome park and commence consultations to determine the applicable costs and assistance to be provided. The housing specialist or specialists shall give each homeowner and former resident eligible to receive relocation assistance written notice of his or her rights to relocation assistance as determined by the city under this chapter.
  - 2. Not less than 120 days prior to the date any homeowner is required to vacate the mobilehome park, any cash or monetary relocation costs required by this chapter shall be paid to such homeowner, to any former resident eligible for such costs, or to any person, firm or corporation performing relocation related services for the homeowner, as the homeowner may direct. If the applicant purchases the mobilehome the homeowner shall be required to promptly submit to the applicant all documents necessary to transfer complete title and ownership of such mobilehome to the applicant, free and clear of all security interest, liens, or other encumbrances.
  - 3. The date upon which any resident of the mobilehome park is required to vacate such park, or upon which any mobilehome is required to be removed from the mobilehome park, shall be not less than six months from the date of notice of termination of tenancy pursuant to **Civil Code** Section 798.56(f)).
  - 4. If the owner of the mobilehome park, the applicant homeowner or tenant specifically requests that any of the time limitations required by this section be modified, the city shall consider any such modification and evidence relating to the need therefor at the public hearing on the conversion impact report. The city shall have the power to make modification in such time limits, both in response to a request and on its own motion, in conjunction with any approval of a conversion impact report, as the city may deem just and reasonable.
- O. **Payment of Relocation Assistance Benefits—Prerequisite to Issuance of Building Permit to Redevelop Park.** No building permit shall be issued for the development of any real property which has been or is being converted from a mobilehome park pursuant to this chapter unless and until the applicant or the owner of the property, as the case may be, who is responsible for payment of any required monetary relocation assistance, shall have filed with the advisory agency a verified statement made under penalty of perjury that relocation assistance payments required pursuant to this chapter have been paid. Such statement shall specify in itemized form each payee, the amount paid, the date of payment, and the type of relocation or other assistance for which each such payment was made.
- P. **Violations.** Violations of this section shall constitute a misdemeanor. In addition, any park owner or applicant who violates any rights of any homeowner or mobilehome tenant established under this chapter shall be liable to the person for actual damages caused by such violation, plus costs and reasonable attorneys' fees. No park owner shall take any wilful action to threaten, retaliate against or harass any park resident with the intent to prevent such residents from exercising his or her rights under this chapter.

(Prior code § 6723; Ord. 48U § 1, 1991; Ord. 74 §§ 4—9, 1992)



# Mobilehome Park Rent Stabilization Commission Agenda Report

To: Members of the Mobilehome Park Rent Stabilization Commission

Approved by: Christi Hogin, City Attorney

Date prepared: March 3, 2008 Meeting date: March 13, 2008

Subject: Commissioner Orientation

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**RECOMMENDED ACTION:** No action required.

**DISCUSSION:** One of the first orders of business when the City of Malibu incorporated in 1991 was to develop a mobilehome park rent stabilization ordinance to replace the ordinance that governed the unincorporated areas of the County. The Mobilehome Park Rent Stabilization Commission is charged under the City's ordinance with hearing applications for rent increases and rent decreases in accordance with the provisions of the ordinance.

**THE LEGAL LANDSCAPE:** Mobilehome parks offer a hybrid of home ownership and home rental. A tenant in a mobilehome park owns the trailer or mobilehome itself and rents the space on which it sits. The park provides access and sometimes other amenities such a recreation room, a swimming pool, landscaping and security.

"Mobilehome" is really a misnomer because the structures, as a practical matter, are not really mobile. They are manufactured homes which do not have traditional foundations. They are constructed in a factory and delivered to the site, whole or in parts; however, after delivery, their traveling days are pretty much over. Most mobilehomes lose value with age (like a car would) and few older mobilehomes could withstand relocation. There is a shortage of available park spaces in most communities; so, even if a mobilehome physically could be moved, it is unlikely to have a place to go (at least not to another park).

As a practical matter, if someone elects to sell his mobilehome, it is sold in place and the new owner assumes the lease or acquires a right to rent the space in the park where the

mobilehome sits. Because spaces are in short supply, tenants are in certain respects at the mercy of the park owner. As a result, in addition to the City's rent stabilization ordinance, extensive state laws govern this area and protect park residents in certain respects. Mobilehome parks are regulated by the Mobilehome Park Residency Law, California Civil Code, sections 789-799.7.<sup>1</sup> The City does not have jurisdiction to enforce these laws. These laws define rights that are subject to enforcement by courts.

Under the state law, park owners may terminate a tenancy in a park only for one or more of the following reasons:

- The owner of the mobile home has failed to comply with local ordinances and state laws relating to mobile homes.
- The conduct of the mobile home owner within the mobile home park constitutes a serious annoyance to other mobile home owners.
- The mobile home owner fails to comply with the reasonable rules of the mobile home park, established by the management in the rental agreement at the start of tenancy, or amended with the consent of the mobile home owner (or without their consent, upon six month's written notice.
- Nonpayment of rent, utility charges, or reasonable incidental service charges.
- Criminal felony drug conviction for activities at the mobile home park.

A 60-day written notice to terminate a tenancy is required for both the landlord and the mobile home owner. The landlord must specify one of the above reasons for terminating a tenancy. Thus, unlike a typical property owner, a park owner may not evict a mobilehome owner without one of these specific, enumerated causes.

The State of California has a Mobilehome Ombudsman that receives and processes complaints related to living in manufactured homes and mobilehomes. The state office provides information and other assistance to help resolve complaints generally related to the operation of mobilehome parks related to health and safety matters; the purchase, sale, financing, titling and registration of manufactured homes and mobilehomes; and the installation, inspection, and maintenance or alteration of manufactured homes, mobilehome accessory structures, and park grounds.

State law also provides that the park owner must furnish the mobile homeowner with a copy of the park rules, a list of services provided, and a copy of the Mobile home Residency Law at the beginning of the residency.

Under state law, rental agreements for mobilehome parks must contain the following:

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<sup>1</sup> Tenants renting a mobile home from the mobile home owner are not governed by the Mobile home Residency Law, but by California landlord-tenant laws and civil codes. The Mobile Home Residency Law governs the relationship between the Park Owner and the Mobile Homeowner.

1. A provision stating that it is the responsibility of the management to maintain the common areas in good condition;
2. A description of the physical improvements to be provided during tenancy;
3. A list of services that will be provided during the length of the tenancy;
4. A statement that the owner or manager must meet with the tenants to discuss changes in the park. A 10-day written notice of such a meeting is required. This applies to changes in park rules, maintenance of physical improvements, and any alteration or deletion of services, equipment or physical improvements.

In certain respects, the state law preempts the City's rent stabilization ordinance. Local rent stabilization laws cannot apply to spaces that have been given a long term lease which meets certain legal requirements or in a park constructed after a certain time. These laws generally mean that the City's ordinance does not benefit all spaces in a given park. Any spaces in a park that are governed by long term leases would be exempt from rent stabilization.

Courts have upheld exercise of local police power to regulate rents in mobilehome parks where the law is rationally related to a legitimate government purpose, such as maintaining affordable housing, and where the regulations afford the property owner a fair and reasonable rate of return. Generally speaking, rent stabilization ordinances cap a rent on a certain date, assume that it is a fair rent since it was charged in a free market and provide for limited increases to that rent over time in order to keep pace with inflation. Commonly this amounts to the right of park owners to increase the rent in accordance with the Consumer Price Index. In addition, any rent stabilization ordinance must provide for a mechanism for park owners to seek rent increases where they no longer believe that they are receiving a fair return on their investment.

One of the most contentious aspects of mobilehome park rent control involves what is called "vacancy control." Some rent stabilization ordinances provide that rent may be raised to "market rates" whenever a mobilehome is sold; other ordinances, like Malibu's, provide that the rent-controlled rate carries over to the buyer. The City's purpose in maintaining vacancy control is to keep rents affordable and limit increases to keep with inflation. However, there is an unintended affect that has been the source of considerable litigation and controversy in this area of law. Park residents/homeowners benefit when the controlled rents carry over to the subsequent tenant. Although a mobilehome itself may have depreciated as a physical asset, the right to occupy a rent-controlled space positively influences the value of the sale. Thus, the homeowner is able to sell both the mobilehome and its right to be on the rent-controlled space for considerably more than the mobilehome alone might fetch on the open market. Park owners bitterly complain that this unfairly transfers the value of their land to the tenant. Park owners assert that in the purchase price the tenant is in essence receiving value for the land, which he does not own. Park owners also argue that this phenomenon

(tenants being able to sell their mobilehomes for enhanced prices due to rent control) undermines a city's objective of maintaining affordable housing because rent control increases the price of the mobilehome and makes the park less affordable to low income families to buy a home there. On balance, the Malibu City Council determined that rent stabilization contributed significantly to maintaining affordable housing but to balance the issues the City allows for an increase in rent of 15% upon vacancy.

**THE ORDINANCE:** The City's rent stabilization ordinance is set forth at Chapter 5.16 of the Municipal Code and a copy is attached to this report. (Attachment 1) Basically, the Commission is charged with processing applications for rent increases or rent decreases. Under the ordinance, a space rent for those spaces governed by the ordinance (e.g. those not subject to a long term lease that complies with state law) may be automatically adjusted annually by CPI up to 5% (ceiling) and at least by 2% (floor). This is called a "formula Increase" in the ordinance.

In addition to the annual CPI, the ordinance provides that space rent may be increase up to an additional 15% upon the sale of the mobilehome. This is referred to as a "vacancy increase." There are a few other situations in which a space rent may be increased should the park owner be required by the government to provide services beyond those provided at the time the ordinance was enacted and where the space is being subleased, although the ordinance allows for a hardship exemption.

The Commission's role is to conduct hearings and reach decisions on applications by the park owner for rent increases to achieve a fair return or applications by mobilehome owners for decreases when housing services have been eliminated. The specifics of how these applications are processed are set forth in the Commission Regulations, which are attached to this staff report. (Attachment 2)

Consistent with its function, the Commission meets when an application is filed with the City under the ordinance. In accordance with governing law, the City is subject to specific time periods in which to act on a rent increase application.

In addition to processing rent adjustment applications, should a park seek to close or convert its use, the City has adopted an ordinance that implements the provisions of state law addressing the adverse impacts on the residents and homeowners in a park which is converted, closed or where the park's use is changed or ceased. Under these circumstances, park owners are required to prepare a conversion impact report and a relocation plan, which this Commission will review for compliance.

**THE COMMISSION:** The Commission is regulated by the Brown Act, which is California's government in the sunshine law. It is found in the California Government Code beginning at Section 54950 and a copy is attached to this staff report. (Attachment 3) In a nutshell, it requires local government business to be conducted at open and



public meetings, except in certain limited situations which do not apply to the Commission. The Brown Act is based upon state policy that the people must be informed so they can keep control over their government.

The central provision of the Brown Act requires that all meetings of a public body be open and public. The Brown Act definition of the term "meeting" (Section 54952.2) is a very broad definition that encompasses almost every gathering of a majority of Commission members:

Any congregation of a majority of members of a legislative body [which includes the Commission] at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.

In plain English, this means that a meeting is any gathering of a majority of members to hear or discuss any item of mobilehome park rent stabilization business or potential business.

There are six specific types of gatherings that are not subject to the Brown Act: (1) individual contacts; (2) seminars and conferences; (3) community meetings that are open to the public and publicized; (4) other commissions or city council meetings; (5) social or ceremonial occasions; and (6) standing committees (although the Commission is not likely to have any subcommittees). Unless a gathering of a majority of members falls within one of these exceptions, if a majority of members are in the same room and merely listen to a discussion of potential Commission business, then they will be participating in a "meeting" governed by the Brown Act that requires notice, an agenda, and a period for public comment.

### **1. The Individual Contact Exception**

Conversations, whether in person, by telephone or other means, between a Commission member and any other person do not constitute a meeting (Section 54952.2(c)(1)). However, such contacts may constitute a "serial meeting" in violation of the Brown Act if the individual also makes a series of individual contacts with other members of the legislative body for the purpose of "developing a collective concurrence." An explanation of what constitutes a "serial meeting" follows below.

## **2. The Seminar and Conference Exception**

The attendance by a majority of members at a seminar or conference or similar educational gathering is also generally exempted from Brown Act requirements (Section 54952.2 (c)(1)). This exception, for example, would apply to attendance at a California League of Cities seminar. However, in order to qualify under this exception, the seminar or conference must be open to the public and be limited to issues of general interest to the public or to cities. Finally, this exception will not apply to a conference or seminar if a majority of members discuss among themselves items of specific business relating to their own city, except as part of the program.

## **3. The Community Meeting Exception**

The community meeting exception allows members to attend neighborhood meetings, town hall forums, chamber of commerce lunches or other community meetings sponsored by an organization other than the city at which issues of local interest are discussed (Section 54952.2(c)(3)). However, members must observe several rules that limit this exception. First, in order to fall within this exception, the community meeting must be "open and publicized." Therefore, for example, attendance by a majority of a body at a homeowners association meeting that is limited to the residents of a particular park and only publicized among members of that development would not qualify for this exemption. Also, as with the other exceptions, a majority of members cannot discuss among themselves items of Commission business.

## **4. The Other Legislative Body Exception**

This exception allows a majority of Commission members to attend meetings of the city council or other city commissions without treating such attendance as a meeting of the Commission (Section 54952.2(c)(4)). Of course, as with other meeting exceptions, the members are prohibited from discussing city business among themselves.

## **5. The Social or Ceremonial Occasion Exception**

The Brown Act requirements do not apply to attendance by a majority of members at a purely social or ceremonial occasion provided that a majority of members do not discuss among themselves matters of public business (Section 54942.2(c)(5)).

## **6. The Standing Committee Exception**

Although it is unlikely that the Commission will have a need for standing committees, this exception allows members of the Commission, who are not members of a standing committee of the body, to attend an open and noticed meeting of the standing committee

without making the gathering a meeting of the full Commission itself. The exception is only applicable if the attendance of the Commission members who are not standing committee members would create a gathering of a majority of the legislative body; if not, then there is no "meeting." If their attendance does establish a quorum of the Commission, the members of the Commission who are not members of the standing committee may only attend as "observers" (Section 54952.2(c)(6)). This means that members of the Commission who are not members of the standing committee should not speak at the meeting, sit in their usual seat on the dais or otherwise participate in the standing committee's meeting.

In addition to regulating all gatherings of a majority of members of the Commission, the Brown Act also addresses prohibits certain contacts among individual members of legislative bodies. While the Brown Act specifically exempts individual contacts or conversations between a member of a legislative body and any other person (Section 54952.2(c)(1)), the Brown Act also prohibits a series of such individual contacts if they result in a "serial meeting" (Section 54952.2(b)).

A serial meeting is a series of meetings or communications between individuals in which ideas are exchanged among a majority of the Commission members through either one or more persons acting as intermediaries or through use of a technological device (such as a telephone answering machine, or e-mail or voice mail), even though a majority of members never gather in a room at the same time. Serial meetings commonly occur in one of two ways; either a staff member, a member of the body, or some other person (applicant, resident) individually contacts a majority of members of a body and shares ideas among the majority ("I've talked to Commissioners A and B and they will vote 'yes.' Will you?") or, without the involvement of a third person, member A calls member B, who then calls member C, and thus a majority of the body may have reached a collective concurrence on a matter.

To avoid illegal serial meetings, I recommend the following guidelines be followed to avoid inadvertent violation of the serial meeting rule. These rules of conduct apply only when a majority of the Commission is involved in a series of contacts or communications. The types of contacts considered include contacts with City staff members, residents, park owners, attorneys and other members of the Commission.

#### **1. Contacts with Staff**

Staff can inadvertently become a conduit among a majority of a Commission in the course of providing briefings on agenda items. The Attorney General takes the position that individual staff briefings of a majority of the members of a body on substantive issues are necessarily illegal seriatim meetings. While we do not agree with this highly restrictive interpretation, there is no doubt that staff briefings can easily become a

seriatim meeting if not handled carefully. To avoid an illegal seriatim meeting through a staff briefing:

- a. Individual briefings of a majority of members of a legislative body should be unidirectional, in that information should flow from staff to the member and the member's participation should be limited to asking questions and acquiring information.
- b. Members should not ask staff to describe the views of other members of the body, and staff should not volunteer those views if known.
- c. Staff may present its viewpoint to the member, but should not ask for the member's views and the member should avoid providing his or her views unless it is absolutely clear that the staff member is not discussing the matter with a quorum of the Commission.

## **2. Contacts with Residents, Park Owners and Lobbyists**

As with staff, a resident or lobbyist can also inadvertently become an intermediary who causes an illegal serial meeting. Residents' unfamiliarity with the requirements of the Act may create an issue unintentionally because they may expect a member of the Commission to be willing to commit to a position in a private conversation in advance of a meeting.

## **3. Contacts with other Commissioners**

Direct contacts concerning Commission business with other Commissioners, whether through face-to-face or telephonic conversations, notes or letters, electronic mail or staff members, are the most obvious means by which an illegal serial meeting can occur. This is not to say that a member of a legislative body is precluded from discussing items of agency business with another member of the body outside of a meeting; as long as the communication does not involve a quorum of the body, no "meeting" has occurred. There is, however, always the risk that one participant in the communication will disclose the views of the other participant to a third or fourth member, creating the possibility a serial meeting.

These suggested rules of conduct may seem unduly restrictive and impractical, and may make acquisition of important information more difficult or time-consuming. Nevertheless, following them will help assure that your conduct comports with the Brown Act's goal of achieving open government. If you have questions about compliance with the Act in any given situation, please ask for advice.

Two key provisions of the Brown Act that ensure that the public's business is conducted openly are the requirements that legislative bodies post agendas prior to their meetings (Sections 54954.2, 54955 and 54956) and that no action or discussion may occur on items or subjects not listed on the posted agenda (Section 54954.2). Limited exceptions to the rule against discussing or taking action on an item not on a posted agenda are discussed below.

Meeting agendas must contain a brief general description of each item of business to be transacted or discussed at the meeting (Section 54954.2(a)). The description need not exceed 20 words. Each agenda must be posted in a place that is freely accessible to the public. Agenda posting requirements differ depending on the type of meeting to be conducted.

The assumption is that people decide whether to attend a meeting based on a review of its agenda in advance. If the Commission discusses an item that is not on the agenda, the Commission deprives the public of the opportunity to participate in the meeting. This is a very serious consequence and a Commission should be careful to stick strictly to the items on a posted agenda.

The Brown Act does create a bit of an awkward issue in this regard. While the Commission is strictly limited to discussing matters on an agenda, the Brown Act mandates that agendas for regular meetings allow for a general audience comment period in which the public can comment on any item of interest that is within the subject matter jurisdiction of the Commission which is not on the Commission's agenda. In other words, the Commission can only discuss matters on the agenda but the public may raise matters not on the agenda.

Under the law, the Commission may not take action *or discuss* any item that does not appear on the posted agenda (Section 54954.2).

There are two exceptions to this rule, but neither is likely to apply to the Commission. The first is if the body determines by majority vote that an emergency situation exists. The term "emergency" is limited to work stoppages or crippling disasters (Section 54956.5). This will never apply to the Commission because the Commission's jurisdiction is limited to rent adjustment applications and relocation impact reports. The second exception is if the body finds by a two-thirds vote of those present, or if less than two-thirds of the body is present, by unanimous vote, that there is a need to take immediate action on an item and the need for action came to the attention of the local agency subsequent to the posting of the agenda (Section 54954.2 (b)). This means that if four members of a five-member body are present, three votes are required to add the item; if only three are present, a unanimous vote is required. Again, this is unlikely to occur given that all the substantive issues of Commission business require noticed public hearings.

In addition to these exceptions, there are several limited exceptions to the no discussion on non-agenda items rule. Those exceptions are:

- Members of the legislative body or staff may briefly respond to statements made or questions posed by persons during public comment periods;
- Members or staff may ask questions for clarification and provide a reference to staff or other resources for factual information;
- Members or staff may make a brief announcement, ask a question or make a brief report on his or her own activities;
- Members may, subject to the procedural rules of the legislative body, request staff to report back to the legislative body at a subsequent meeting concerning any matter; and
- The Commission may itself as a body, subject to its rules of procedures, take action to direct staff to place a matter of business on a future agenda.

The Commission may not discuss non-agenda items under these exceptions. The comments must be brief. These exceptions do not allow long or wide-ranging question and answer sessions between the public and Commission or between Commissioners and staff.

When the Commission is considering whether to direct staff to add an item to a subsequent agenda, these exceptions do not allow the body to discuss the merits of the matter or to engage in a debate about the underlying issue.

The public must be afforded an opportunity to address the Commission on the matters on the agenda prior to or during the Commission's consideration of that item (Section 54954.3).

The Brown Act requires written material distributed to a majority of the body by any person to be provided to the public without delay. If the material is distributed during the meeting and prepared by the local agency, it must be available for public inspection at the meeting. If it is distributed during the meeting by a member of the public, it must be made available for public inspection after the meeting (Section 54957.5).

One problem in applying this rule arises when written materials are distributed directly to a majority of the Commission without knowledge of City staff, or even without the members knowing that a majority has received it. The law still requires these materials to be treated as public records. Thus, it is a good idea for at least one Commissioner to

ensure that staff gets a copy of the document so that copies can be made for the city's records and for members of the public who request a copy.

There are both civil remedies and criminal misdemeanor penalties for Brown Act violations. The civil remedies include injunctions against further violations, orders nullifying any unlawful action, and orders determining the validity of any rule to penalize or discourage the expression of a member of the Commission (Section 54960.1). A member of the Commission will not be criminally liable for a violation of the Brown Act unless the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under the Brown Act (Section 54959).

Because the Commission's primary responsibility is to hold adjudicatory hearings, Commissioners are responsible for affording all interested parties due process of law. Park owners and residents are entitled to reasonable notice, a meaningful opportunity to be heard, and an unbiased tribunal. The provisions of the ordinance and the Brown Act assure that reasonable notice is given of all public hearings and meetings. The Commission's regulations carefully outline a hearing procedure to provide a meaningful opportunity for all parties to be heard. It is each Commissioner's responsibility, and the basis of the oath of office administered to each Commissioner, to make decisions based on evidence in the record and, when unable to do that for whatever reason, to recuse himself from the matter.

Should a rent adjustment application be filed, additional training will be provided in analyzing evidence and otherwise discharging your duties as an adjudicatory body.

PROP 98. As a final note, you may be aware that a proposition has qualified for the June 3, 2008 statewide ballot which would eliminate local rent control. If enacted by the voters, Prop 98 would apply to Malibu and prevent the City from imposing rent control on spaces *after* the sale of a mobilehome. Current residents would continue to enjoy the benefits of rent control. When they sell their mobilehomes, the buyer would not have the benefit of rent control.

#### ATTACHMENTS:

1. Malibu Municipal Code Chapter 5.16
2. Commission Regulations
3. Prior Code Cross-Reference Table
4. Copy of the Ralph M. Brown Act

## **Chapter 5.16**

### **MOBILEHOME PARK RENT CONTROL REGULATIONS**

#### **Sections:**

- 5.16.010 Purpose of provisions.**
- 5.16.020 Definitions.**
- 5.16.030 Exemptions.**
- 5.16.040 Mobilehome park rent stabilization commission—Establishment and organization.**
- 5.16.050 Mobilehome park rent stabilization commission—Powers and duties.**
- 5.16.060 Registration.**
- 5.16.070 Registration and administrative fees.**
- 5.16.080 Rent increases—Commission approval.**
- 5.16.090 Rent increases—Computation and determination.**
- 5.16.100 Rent adjustments—Commission review.**
- 5.16.110 Review hearings.**
- 5.16.120 Rent adjustments—Commission decision authority.**
- 5.16.130 Hearing—Evidence and procedural irregularities.**
- 5.16.140 Implementation guidelines.**
- 5.16.150 New and prospective homeowners.**
- 5.16.160 Homeowner's right of refusal.**
- 5.16.170 Retaliatory eviction.**

- 5.16.180 Violation—Civil remedies.**
- 5.16.190 Violation—Penalty.**
- 5.16.200 Just and reasonable return.**
- 5.16.210 Mobilehome park relocation impact reports.**

#### **5.16.010 Purpose of provisions.**

A. When the county of Los Angeles adopted Chapter 8.57 of the Los Angeles County Code (Ordinance No. 87-0228) to regulate mobilehome parks in the unincorporated areas of the county, the county found that there was within the county of Los Angeles a shortage of spaces for the location of mobilehomes. The area that is now the city of Malibu was previously part of the unincorporated area of the county and was subject to Chapter 8.57 of the Los Angeles County Code. The city of Malibu incorporated on March 28, 1991. There continues to be a shortage of mobilehome spaces in the area that is now the city of Malibu. Because of this shortage, there is a low vacancy rate and rents are presently rising and causing concern among a substantial number of mobilehome park residents. Because of the high cost of moving mobilehomes; the potential for damage resulting therefrom; the requirements relating to the installation of mobilehomes, including permits, landscaping and site preparation; the lack of alternative homesites for mobilehome residents; and the substantial investment of homeowners in such homes, a virtual monopoly exists in the rental of mobilehome park spaces, creating a situation where park owners have unbridled discretion and ability to exploit mobilehome park residents and homeowners.

B. Homeowners are in the unique position of having made a substantial investment in a



mobilehome that is situated on land that is rented or leased. In this situation both the park owner and the homeowner have a financial stake in the relationship.

C. Additionally, because park space is virtually unavailable and relocating difficult and costly, the closure of a mobilehome park or its change of use has disastrous implications or results for homeowners, who may find it impossible to relocate to a comparable park.

D. For these reasons, among others, the city council finds and declares it necessary to protect the owners and occupiers of mobilehomes from unreasonable rent increases, while at the same time recognizing the need of park owners to receive a fair return on their property. In addition, the city council finds that it is necessary to provide for the preparation and approval of reports evaluating the impact of changes of use of the parks and provide for measures to mitigate the impact on residents of these changes of use. (Ord. 48U § 1 (part), 1991: prior code § 6700)

#### **5.16.020 Definitions.**

"Allowable legal expenses" means attorney's fees and costs incurred in connection with successful good-faith attempts to recover rents owing, and successful good-faith unlawful detainer actions not in derogation of applicable law, to the extent same are not recovered from homeowners. Attorney's fees and costs incurred in proceedings before the commission, or in connection with civil actions against the commission, are not allowable as operating expenses.

"Base rent" means: (1) for spaces not subject to a long term lease that complies with the provisions of Civil Code Section 798.17, the space rent charged on March 28, 1991; and (2) for spaces subject to valid long term leases on

March 28, 1991, which leases comply with the provisions of Civil Code Section 798.17, the last space rent charged under the long term lease.

"Capital improvements" means the park owner's cost of constructing new improvements or replacing old improvements in the mobilehome park, subject to the following limitations:

1. The improvement must: have a life expectancy of five years or more and must be treated as capital improvements for federal and state income tax purposes, and may not be deducted for such tax purposes as expenses.

2. Normal routine maintenance and repair are not capital improvements.

3. Insured repairs and replacement are not capital improvements.

4. The improvements must be permanently fixed in place or relatively immobile.

5. Those improvements that the park owner intends to pass through to the homeowner through special and limited rent increases, except for necessary infrastructure improvements, must be approved by fifty (50) percent plus one of the homeowners.

"Capital improvements" include construction, installation or replacement of all or a portion of a clubhouse, laundry facility or other common area facilities a swimming pool, sauna, hot tub or other recreational amenities, streets, security gates, outdoor or common area lighting, retaining walls, sewer, electrical, plumbing, water or television reception systems, sprinkler systems, or any addition to or upgrade of existing improvements.

"Commission" means the mobilehome park rent stabilization commission, as established by this chapter.

"CPI" means the Consumer Price Index (All Items) prepared by the Bureau of Labor Statistics for the Los Angeles-Anaheim-

Riverside area relating to all urban consumers. If the method of calculating the CPI is substantially revised after the adoption of the ordinance codified in this chapter, the method in effect upon adoption of such ordinance shall continue to be used, or the revised CPI shall be adjusted by the city to correspond to that method.

**CPI Adjustment Period.** The city shall calculate and furnish a figure constituting the CPI change for use as the basis of rent increases. Such figure need only be based upon available data. This figure shall be based on the changes in the CPI during the last available twelve (12)-month period for which information is available from the Bureau of Labor Statistics prior to the effective date of the base rent or current space rent.

**"Gross income"** means and includes the following:

1. Gross rent, computed as gross rental income at one hundred (100) percent paid occupancy; plus
2. Interest from rental deposits, unless directly paid by the park owner to the homeowner (interest shall be imputed at the rate of five and one-half percent of all deposits, unless such deposits earn greater interest); plus
3. Income from laundry facilities, cleaning fees or services, garage and parking fees attributable to mobilehome spaces; plus
4. All other income or consideration received or receivable for, or in connection with the housing services; minus
5. Uncollected rents due to vacancy and bad debts, to the extent that the same are beyond the owner's control. Uncollected rents in excess of three percent of gross rents shall be presumed to be unreasonable, unless proven otherwise. Where uncollected rent must be proven, the average of the preceding three

years' experience shall be used, or other comparable method.

**"Homeowner"** means any person entitled to occupy a mobilehome which is located within a mobilehome park in the city.

**"Housing services"** means services provided by the park owner related to the use or occupancy of a mobilehome space, including, but not limited to, water and sewer, natural gas, electricity, refuse removal, management and administration (including employee salaries and fringe benefits), maintenance and repairs, supplies, advertising, recreation facilities, laundry facilities, parking, security services, insurance, property taxes, governmental assessments, and other costs reasonably attributable to the operation of the mobilehome park. The term "housing services" shall not include legal fees or mortgage payments, whether for principal, interest, or both.

**"Mobilehome"** means a structure designated or designed for human habitation, transported over the highways to a permanent occupancy site, and installed on the site either with or without a permanent foundation. "Mobile-home" includes a manufactured home, as defined in the Health and Safety Code, but does not include either a recreational vehicle or a commercial coach, as they are defined in the Health and Safety Code.

**"Mobilehome park"** means an area of land where two or more mobilehome spaces are rented or leased for mobilehomes used as residences. "Mobilehome park" does not include developments which sell lots for mobilehomes or which provide condominium ownership of such lots, even if one or more homes in the development are rented or leased out.

**"Mobilehome park owner" or "park owner"** means the owner, lessor, operator or manager of a mobilehome park in the city.

“Necessary infrastructure improvements” means maintenance (such as replacement of a necessary component of a system or improvement, and other than normal maintenance or repair which constitute “operating expenses” pursuant to this section of streets, electrical, gas, plumbing, sewer or water systems, except that costs of replacement or repair incurred or required as a result of the park owners negligence.

“Operating expenses” shall include the following:

1. Real property taxes;
2. Utility costs;
3. Management expenses (contracted or park owner-performed), including necessary and reasonable advertising, accounting, insurance, and other managerial expenses, and allowable legal expenses. Management expenses are presumed to be five percent of gross income, unless established otherwise;
4. Normal repair and maintenance expenses, including painting, normal cleaning, fumigation, landscaping, and repair of all standard services, including electrical, plumbing, carpentry, furnished appliances, drapes, carpets and furniture;
5. Park owner performed labor, which shall be compensated at a reasonable hourly rate, based upon documentation being provided, showing the date, time and nature of the work performed;
6. License and registration fees required by law, to the extent same are not otherwise paid by homeowners;
7. Capital expenses with a total cost of less than one hundred dollars (\$100.00) per year, benefited unit, and the amortized portion of other capital expenses otherwise allowed by regulation.

“Operating expenses” shall not include:

1. Avoidable and unnecessary expenses since the base year, including refinancing costs;
2. Mortgage principal and interest payments;
3. Any penalty, fees or interest assessed or awarded for violation of this or any other law;
4. Legal fees, except allowable legal expenses as defined in this section;
5. Depreciation of the property;
6. Any expense for which the park owner has been reimbursed by any security deposit, insurance settlement, judgment for damages, settlement or any other method;
7. Land lease payments;
8. Cost of replacement or repair incurred or necessary as a result of the park owner’s negligence or failure to maintain.

“Space rent” means the consideration on a monthly basis, including any bonuses, benefits or gratuities, demanded or received in connection with the use and occupancy of a mobile-home space in a mobilehome park, or for housing services provided, but exclusive of:

1. Any amount paid for the use of a mobilehome;
2. Security deposits and special and limited rent increases;
3. User fees for services or facilities which may be utilized at the option of the homeowners and are not included in monthly space rent; and
4. Utility charges for those mobilehome parks which bill homeowners separately whether or not the mobilehomes are individually metered. (Ord. 121 §§ 5—7, 1994; Ord. 116 § 2 (part), 1994; Ord. 115U §§ 2, 3 (part), 1994; Ord. 75 § 2, 1992; Ord. 48U § 1 (part), 1991: prior code § 6701)

**5.16.030 Exemptions.**

The provisions of this chapter shall not apply to the following tenancies in mobilehome parks located in the city, except that all tenancies in mobilehome parks shall be subject to the registration provisions of Sections 5.16.060 and 5.16.070:

A. Mobilehome park spaces rented for nonresidential uses;

B. Mobilehome parks managed or operated by the United States Government, the state of California, the county of Los Angeles or the city of Malibu;

C. Tenancies which do not exceed an occupancy of twenty (20) days and which do not contemplate an occupancy of more than twenty (20) days;

D. Tenancies for which any federal or state law or regulation specifically prohibits rent regulations;

E. Tenancies subject to rental agreements exempt from local ordinances pursuant to Civil Code Section 798.17; and

F. Tenancies covered by leases or rental agreements existing at the effective date of the ordinance codified in this chapter which are not exempt pursuant to subsection E of this section, but only for the duration of such leases or rental agreements. Upon the expiration or other termination of such lease or rental agreement, this chapter shall immediately be applicable to the tenancy, unless that lease or rental agreement immediately succeeded by a lease or rental agreement referred to in subsection E of this section. (Ord. 48U § 1 (part), 1991: prior code § 6702)

**5.16.040 Mobilehome park rent stabilization commission—  
Establishment and organization.**

A. There is established a commission to be known as the "Malibu Mobilehome Park Rent Stabilization Commission." The commission shall be comprised of five residents of the city. A member of the commission shall be appointed to a vacant position by four-fifths vote of the city council and serve at the pleasure of the city council. In no event shall any member of the commission be or, at any time during the immediately five years have been, a park owner or homeowner.

B. The city manager shall provide all administrative staff necessary to serve the commission. The city clerk shall serve as secretary of the commission and shall be responsible for the maintenance of all records of the commission. The secretary shall keep a record of its proceedings, which shall be open for inspection by any member of the public. The city attorney or the designee of the city attorney shall act as legal counsel to the commission. (Ord. 48U § 1 (part), 1991: prior code § 6703)

**5.16.050 Mobilehome park rent stabilization commission—  
Powers and duties.**

Within the limitations provided by law, the commission shall have the following powers and duties:

A. To receive, investigate, hold hearings on, and pass upon all issues relating to mobilehome park rent stabilization, as set forth in this chapter;

B. To make or conduct such independent hearings or investigations as may be appropriate to obtain such information as is necessary to carry out its duties;

C. To adjust space rents either upward or downward upon completion of its hearings and investigations; and

D. To adopt, promulgate, amend and rescind administrative rules to effectuate the purposes and policies of this chapter, within the limitations provided by law or by rules adopted by the city council. (Ord. 48U § 1 (part), 1991: prior code § 6704)

#### **5.16.060 Registration.**

A. Registration Required. Within sixty (60) calendar days after the effective date of the ordinance codified in this chapter, park owners shall register all mobilehome park spaces with the city clerk. No park owners shall be eligible to receive any rent increases as provided for in this chapter unless current registration information is on file with the city clerk.

B. Initial Registration. The initial registration shall include the names, business addresses, and business telephone numbers of each person or legal entity possessing an ownership interest in the park and the nature of that interest, and all lienholders, (no later than thirty (30) days after acquiring such interest); the number of mobilehome spaces within the park; the name and address of each resident; a rent schedule reflecting space rents within the park on December 31, 1984, for all spaces not exempt from this chapter pursuant to Section 5.16.030; a listing of all other charges, including utilities, now included in space rent, paid by homeowners and the approximate amount of each such charge; a list of all spaces exempt from this chapter pursuant to Section 5.16.030 and the reason for the exemption and, for those exempt pursuant to leases or rental agreements, the date of the expiration of the lease or rental agreement and the amount of the rent; and the name and address to which

all required notices and correspondence may be sent.

C. Determination of Rents. The city manager or his or her designee shall determine the base rent. The decision of the city staff may be appealed to the commission. The decision of city staff, or the commission on appeal, shall be final. The city manager may promulgate regulations necessary to effectuate the purpose of this section.

#### **D. Re-registration.**

1. The city manager or his or her designee may require re-registration as deemed necessary and may promulgate regulations to effectuate the purpose of this section.

2. The registration requirements provided in this section or which may be established by the city shall apply to all mobilehome parks and mobilehome park spaces, including those exempted from the provisions of this chapter by reason of the existence of a valid rental agreement. (Ord. 75 § 3, 1992; Ord. 48U § 1 (part), 1991: prior code § 6705)

#### **5.16.070 Registration and administrative fees.**

A. Establishment of Registration Fee. At the time of initial registration or any subsequent registration, park owners shall pay to the city such registration fee for each mobilehome rental space within the park as may be established by resolution of the city council (not to exceed the reasonable and necessary costs of administration of this chapter). The city council may also provide that up to two-thirds of that fee may be passed through to homeowners as special and limited rent increases if apportioned equally among the spaces and charged in twelve (12) equal consecutive installments.

Notwithstanding any other provision of this section, where the total annual amount of the

fee to be passed through to each homeowner is less than forty-eight dollars (\$48.00), the park owner may elect to recover the fee from the homeowners in one lump sum rather than in equal monthly installments.

B. Late Charge. If a park owner does not pay the fee provided for in subsection A of this section within the time period established by the city council, a late charge shall be assessed in an amount established by resolution. No late charges may be passed through as special and limited rent increases to homeowners.

C. Unpaid Fee. No hearing or other proceedings shall be scheduled to take place, and no rent increase will be granted or will take effect for any mobilehome park for which there are unpaid registration fees.

D. Purpose of the Fee. The registration fee provided for by this section is intended to defray the reasonable and necessary costs associated with the administration of this chapter and the regulations promulgated pursuant thereto.

E. Other Administrative Fees. The city council may set by resolution other administrative fees to cover the reasonable costs of processing various requests and appeals, as it deems necessary. (Ord. 168 § 1, 1997; Ord. 116 § 2 (part), 1994; Ord. 91 § 1, 1993; Ord. 48U § 1 (part), 1991; prior code § 6706)

#### **5.16.080 Rent increases— Commission approval.**

On or after March 28, 1991, no increase in space rents in excess of the amounts permitted pursuant to Section 5.16.090(A) and (B) shall be effective unless approved by the commission as set forth in this chapter. (Ord. 48U § 1 (part), 1991; prior code § 6707)

#### **5.16.090 Rent increases— Computation and determination.**

A. Formula Increases. Space rents may be increased automatically and annually by no more than the total percentage change in the CPI for the applicable CPI adjustment period as determined by the city, except that space rent shall not be increased by more than five percent and may be increased by up to two percent. Calculation of the one-year limitation on formula increases shall be from the date the last formula increase became effective for that particular space.

B. Vacancy Increases. Notwithstanding the provisions of subsection A of this section, upon vacancy, space rent may be increased up to fifteen percent of the then current maximum allowable rent permitted by this chapter prior to the vacancy.

C. Special and Limited Rent and Rent Increases.

1. Government Required Services. The homeowner shall pay to the parks owner, on the herein described terms, no less than sixty (60) days after the park owner has notified the homeowner in writing, the increased costs to the park owner of government required services, which are to be included as part of the homeowner's rent but separately listed items on the monthly statement.

a. For the purposes of this chapter, "government required services" shall be defined as services required by governmental agencies which are new or in addition to those services legally required to be provided by the park owner to homeowners or to the mobilehome park on March 28, 1991.

b. Such services include fees and charges legally levied by an agency of federal, state or local government upon the park owner. Such services do not include predictable expenses

for operation of the mobilehome park, such as common-area utilities expenses or expenses which maintain the safe and healthful use of mobilehome park facilities.

c. The park owner's actual out-of-pocket costs of providing government required services may be charged to the homeowner upon sixty (60) days' written notice, using the following formula: Amount actually paid by the park owner, divided by the total number of spaces in the mobilehome park, divided by twelve (12) months, equals the sum for government-required services to be charged to the homeowner. Notwithstanding the formula described above, only those costs of providing governmental required services in the twelve (12) months immediately preceding the proposed charge shall be reimbursed to the park owner by the homeowner in the manner herein described. The park owner shall charge the homeowner only those costs for government required services which are not reimbursed to the park owner by insurance or other sources.

2. Capital Improvements. (i) Necessary infrastructure improvements subject only to the provisions of subsection (C)(2)(d) of this section; and (ii) subject to the vote requirements and the capital improvement limitations set forth in Section 5.16.020, and also subject to review by the commission pursuant to Section 5.16.110, the actual net costs of a capital improvement plus an interest charge to compensate the park owner for the use of money in making the improvement, as described below, may be charged to the homeowners upon sixty (60) days' written notice, using the following formula: net amount actually paid by the park owner for the capital improvement, plus an interest charge as described below, divided by the total number of spaces in the mobilehome park affected by the improvement, divided by the amortization period for

the capital improvement allowed by the Internal Revenue Service, equals the monthly sum for capital improvements to be charged to the homeowners and billed separately from space rent.

b. The interest charge that may be added to the costs of materials and labor is the current rate derived from the then-current prime interest rate, computed on a declining balance over a five-year period with equal monthly payments (the five-year period represents the amount of time allowed for fully amortizing the cost of capital improvements).

c. Notwithstanding the provisions of subsection (C)(2)(a) of this section and Section 5.16.100, the city manager may approve special and limited rent increases for necessary infrastructure improvements upon a showing by the park owners that the proposed improvement meets the requirements of Section 5.16.020 and that the park owner obtained a minimum of three bids from qualified persons/entities to perform the work, if possible, and that the park owner selected the person/entity submitting the lowest responsible bid to perform the work for the proposed necessary infrastructure improvement. No commission review is required or permitted.

D.1. Sublease Surcharge. Notwithstanding the provisions of subsection A of this section, upon sublease of a space and/or lease of a mobilehome, the space rent may be increased up to fifteen (15) percent of the rent otherwise permitted under this chapter. This rent surcharge shall be effective only for the duration of the sublease and shall be eliminated when and if the sublease is terminated. A sublease surcharge shall not become effective until twelve (12) months after the last vacancy increase pursuant to subsection B of this section. The sublease surcharge rent amount shall be calculated separately and shall not be in-

cluded in the maximum allowable rent for the purposes of calculating formula increases pursuant to subsection A of this section. The provisions of this subsection shall not apply to those spaces granted hardship exemptions pursuant to subsection F of this section for as long as the space is eligible for such exemption.

2. Absentee Owner Surcharge. Notwithstanding the provisions of subsection A of this section, in the event that a homeowner does not use his or her mobilehome at a mobilehome park as a primary or principal residence and the homeowner is not otherwise subject to subsection (D)(1) of this section, the homeowner's space rent may be increased up to fifteen (15) percent of the rent otherwise permitted under this chapter. This rent increase shall be effective only until the homeowner occupies his or her mobilehome at the mobilehome park as a primary residence or the homeowner subleases his or her space or mobilehome and becomes subject to subsection (D)(1) of this section. For purposes of this chapter, a primary residence is a residence where the homeowner resides for over one hundred eighty-five (185) days during a calendar year.

E. Sublease Hardship Exemption. Upon application, the city manager may grant a hardship exemption in connection with the sublease surcharge, which exemption shall last for a term of one year. At the expiration of any particular term of the exemption, the applicant may apply to renew the one-year term by again establishing qualification for the exemption. The application and renewal application shall be in the forms provided by the city manager with a copy to the park owner and, shall include sufficient evidence to establish whether the applicant qualifies for an exemption pursuant to this section and shall be

signed by the applicant under penalty of perjury. The city manager shall grant the exemption for any qualified applicant.

1. Qualification. To qualify for the sublease hardship exemption, the applicant must satisfy all of the following criteria:

a. The applicant must own a mobilehome at the applicable park, and must have occupied the mobilehome as his or her primary residence for a minimum of three years prior to applying for this exemption.

b. The applicant must present adequate evidence that he or she would qualify for the Low Income Rate Payer Assistance Program for Submetered Households.

c. The combined value of assets owned by the applicant must not exceed one hundred fifty thousand dollars (\$150,000.00) excluding the value of the mobilehome itself.

d. No person other than the applicant can declare the applicant as a dependent for purposes of federal or state taxes.

In the event that the applicant, after receiving the hardship exemption, at any time ceases to satisfy all of the foregoing criteria, from that point on, the applicant will not be qualified to receive, and shall not receive, the hardship exemption.

2. Effect of Exemption. Each applicant who qualifies for the hardship exemption shall be exempt from the sublease surcharge provided in subsection D of this section. (Ord. 121 §§ 2—4, 8, 9, 1994; Ord. 115U § 3 (part), 1994; Ord. 74 § 3, 1992; Ord. 48U § 1 (part), 1991; prior code § 6708)

#### **5.16.100 Rent adjustments— Commission review.**

A.1. In order to implement a rent increase as permitted under Section 5.16.090 of this chapter or a rent decrease based on a reduction of housing services, the applicant must



file with the commission a proposed rent schedule on the form provided by the commission. Any proposed capital improvement to be passed through to homeowners must be approved by the commission after the park owner files an application showing the amount of the expense, the amount to be passed through and proof of a majority vote in favor of the special and limited rent increases.

2. Where the park owner is the applicant, the park owner shall serve each affected homeowner, either personally or by mail, with written notice of the proposed increase, in accordance with state law, and with notice that a request for approval of same is being filed with the commission. Where a homeowner (or homeowners) is the applicant, the homeowner shall serve the affected park owner by mail or personally at the address and to the person designated in the registration form submitted by the park owner to receive notices on behalf of the park owner. The applicant shall file proof of such service with the commission concurrent with the filing of the rent increase or decrease application. Copies of the rent schedule, request for increase and supporting documentation shall be available to any homeowner requesting same at the park owner's office in the affected mobilehome park.

B. If the city determines that the application is not complete, accurate, or not in compliance with this chapter, within twenty-one (21) days of the date on which the application was filed, the city shall give written notice of the deficiencies to the applicant.

C. The city shall set a hearing on any request complying with the requirements of this chapter no sooner than fifty (50) days and no later than seventy (70) days after the application is accepted as complete. The city shall send written notice to the park owner, who shall post such notice in a conspicuous place,

of the time and place set for the hearing. If the commission approves an increase as requested, or lower than requested, the same shall take effect as noticed by the owner or as the commission may otherwise direct.

D. In the application for rent adjustment under this chapter, the park owner shall indicate which, if any, of the mobilehome spaces are covered by leases or contracts which provide for more than a month-to-month tenancy, together with expiration date of each such lease or contract. Any rent increase approved by the commission under this chapter shall not be applicable to spaces covered by such leases or contracts during the term of such leases or contracts.

E. Homeowner(s) in a mobilehome park may initiate commission review of a proposed land rent increase by filing with the city clerk a written petition. The petition shall be in substantially such form and contain such information as may be required by the commission. (Ord. 116 § 2 (part), 1994; Ord. 48U § 1 (part), 1991: prior code § 6710)

#### **5.16.110 Review hearings.**

A. All review hearings conducted by the commission shall be open to the public.

B. All parties to the hearing may have assistance from an attorney or such other person as may be designated by the parties in presenting evidence or arguing their position. All witnesses shall be sworn in and all testimony shall be under penalty of perjury.

C. In the event that either the park owner or the homeowner(s) should fail to appear at the hearing at the specified time and place, the commission: may hear and review such evidence as may be presented and make such decisions as if both parties had been present.

D. All review hearings shall be tape-recorded. Tapes shall be preserved for six

months, or longer, if requested by either party affected by the hearing.

E. The commission may promulgate regulations to effect the purpose of this section and to assure fair hearings. (Ord. 48U § 1 (part), 1991: prior code § 6711)

**5.16.120 Rent adjustments—  
Commission decision  
authority.**

A. The commission's decision shall be based on the preponderance of the evidence at the hearing. All parties to the hearing shall be advised of the commission's decision and given a copy of the findings upon which the decision is based.

B. Consistent with its findings, the commission may:

1. Permit the requested increase to become effective, in whole or in part;
2. Deny the increase;
3. If circumstances justify, order a reduction in rent to a rate determined by the commission; or

4. Order that the park owner reimburse the applicant(s) the full amount, or any part of the amount, of the application fee where: (a) the applicant for a rent reduction was successful; (b) the park owner has not proven that the rent reduction ordered or the award of costs would deprive the park owner of a fair return as defined in this chapter; and (c) circumstances otherwise warrant the award of costs to the applicant.

C. If the commission finds that an increase that went into effect, or any portion thereof, is not justified, the park owner shall refund the amount found to be unjustified to the homeowner within sixty (60) days after the decision of the commission is announced.

D. If the commission finds that a proposed increase, or any portion thereof that was pre-

viously inoperative, is justified, the homeowner shall pay the amount found justified to the park owner within sixty (60) days after the decision of the commission is announced.

E. The conclusions and findings of the commission shall be final.

F. Any party disputing the final conclusions and findings of the commission may seek review of the commission's actions pursuant to Sections 1094.5 and 1094.6 of the California Code of Civil Procedure. (Ord. 135 § 1, 1995; Ord. 48U § 1 (part), 1991: prior code § 6713)

**5.16.130 Hearing—Evidence and  
procedural irregularities.**

Formal rules of evidence or procedure which must be followed in court shall not apply to commission proceedings, except to the extent that the commission shall determine. No action of the commission hereunder shall be held void or invalid or be set aside by any court on the grounds of any improper admission or rejection of evidence, or by reason of any error, irregularity, informality, neglect or omission (hereinafter called "error") as to any matter pertaining to applications, notices, findings, records, hearings, reports, recommendations, or any matters of procedure whatever, including but not limited to those included in this section, unless after an examination of the entire case, including the evidence, the court shall be of the opinion that the error complained of was prejudicial, and that by reason of such error the party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error had not occurred or existed. There shall be no presumption that error is prejudicial or that injury was done if error is shown. (Ord. 48U § 1 (part), 1991: prior code § 6714)

**5.16.140 Implementation guidelines.**

After a noticed-public hearing, as it deems necessary, the city council may adopt by resolution guidelines to aid in the implementation of this chapter. (Ord. 48U § 1 (part), 1991: prior code § 6715)

**5.16.150 New and prospective homeowners.**

A. Prior to or at the time of agreeing to rent spare to a new homeowner in a mobilehome park, the owner shall provide each new homeowner or prospective homeowner with a copy of the mobilehome park rent stabilization ordinance, as currently in force.

B. No owner may require, directly or indirectly, that any resident or prospective resident sign a lease or rental agreement that provides that it shall be exempt from local rent control or provides for space rent in excess of that permitted by this chapter as a condition of tenancy in the park and no owner may deny a tenancy to a prospective purchaser of a mobilehome in the park on the ground that the prospective purchaser will not sign such a lease or rental agreement.

C. The notice shall contain a place for the homeowner to acknowledge receipt of the notice. The park owner shall sign an acknowledgment that the required notice has been given to the homeowner and provide the homeowner with a copy of the executed acknowledgment. (Ord. 74 § 1, 1992: Ord. 48U § 1 (part), 1991: prior code § 6716)

**5.16.160 Homeowner's right of refusal.**

A homeowner may refuse to pay any increase in rent which is in violation of this chapter. Such refusal to pay shall be a defense in any action brought to recover possession of

a mobilehome space or to collect the rent increase. (Ord. 48U § 1 (part), 1991: prior code § 6717)

**5.16.170 Retaliatory eviction.**

Notwithstanding Section 5.16.160, in any action brought to recover possession of a mobilehome space, the court shall consider as grounds for denial any violation of any provision of this chapter. Further, the determination that the action was brought in retaliation for the exercise of any rights conferred by this chapter shall be grounds for denial. Any action brought within one year of a petition or complaint filed with the commission by the homeowner pursuant to this chapter shall be presumed to be retaliatory; this presumption affects the burden of proof, and is rebuttable by the park owner. (Ord. 48U § 1 (part), 1991: prior code § 6718)

**5.16.180 Violation—Civil remedies.**

If any park owner demands, accepts, receives or retains any payment of rent in excess of the maximum lawful space rent, as determined under this chapter, then the homeowners in such mobilehome park affected by such violation, individually or by class action, may seek relief in a court of appropriate jurisdiction for injunctive relief and damages. The prevailing party will recover costs and reasonable attorneys' fees as part of any court judgment. (Ord. 48U § 1 (part), 1991: prior code § 6719)

**5.16.190 Violation—Penalty.**

Any person violating any provision, or failing to comply with any requirement of this chapter shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this chapter shall be punished by a fine of not more than five hundred dollars

(\$500.00) or by imprisonment for a period of not more than six months, or by both. Each violation of any provision of this chapter, and each day during which any such violation is committed, permitted or continued, shall constitute a separate offense. (Ord. 48U § 1 (part), 1991: prior code § 6720)

**5.16.200 Just and reasonable return.**

A park owner may file a rent adjustment application for one, some or all the spaces in a mobilehome park in order to establish the maximum allowable rent or to achieve a fair and reasonable return. Homeowners may file a rent adjustment application based on reduction in services or other grounds established by this chapter or regulations promulgated pursuant thereto. Nothing in this chapter shall be construed to prevent the grant of a rent adjustment upon application by a park owner when required to permit a fair and reasonable return to the park owner. The city shall receive relevant evidence, in accordance with applicable regulations, demonstrating that a landlord is not receiving a fair and reasonable return in determining these applications. (Ord. 115U § 4, 1994: Ord. 48U § 1 (part), 1991: prior code § 6721)

**5.16.210 Mobilehome park relocation impact reports.**

A. Statement of Purpose. The purpose of this section is to implement the provisions of state law addressing the adverse impacts on the residents and homeowners in a park which is converted, closed or where the park's use is changed or ceased.

B. Definitions. For purposes of this section, the following definitions shall apply in addition to those listed in Section 5.16.020.

1. "Advisory agency" means the planning department, commission, or hearing officer as designated by the city council.

2. "Change of use" means a use of a mobilehome park for a purpose other than the rental, or the holding out for rent, of two or more mobilehome sites to accommodate mobilehomes for human habitation. "Change of use" includes, but is not limited to, a change of the park or any portion thereof to a condominium, stock cooperative, or any form of ownership wherein spaces within the park are to be sold, and the cessation of use of all or a portion of the park, whether immediately or on a gradual basis, or the closure of the park. "Change of use" shall not include mere purchase of the park by its existing homeowners.

3. "Comparable housing" means housing which is comparable in floor space area, deck and lot size, and number of bedrooms and other relevant factors to the mobilehome to which comparison is being made, which housing meets the minimum standards of the State Uniform Housing Code.

4. "Comparable mobilehome park" means any other mobilehome park substantially equivalent in terms of park condition, amenities, ocean views and beach access and other relevant factors.

5. "Date of application for change of use" means the date of filing of an application for rezoning, general plan amendment, use permit, site development permit or other discretionary development approval under this code, which application seeks approval of a change of use of a mobilehome park or the date of the closure or cessation of use.

6. "Eligible homeowner" means a homeowner whose mobilehome or manufactured home was located in a mobilehome park on the date of the application for a change of use.

C. General Requirements.

1. Any person who files an application for a rezoning, general plan amendment, subdivision map, use permit, site development permit or for any other discretionary development approval, for the purpose of a change of use of a mobilehome park or closure, shall file with the advisory agency a report on the impact of the conversion, closure, or cessation of use (hereinafter "closure") upon the residents of the mobilehome park who will be displaced, no later than the filing of the first such application necessary to authorize such closure.

2. No application shall be considered or deemed completed or processed for consideration and approval unless and until such conversion impact report shall have been filed as required by this subsection.

3. Use of a property as mobilehome park shall not be terminated for the purpose of conversion to another land use or cessation of use until approval by the advisory agency and the city council, or appeal, has been received.

4. No building permit shall be issued on property occupied by a mobilehome park at the effective date of this chapter or hereinafter for uses other than those associated with the mobile home park use and allowed under the special use permit, until approval under this section has been received.

**D. Conversion Impact Report.**

1. The conversion impact report shall address the availability of adequate replacement housing in mobilehome parks and the cost of relocating displaced residents.

2. In order to evaluate adequately and address those issues, the conversion impact report shall contain the following information:

a. The names, addresses and mobilehome site identification numbers of all persons owning mobilehomes within the mobilehome park and of all mobilehome residents on the date of application for change of use;

b. The age, including date of manufacture, of each mobilehome within such park, including the type of mobilehome, width characteristics, size, and number identifying the mobilehome site being occupied;

c. A list of vacant mobilehome sites in comparable mobilehome parks within a fifty (50) mile radius of the park which is the subject of the application or request;

d. The list shall contain a schedule of site rental rates for each park listed and the criteria of the management of each park for acceptance of new homeowners and used mobilehomes;

e. The names, addresses and telephone numbers of one or more housing specialists from the list compiled by the advisory agency, and the names, addresses and telephone numbers and fee schedules of persons qualified as mobilehome movers and of persons who are qualified appraisers of mobilehomes and an explanation of the services the housing specialists will provide;

f. The applicant may designate other housing specialists, and mobilehome movers and appraisers; provided, that use of any such persons pursuant to this chapter shall be subject to approval by the advisory agency;

g. A relocation plan which will include:

i. Timetable for implementing the physical relocation of mobilehomes,

ii. Implementation of relocation assistance,

iii. Payment of relocation costs, and

iv. Conversion of the park to one or more other uses.

3. The application shall include within the conversion impact report the steps proposed to mitigate any adverse impact on the ability of displaced homeowners to find adequate housing in a mobilehome park, including the reasonable costs of relocation.

a. All eligible homeowners and all mobilehome tenants of eligible homeowners shall be provided with the services of one or more housing experts to assist them in relocating to available and adequate housing upon their request. Any such experts shall be those approved pursuant to this section.

i. A factor to be considered is that the conversion will not result in the displacement of low-income individuals or households who cannot afford rents charged in other parks.

ii. A factor to be considered is if the conversion is to another residential use, the homeowners have first opportunity to occupy and the construction schedule will not result in long-term displacement.

b. No benefits shall be provided to any person who is renting a mobilehome from the owner of the mobilehome park where such person shall have executed a written agreement with such mobilehome park owner waiving his or her rights to any such benefits. No such waiver shall be valid unless it contains the text of this section, and unless such person shall have executed a written acknowledgment that he or she has read and understands his or her rights pursuant to this chapter and knowingly agrees to waive them.

c. In order to facilitate the intentions of the homeowners or tenants and an applicant for a change of use with regard to a change of use, the parties may agree to mutually satisfactory relocation assistance. To be valid such an agreement shall be in writing, shall include a provision stating that the homeowner is aware of the provisions of this chapter, shall include a copy of this chapter as an attachment, shall include a provision in at least ten (10) point type which clearly states the right to seek and the importance of obtaining an attorney's advice prior to signing the agreement, and shall be drafted in form and content

otherwise required by applicable state law. Any person signing such an agreement may rescind it in writing within ten (10) business days of final approval of change of use. Any such agreement which is procured by fraud, misrepresentation, coercion or duress of any kind shall be void and unenforceable.

#### E. Hearing and Notice.

1. Upon the receipt of an impact report, within thirty (30) days the advisory agency shall examine the same and advise the applicant whether it is complete. When a complete impact report has been filed and accepted by the advisory agency, within thirty (30) days the advisory agency shall set a time, place and date for a hearing.

2. At least thirty (30) days prior to the hearing, the advisory agency shall mail notice to the applicant and the homeowners of the date, time and place of the meeting.

3. At least fifteen (15) days prior to the scheduled public hearing before the advisory agency on the conversion impact report, the applicant shall provide the homeowner and all other persons described with a copy of this chapter, a copy of the conversion impact report, and date and time for an informational meeting pursuant to subsection (E)(4) of this section.

4. Not less than ten (10) days prior to the date of the scheduled public hearing before the advisory agency, the applicant shall conduct an informational meeting for the residents of the mobilehome park regarding the status of the application, the timing of proposed relocation of residents, proposed relocation costs and assistance, and the contents of the conversion impact report. The meeting shall be conducted on the premises of the mobilehome park. The housing specialist(s) designated in the impact report shall be present at such meeting.

5. Within five (5) days prior to the public hearing, the applicant shall file with the advisory agency a statement made under penalty of perjury that all requirements pursuant to subsections (E)(3) and (4) of this section have been complied with and include date, time, and place where such meeting as required by subsection (E)(4) of this section occurred.

F. Findings and Decision. At the conclusion of the hearing, the advisory agency shall render its decision. The advisory agency shall approve, conditionally approve or disapprove the relocation impact report. The advisory agency shall approve the relocation impact report if it finds that the relocation impact report contains the information required pursuant to this section. In approving the relocation impact report, the advisory agency may impose such conditions as it finds necessary to mitigate the adverse impacts on the residents; however, any steps required to be taken by the park owner pursuant to this section shall not exceed the reasonable costs of relocation. Notice of the advisory agency action shall be mailed to the park owner, to all homeowners and to all persons who have filed written request therefor.

G. Request for Appeal. The park owner or any homeowner may appeal the advisory agency's decision to the city council. The appeal shall be filed with the city on a form provided for that purpose within ten (10) days after the action of the advisory agency. When an appeal is filed, it shall be accompanied by a fee in an amount determined according to Section 5.16.070. The city shall, within forty-five (45) days, set a time and date for a hearing, and shall mail written notice of such hearing to the park owner, all homeowners, the person requesting the hearing, the advisory agency and all persons who have filed written request

therefor, at least fifteen (15) days prior to the hearing.

For all requests for hearing, the city council may sustain, modify, reject or overrule any recommendations or rulings of the advisory agency and may make such findings as are not inconsistent with the provisions of this section.

H. Extensions. Any of the time limits specified in this section may be extended by mutual consent of park owner and the advisory agency, or the city council, on appeal, with notice to affected homeowners, except where prohibited by state law.

I. Expiration and Extension of Relocation Impact Report. The approval of a relocation impact report shall become null and void after thirty-six (36) months from the date of the mailing of the final approval of the relocation impact report. Thereafter, the park owner shall not convert, close or cease the use of the park until such time as a new relocation impact report is approved. However, upon application of the park owner, filed with the advisory agency on or before the date of expiration, the relocation impact report may be extended by the advisory agency up to an additional thirty-six (36) months. An application for an extension shall be subject to the notice and hearing procedures of this section.

J. Conditions. In the approval of a mobilehome park conversion, the city may attach conditions deemed reasonable in order to mitigate the impacts associated with the conversion. Such conditions shall not be limited to, but may include, the following:

1. If the land occupied by the park is to be sold, the homeowners shall be given the right of first negotiation (from the seller) and matching rights (right of last refusal) for the purchase of the park and all the improvements.

2. The homeowners be given the option of a long-term lease of the land and purchase of the improvements.

3. The city may attach an effective date upon their approval of the conversion. This date will provide sufficient time for the relocation of the mobilehome to other parks.

K. Revocation and Amendment. Any time prior to the closure of the mobilehome park, the advisory agency may, in its discretion, and upon good cause shown, initiate proceedings for the revocation or amendment of an impact report. Good cause may include, but is not limited to, change of circumstances which render the conditions or requirements of the relocation impact report no longer necessary or appropriate, negligent or fraudulent misrepresentation of fact relating to the relocation impact report, or noncompliance with the conditions of the impact report. Prior to revoking or amending a relocation impact report, the advisory agency shall conduct a hearing in accordance with the applicable procedures set forth in subsection E of this section. Upon revocation, the park owner shall not convert, close, cease or change the use of the park until such time as a new relocation impact report is approved. Such revocation or amendment is subject to the same request for hearing as is provided in subsection G of this section.

L. Evictions Pending Compliance with Relocation Impact Report. Termination of a tenancy of any resident pursuant to Civil Code Section 798.56 or any other provision of law shall not relieve the park owner of its obligation to comply with the conditions or requirements of the relocation impact report applicable to that resident. However, if the termination of tenancy is based on subdivisions (a), (b), (c), (d), (e) or (f) of Section 798.56 of the Civil Code, the advisory agency, upon request

by the park owner, may grant to the park owner extensions of time within which to comply with the conditions of the relocation impact report.

M. Additional Authority of the Advisory Agency. If, notwithstanding the fact that the park owner has not served a six (6) months' or twelve (12) months' notice on the residents, the advisory agency finds that the park owner is attempting to close or convert a park, then the advisory agency shall require the filing of a relocation impact report.

N. Obligations of Applicant After Approval of Conversion Impact Report. After the date of determination that the conversion impact report complies with the requirements of this chapter, the applicant shall undertake or be responsible for performance of the following obligations:

1. Not later than thirty (30) days from the date of such determination, the housing specialist or specialists shall make personal contact with each homeowner of the mobilehome park and commence consultations to determine the applicable costs and assistance to be provided. The housing specialist or specialists shall give each homeowner and former resident eligible to receive relocation assistance written notice of his or her rights to relocation assistance as determined by the city under this chapter.

2. Not less than one-hundred twenty (120) days prior to the date any homeowner is required to vacate the mobilehome park, any cash or monetary relocation costs required by this chapter shall be paid to such homeowner, to any former resident eligible for such costs, or to any person, firm or corporation performing relocation related services for the homeowner, as the homeowner may direct. If the applicant purchases the mobilehome the homeowner shall be required to promptly



submit to the applicant all documents necessary to transfer complete title and ownership of such mobilehome to the applicant, free and clear of all security interest, liens, or other encumbrances.

3. The date upon which any resident of the mobilehome park is required to vacate such park, or upon which any mobilehome is required to be removed from the mobilehome park, shall be not less than six months from the date of notice of termination of tenancy pursuant to Civil Code Section 798.56(f).

4. If the owner of the mobilehome park, the applicant homeowner or tenant specifically requests that any of the time limitations required by this section be modified, the city shall consider any such modification and evidence relating to the need therefore at the public hearing on the conversion impact report. The city shall have the power to make modification in such time limits, both in response to a request and on its own motion, in conjunction with any approval of a conversion impact report, as the city may deem just and reasonable.

O. Payment of Relocation Assistance Benefits—Prerequisite to Issuance of Building Permit to Redevelop Park. No building permit shall be issued for the development of any real property which has been or is being converted from a mobilehome park pursuant to this chapter unless and until the applicant or the owner of the property, as the case may be, who is responsible for payment of any required monetary relocation assistance, shall have filed with the advisory agency a verified statement made under penalty of perjury that relocation assistance payments required pursuant to this chapter have been paid. Such statement shall specify in itemized form each payee, the amount paid, the date of payment,

and the type of relocation or other assistance for which each such payment was made.

P. Violations. Violations of this section shall constitute a misdemeanor. In addition, any park owner or applicant who violates any rights of any homeowner or mobilehome tenant established under this chapter shall be liable to the person for actual damages caused by such violation, plus costs and reasonable attorneys' fees. No park owner shall take any wilful action to threaten, retaliate against or harass any park resident with the intent to prevent such residents from exercising his or her rights under this chapter. (Ord. 74 §§ 4—9, 1992; Ord. 48U § 1 (part), 1991: prior code § 6723)

# City of Malibu

Adopted 6/13/95

## Mobilehome Park Rent Stabilization Commission

### Administrative Regulations

### Commission Regulations

#### Regulations adopted by the City Manager:

- Chapter 1     General Description of Chapter 7, Article VI
- Chapter 2     Registration of Mobilehome Spaces
- Chapter 3     Determination of Base Rents
- Chapter 4     Appeals from Rent Determinations

#### Regulations adopted by the Commission:

- Chapter 5     Formula Rent Increases
- Chapter 6     Vacancy Increases
- Chapter 7     Government Required Services (Special/Limited Rent)
- Chapter 8     Capital Improvement
- Chapter 9     Reduction in Services
- Chapter 10    Rent Increase to Assure a Fair and Reasonable Return
- Chapter 11    Necessary Infrastructure Improvements
- Chapter 12-29   RESERVED
- Chapter 30    General Procedures for Rent Adjustment Applications
- Chapter 31    Hearings and Decisions
- Chapter 32    Regulations Governing Commission Meetings

(Rev.: 4-19-99)

## **Chapter 1**

### **GENERAL DESCRIPTION OF ORDINANCE**

#### **Section 1001. Purpose of M.M.C. Chapter 7, Article VI**

The Malibu Mobilehome Park Rent Stabilization Ordinance was adopted to prevent unwarranted and excessive space rent increase and to protect the substantial investment of the homeowners in their mobilehome, while at the same time affording the park owner a fair and reasonable return on their property.

#### **Section 1002. Applicability.**

The provisions of these regulations are intended to be applicable to the administration and enforcement of the provisions of Chapter 7 of Article VI of the Malibu Municipal Code.

## **Chapter 2**

### **REGISTRATION OF MOBILEHOME SPACES**

#### **Section 2001. Registration Requirement**

All mobilehome parks within the City of Malibu are required to be registered annually with the City. Park owners must register their mobilehome parks with the City prior to July 1 of each year. The 1992 initial registration of all mobilehome parks and subsequent registrations shall be completed on a form provided by the City Manager and to the satisfaction of the City Manager along with the required registration fee. The registration provisions of this section shall apply to all mobilehome spaces within the City of Malibu, including spaces exempt from rent regulation or exempt under Civil Code Section 798.17. No park owner shall be considered or permitted to receive any annual rent increase, rent adjustment or special adjustment to a mobilehome space rent unless said park has satisfied the registration requirements of this section and these administrative regulations, including payment of all required registration fees.

#### **Section 2002. Initial Registration**

All park owners shall register their mobilehome parks on or before February 3, 1992, which is sixty (60) days after the adoption of Chapter 7, Article VI.

#### **Section 2003. Subsequent Registration**

A park owner shall re-register the mobilehome park upon change of ownership or in the event significant changes in the information provided on the initial or annual registration has occurred.

#### **Section 2004. Annual Registration Renewal**

In the event no significant changes to park ownership, address or other information has occurred, a park owner renews its annual registration upon paying of the appropriate registration fee and signing and submitting a verification stating that the current registration information is true and correct.

#### **Section 2005. Acceptance of Registration**

The City shall accept registration of a mobilehome park in the event that the registration form contains all the information required and is accompanied by the required registration fee. The mere submission of information does not constitute or guarantee acceptance of registration and compliance with this section.

#### **Section 2006. Failure to Register or Re-register Parks**

Any park owner who fails to register and pay registration fees shall not be entitled to formula increases or other rent adjustments as provided for by Chapter 7 of Article VI, shall not be entitled to pass through the registration fees to homeowners, and shall be subject to fines in the amount of 100% of the registration fees.

## Chapter 3

### DETERMINATION OF BASE RENTS

#### **Section 3001. Determination**

The City shall determine the base rent and the maximum allowable rent for each mobilehome space in the City. The determinations shall be in accordance with Section 6701(B) of Chapter 7, Article VI.

#### **Section 3002. Park Owners' Responsibility to Provide Information**

Upon request by the City, the park owners shall provide the City with a list of the current rent for each space for which a valid long-term lease was in effect on December 3, 1991 where such lease exempts the space from local rent control pursuant to State law and, for all other spaces in the park, the amount of the rent that was in effect on December 31, 1984, and March 28, 1991, and documents supporting the rent information for all spaces in the park.

#### **Section 3003. Alternative Sources of Information**

The City may also accept information from current or former park residents or real estate agents or any responsible party reasonably likely to have actual knowledge of or access to credible sources for the amount of the rent in effect on December 31, 1984.

#### **Section 3004. Opportunity to Rebut**

Determinations of the base rent shall be mailed to both the park owner and current resident and shall not be final for ten (10) days after such mailing. During this time, either party may produce evidence to rebut the amount determined and rebut such determination in writing to the City Manager. The City Manager shall consider such information and make a final decision.

#### **Section 3005. Recalculation**

For the purposes of recalculating rents in accordance with Section 6701(B) of Chapter 7, Article VI, the City accepts the following percentages which represent 75% of the Consumer Price Index (CPI-U) for All Urban Wage Earners within the Los Angeles-Anaheim-Riverside Metropolitan Area as those used by the County of Los Angeles in enforcing Section 8.57.070 of the Los Angeles County Code:

<u>For the Calendar Year</u>	<u>Percentage - 75% of CPI</u>
1985	3.5%
1986	2.5%
1987	3.2%
1988	3.5%
1989	3.8%
1990	4.4%
1991	2.3%

## **Chapter 4**

### **APPEALS FROM RENT DETERMINATIONS**

#### **Section 4001. Scope of Regulations**

The regulations contained in this Chapter apply to appeals from rent determinations made by the City Manager or his designee pursuant to M.M.C. Section 6705(c).

#### **Section 4002. Right to Appeal**

The determination of a base rent made pursuant to M.M.C. Section 67058 may be appealed to the Commission by any affected party.

#### **Section 4003. Grounds for Appeal**

The determination of a base rent may be appealed on any of the following grounds:

- A. The determination is not reasonably supported by the evidence submitted to the City in accordance with M.M.C. Section 6705; or
- B. There was a typographical error or an error in calculation; or
- C. There is new and relevant information which was not available to the City Manager because of mistake, inadvertence or excusable neglect where such information could have affected the City Manager's decision. A summary of the reasons why such evidence was not available shall be included in the application.

#### **Section 4004. Time for Appeal**

An appeal from a rent determination must be filed fifteen (15) days after receipt of final Staff determination. Staff or the Commission may waive the time limits for good cause. Notwithstanding the deadlines in this section, the Commission shall accept and schedule for hearing those appeals of base rent determinations received up to and including October 15, 1992. (amended 9/24/92 by Res. No. RC 92-05)

#### **Section 4005. Appeal Forms**

Appeals pursuant to this Chapter may be filed on the form provided by the City or in writing pursuant to the requirements set forth in the remainder of this Chapter.

#### **Section 4006. Appeal Fees(Reserved)**

#### **Section 4007. Procedure for Filing an Application or Appeal**

- A. Applications and appeals under this Chapter shall be submitted to the City Manager. Applications and appeals submitted are not automatically deemed filed. An application or

appeal shall meet the requirements of Section 4008 before it may be filed.

B. The City Manager shall determine within thirty (30) days after receipt of an appeal or application whether said application or appeal is complete or whether additional information is needed in order to make it complete. If the City Manager determines the application or appeal is not complete, it shall so notify the applicant or appellant in writing, setting forth the additional information required.

**Section 4008. Requirements for Filing**

Appeals and applications shall not be filed when any of the following circumstances exist:

A. The application or appeal is not made on the appropriate form or, if submitted by letter, does not contain the required information.

B. If the appeal is by the park owner, where the park is not registered in accordance with Section 6705(A) and (B) of the Malibu Municipal Code.

C. The Commission has already issued a decision setting initial base rent for the subject space or has failed to act, thereby making the City Manager's determination final. In the case of an appeal of a vacancy increase on a space for which the initial base rent was previously determined, the Commission may hear the appeal of the vacancy increase and set the base rent for the new home owner.

**Section 4009. Evidence**

Formal rules of evidence shall not apply except as set forth in Chapters 30 and 31 of these Regulations.

**Section 4010. Staff Report**

The Staff Report shall be submitted pursuant to the regulations set forth in Chapters 30 and 31.

**Section 4011. Hearing Procedure**

The Hearing Procedure shall be as set forth in Chapters 30 and 31 of these Regulations.

**Section 4012. Continuances**

Continuances may be permitted pursuant to Chapters 30 and 31 of these Regulations.

**Section 4013. Commission Action on Appeal**

A. The Commission may affirm or modify the City Manager's determination or, in the event that insufficient information is available to determine the appropriate base rent, the Commission may remand the matter to the City Manager.

B. If the Commission fails to make a decision, the determination of the City Manager shall be final.

C. Except as supplemented herein, Commission action shall be as set forth in Chapters 30 and 31 of these regulations.



## Chapter 5

### FORMULA RENT INCREASES

#### **Section 5001. Scope of Regulations**

The regulations contained in this Chapter apply to formula rent increases pursuant to M.M.C. Section 6708(A).

#### **Section 5002. Consumer Price Index (CPI)**

A. The Consumer Price Index used in this regulation shall be as defined in M.M.C. Section 6701(F): "CPI" means the Consumer Price Index (All Item) prepared by the Bureau of Labor Statistics for the Los Angeles-Anaheim-Riverside area relating to all urban consumers. If the method of calculating the CPI is subsequently substantially revised, this method shall continue to be used, or the revised CPI shall be adjusted by the City to correspond to this method.

B. The Consumer Price Adjustment Period used in this regulation shall be as defined in M.M.C. Section 6701(G): "CPI Adjustment Period." The City shall determine a figure constituting the percentage change to the CPI for use as the basis of rent increases. Such figure need only be based upon available data. This figure shall be based on the percentage change in the CPI during the last available 12-month period for which information is available from the United States Bureau of Labor Statistics.

C. As necessary and for good cause, the City Manager may determine a percentage change to the CPI at any time during the year using the previous twelve (12) month period from the date of a request.

#### **Section 5003. CPI Adjustment Period**

On or before January 1 of each year, the City Manager shall determine and notice the percentage change in the Consumer Price Index to be used throughout the entire year for formula increases.

#### **Section 5004. Formula Increase**

Pursuant to M.M.C. Section 6708(A), space rents may be increased automatically and annually by the total percentage increase in the CPI for the applicable CPI adjustment period as determined by the City Manager. Notwithstanding, no space rent shall be increased by more than 5% per year even if CPI increase is greater; and space rent may be increased by up to 2% per year, even if CPI increase is less than 2%. Calculation of the one-year limit on formula increases shall be from the date the last increase became effective at a particular space.

#### **Section 5005. Posting and Notification**

A. On or before January 1 of each year the City Manager shall post the formula increase percentage at the City of Malibu posting places.

B. On or before January 1 of each year the City Manager shall notify park owners by certified mail, return receipt requested, of the formula increase percentage.

C. On or before January 1 of each year the Park Owner shall post the formula increase percentage in a convenient location at each park.

D. On or before January 1 of each year the City Manager shall notify the Mobilehome Park Rent Stabilization Commissioners by mail of the formula increase percentage.

E. The notice shall contain the specific date and description of CPI used and shall detail the calculations made in order to determine the maximum formula increase.

**Section 5006. Space Rent Increase**

The park owner may increase space rents up to the formula increase according to notifications made pursuant to Civil Code Section 798.30.

**Section 5007. Separately Billed Services and Capital Improvements**

No formula increase shall be permitted for separately billed services or capital improvements.

## Chapter 6

### VACANCY INCREASES

#### **Section 6001. Scope of Regulations**

The regulations contained in this Chapter apply to vacancy rent increases pursuant to M.M.C. Section 6708(B).

#### **Section 6002. Vacancy**

A. A space shall be considered vacant when the home is sold, resold, abandoned or when the ownership of the home changes.

B. Change in ownership of the home does not occur under the following circumstances:

1. Addition or deletion of a spouse to the title due to marriage, divorce or death.
2. Addition or deletion of one or more names to title at any time one or more of the prior owners remains the same.
3. When title to home is changed to a trust, the beneficiary(ies) and/or trustee(s) of which are one or more of the prior owners.
4. When title to home is changed to reflect removal of or addition of the holder of a note secured by the home.
5. When title to home is changed to reflect removal of or addition of the names of parents or children to the title, even if the prior owner(s)'s name(s) no longer remain on the title.
6. When title to a home passes to children of the owner.

#### **Section 6003. Increase**

Upon vacancy, the park owner may increase the space rent up to 15% of the last space rent charged on vacancy. No increase shall be permitted for separately billed fees, services, capital improvements and the like.

#### **Section 6004. Re-registration**

A. The park owner shall re-register the space within sixty (60) days of occupancy by providing to the City Manager:

1. The name and address of the new resident.

2. The space affected.
3. The last space rent charged to the previous resident.
4. The new space rent.

B. If the space is subject to a long-term lease exempt from the rent stabilization provisions of the Ordinance pursuant to Civil Code Section 798.17, the park owner shall provide to the City Manager within sixty (60) days information pertaining to the duration of the lease, expiration date of the lease, any rent increases provided for by the lease, and the rent in effect when the lease expires (or the formula by which the rent charged under the lease is calculated).

## **Chapter 7**

### **GOVERNMENT REQUIRED SERVICES (SPECIAL AND LIMITED RENT)**

#### **Section 7001. Scope of Regulations**

The regulations contained in this Chapter apply to government required services and special rent and limited rent increases pursuant to M.M.C. Section 6708(D)(1).

#### **Section 7002. Notification to Home Owner**

Besides the notification required under M.M.C. Section 6708(D)(1), the park owner shall provide to each affected home owner:

- A. Access to copies of the documents requiring added services by the government.
- B. A statement of the actual costs paid in the prior twelve months.
- C. The computation of the homeowner charge.

#### **Section 7003. Notification to the City**

The park owner shall provide to the City Manager a summary of the data required under Section 4002. The summary shall be provided at the same time as the owner notification.

#### **Section 7004. Multi-year Required Services**

A separate notification is required for each 12 month period that a service is in effect.

## Chapter 8

### CAPITAL IMPROVEMENT

#### **Section 8001. Scope of Regulations**

The regulations contained in this Chapter apply to capital improvement, special or limited rent increases pursuant to M.M.C. Sections 6708(D)(2) and 6712(C)(1)(a).

#### **Section 8002. Definition**

Capital improvements are defined in M.M.C. Section 6701(D).

#### **Section 8003. Request for Capital Improvements**

A. The park owner may apply for a capital improvement charge according to Chapters 30 and 31 of these regulations.

B. In addition to the data required in Chapters 30 and 31 of these regulations, the park owner shall provide:

1. Currently approved capital improvement pass throughs by space.
2. Signature (executed under penalty of perjury) of one adult owner from at least 2/3 of the spaces in the park indicating consent to the capital improvement.
3. Final approval by the City Environmental and Building Department, if required.
4. Justification of amortization period proposed based upon Internal Revenue Code.
5. Verification of current prime interest.

#### **Section 8004. Hearing**

The hearing shall be conducted according to Chapters 30 and 31 of these regulations.

#### **Section 8005. Decision and Findings**

The decision and findings shall be in accordance with Chapters 30 and 31 of these regulations. Additionally, the findings shall set forth:

- A. The approved dollar value of the capital improvement.
- B. The interest rate and interest rate computation.
- C. The amortization schedule.

D. The monthly cost for each space affected, computed by adding the total costs (including interest and application fee approved) divided by the amortization period and converted to a monthly rate.

E. At the homeowner's option, the entire principal balance plus accrued interest to date may be paid in one sum at any time.

**Section 8006. Implementation of the Payment Change**

Implementation of the change shall be in accordance with Chapters 30 and 31 of these Regulations. The capital improvements shall be separately billed to the homeowner.

**Section 8007. Review of Commission Decision**

Review of the Commission decision shall be in accordance with Chapters 30 and 31 of these Regulations.

## Chapter 9

### REDUCTION IN SERVICES

#### **Section 9001. Scope of Regulations**

The regulations contained in this Chapter apply to a reduction in housing services pursuant to M.M.C. Section 6710(A).

#### **Section 9002. Definition**

Pursuant to M.M.C. Section 6701(J), "housing services" means services provided by the park owner related to the use or occupancy of a mobilehome space, including, but not limited to, water and sewer, natural gas, electricity, refuse removal, management and administration (including employee salaries and fringe benefits), maintenance and repairs, supplies, advertising, recreation facilities, laundry facilities, parking, security services, insurance, property taxes, governmental assessments, and other costs reasonably attributable to the operation of the mobilehome park. The term "housing services" shall not include legal fees or mortgage payments, whether for principal, interest, or both.

#### **Section 9003. Notification to Park Owner**

Prior to submitting an application for a rent reduction, the applicant must send written notification to the park owner specifying the grounds for a possible rent reduction and requesting repair of the condition or restoration of the services. No application for rent reduction may be submitted until 30 days after delivery of the written notice or written refusal to perform the work by the park owner, whichever occurs first.

#### **Section 9004. Request for Rent Adjustment Due to Reduction in Housing Services**

A. The park owner or home owner or home owners as a group may apply for a rent adjustment based on a reduction in services in accordance with Chapters 30 and 31 of these Regulations.

B. If a housing service alleged reduced or eliminated effects all or other spaces, the Commission may order rent adjustments without new applications.

C. To determine the value of a housing service which has been reduced or eliminated, the Commission shall consider all relevant evidence including any and all of the following:

1. Information relating to the significance of the reduced service in relation to the safety, health, convenience and comfort of the home owner(s).
2. The prevailing market value of the service as an amenity.
3. The extent to which the home owner relies on the service.



4. The cost to the park owner of providing the service.

**Section 9005. Hearing**

The hearing shall be conducted in accordance with Chapters 30 and 31 of these Regulations.

**Section 9006. Decision and Findings**

The decision and findings shall be rendered in accordance with Chapters 30 and 31 of these Regulations.

**Section 9007. Implementation of Change**

Implementation of the change shall be in accordance with Chapters 30 and 31 of these Regulations.

**Section 9008. Review of Commission Decision**

Review of the Commission decision shall be in accordance with Chapters 30 and 31 of these Regulations.

## Chapter 10

### RENT INCREASE TO ASSURE A FAIR AND REASONABLE RETURN

#### **Section 10001. Scope of Regulations**

The regulations contained in this Chapter apply to rent adjustments pursuant to M.M.C. Sections 6708(C), 6712 and 6721.

#### **Section 10002. Definition**

- A. Base Rent is defined in M.M.C. Section 6701(B).
- B. Space Rent is defined in M.M.C. Section 6701(O).
- C. Gross Income is defined in M.M.C. Section 6701(H).
- D. Housing Services is defined in M.M.C. Section 6701(J).
- E. Operating Expenses is defined in M.M.C. Section 6701(N). Operating expenses shall not include the capital costs and expenses associated with developing rentable spaces, for example, costs of preparing the site, extension or improvement of the infrastructure to accommodate a new site, advertising and rental expenses associated with the first time rental of the space and other costs related to adding a new space to the park.
- F. Base Year is defined in M.M.C. Section 6701(C).
- G. Net Operating Income is defined as gross annual income plus adjustments required under these Regulations, less annual operating expenses.
- H. Current Year shall be the most recent calendar or fiscal year prior to the date of application.

#### **Section 10003. Presumption of a Fair Return**

M.M.C. Section 6712 provides that the base rent, as adjusted pursuant to M.M.C. Sections 6708(A) and 6708(B), is presumed to result in a fair return to the park owner in the base year.

#### **Section 10004. Rebutting Presumption of a Fair Return in the Base Year**

Should the Commission determine that the base rents yielded a park owner other than a fair return on investment, the rent may be adjusted accordingly. In order to make such a determination, the Commission must make at least one of the following findings:

- A. The park owner's operating and maintenance expenses in the base year were unusually high or low in comparison to other years. In such instances, adjustments may be made in such expenses so the base year operating expenses reflect average expenses for the property

over a reasonable period of time. The Commission shall consider the following factors:

1. The park owner made substantial capital improvements which were not reflected in the rent levels on the base year date.
2. Substantial repairs were made due to damage caused by natural disaster or vandalism not reimbursed by insurance.
3. Maintenance and repair was below accepted standards so as to cause significant deterioration in the quality of housing services.
4. Other expenses were unreasonably high or low, notwithstanding the following of prudent business practice. In making this determination, the fact that property taxes prior to 1991 may have been higher than in the base year shall not be considered. It is not the intent of this Chapter to reward or to compensate for inefficient business practices.

B. The rent on the base date was disproportionate due to one of the enumerated factors below. In such instances, adjustments may be made in calculating gross rents, consistent with the purposes of M.M.C. Section 6700, et seq.

1. The rent on the base date was established by a lease or other formal rental agreement which provided for substantially higher rent at other periods during the term of the lease, for example a reduced rent during the first year of the lease.
2. The rent on the base date was substantially higher or lower than at other times of the year by reason of seasonal demand or seasonal variations in rent.
3. The rent on the base date was substantially higher or lower than preceding months because of premiums being charged or rebates being given for reasons unique to particular units or limited to the period determining the base rent.

#### **Section 10005. Application for Adjustment**

A. An Applicant may apply for an adjustment to base rent according to Chapters 30 and 31 of these Regulations.

B. In addition to the information required by these Regulations, the applicant shall provide the following:

1. Rental and tenant history for the space(s).
2. Total amount of employee wages and fringe benefits included in operating expenses, decreased by the percentage of time employees whose wages and fringe benefits are wholly included in operating expenses spent performing duties for the park owner which do not relate to provision of housing services or maintaining the park.
3. Total cost of leased/rented equipment or depreciation of owned equipment

included in operating expenses, decreased by the percentage of time the equipment is utilized for work for the park owner which does not relate to provision of housing services or maintenance of the park.

C. For applications for rent increases based on the Net Operating Income Formula or an alternative method, in addition to the information required by these Regulations, the applicant shall also provide, at a minimum, the following data:

1. The net operating income for the base year and the current year.
2. Space rent for each space.
3. Detailed description of any adjustment to the space rent for each space which shall include adjustments for which park owner was eligible, and those approved, whether implemented or not.
4. Detailed description of uncollected rents due to vacancy or bad debt.
5. Detailed list of income other than space rent.
6. Detailed description of operating expenses for provision of housing services.
7. Total amount of adjustment requested.
8. Total amount of adjustment requested for each space.
9. Documents, books, records, invoices, cancelled checks, financial statements and all other materials which support the application. All records and documents submitted must be readable, including all copies made. To the extent that this information exists in this form, the following should be included (and must be submitted, upon request by staff within 20 days of initial application, when determined by staff to be reasonably required for a meaningful review of the application): (Resolution RC99-03, 03-30-99)
  - (a) audited financial statements, including a balance sheet, income statement and cash analysis (inflows/outflows);
  - (b) invoices to specific accounts (using payment vouchers) using adequate descriptions of areas of expense which relate to the expense categories set forth in Sections 6.7.12(A) and 6.7.01(N) and shall be accompanied by a cover document summarizing all invoices submitted.
  - (c) cancelled checks organized into the appropriate expense categories set forth in Sections 6.7.12(A) and 6.7.01(N) and shall be accompanied by a cover document summarizing all cancelled checks submitted.
  - (d) monthly bank statements to support data on both revenues and expenditures along with bank reconciliations.

- (e) books of original entry (journals) with related documents.
- (f) ledgers of accounts and charts of accounts with related documents.
- (g) a double-entry accounting or bookkeeping system presenting documents related to the application.
- (h) a ledger of fixed assets as necessary for the application.
- (i) a summary of all written accounting procedures used with the related documents.
- (j) a purchase order system, traceable to accounting records, showing order, receipt and payment.
- (k) a payroll system which interfaces with the accounting records.

#### **Section 10006. Net Operating Income Formula**

A. The park owner may request a rent adjustment in order to permit the owner to receive a just and reasonable return. The Commission will determine whether the park owner is receiving a fair and reasonable return based on the Net Operating Income (NOI) Formula set forth in these Regulations. It is presumed that this formula will assure a fair and reasonable return on the park owner's investment.

B. A rent adjustment shall be approved in order to provide a fair and reasonable return and maintain net operating income in accordance with the following formula: Net Operating Income equals gross income minus operating expenses. A fair NOI is 75% of the percentage increase in the CPI over the base year. (For example, if the CPI has increased by 10% since base year, the park shall be entitled to a NOI which is 7.5% above the base year level).

C. The park owner shall adjust the base year gross income upward for any space(s) occupied by the park owner, park owner's family, or by a manager, agent or employee where the space was rent free or charged at a rent level below that of comparable spaces.

D. For each space removed from park use since the base year, the park owner shall adjust the current gross income upward at the space rent which would have existed had the space not been removed from use.

E. The park owner shall adjust the current year gross income upward in the amount of any increases the park owner is eligible to receive under the provisions of the Malibu Municipal Code but which the park owner has not yet imposed.

F. If a space is added to the park after 1984 and is not exempted from rent control by state law, the park owner shall adjust the gross income upward for the year the space is added and for each succeeding year.

G. If a park owner is earning its base year NOI, after any adjustment pursuant to Section 10004 and 10008, adjusted by 75% of CPI, it is presumed that the park owner is receiving a fair return and no increases in rent are warranted. If the park owner is not receiving a fair return as defined herein, the Commission shall grant rent increases accordingly. The Commission may increase rents to the minimum level necessary to assure a fair return based on the evidence in the record.

**Section 10007. Alternative Methods of Assuring a Fair Return**

A park owner may rebut the presumption that the increase calculations provided in Section 10006 of these Regulations are sufficient to provide a fair and reasonable return by showing that the rate of return on its investment being earned by the park owner is not fair and reasonable even after adjustments in rents are made pursuant to Section 10006 of these Regulations.

The Commission shall consider all relevant evidence, including, but not limited to, the following:

- A. The rent being charged by comparable mobilehome parks.
- B. The rate of return on investment earned by the park owner in 1985 and 1991, the rate of return of investment earned by the park owner in each year since 1991, including the rate of return on investment earned in the most recent calendar year.
- C. The average rate of return on investment earned by other mobilehome parks in the City and surrounding areas during the year the application is filed and each of the 5 preceding years.
- D. The mobilehome park's pattern of income and expenses over each of the past 5 years.
- E. The quality of the services, amenities and maintenance provided at the mobilehome park and any decrease or increase in services, maintenance and amenities in the current year.

**Section 10008. Selecting a different base year**

If the Commission determines that, after reasonable effort, information is unavailable for the base year or the base year is not representative, the Commission may select a new base year by designating the next chronological year for which information is available and which is representative.

**Section 10009. Hearing**

The hearing shall be conducted according to Chapters 30 and 31 of these Regulations.

**Section 10010. Decision and Findings**

The decision and findings shall be made in accordance with Chapters 30 and 31 of these Regulations and shall take into account those factors set forth in M.M.C. Section 6713.

**Section 10011. Implementation of Adjustment**

Implementation of the change shall occur in accordance with Chapters 30 and 31 of these Regulations.

**Section 10012. Review of Commission Decision**

Review of the Commission decision shall be in accordance with Chapters 30 and 31 of these Regulations.

## **Chapter 11**

### **NECESSARY INFRASTRUCTURE IMPROVEMENTS**

#### **Section 11001. Scope of Regulations**

The regulations contained in this Chapter apply to necessary infrastructure improvements as set forth in M.M.C. Sections 6701(M.5) and 6708(D)(2).

#### **Section 11002. Definition**

Necessary infrastructure improvements are defined in M.M.C. Section 6701(M.5).

#### **Section 11003. Request for Necessary Infrastructure Improvements**

A. The park owner may apply for a necessary infrastructure improvement charge by submitting a complete application to the City Manager. The application shall be in sufficient detail to permit a reasonable person to adequately review the request and, at a minimum, shall include the following:

1. Description and rationale for the application and the proposed improvement with copies of at least three bids from qualified bidders.
2. Total dollar amount of the application.
3. The current and proposed MAR, or service charge, as applicable, for each affected space.
4. Detailed information on leases pursuant to M.M.C. Section 6710(D).
5. Documentation to demonstrate the industry standard for maintenance of the proposed improvement. Documentation establishing park owner's substantial compliance with the industry standard. All other documents, books, records, invoices, canceled checks, financial statements, and similar documentation which support the application.
6. Additional data required to support the application as set forth in the Regulations under which the application is made.
7. Proof of service signed under penalty of perjury that all affected parties have been notified pursuant to M.M.C. Section 6710(A)(2).

B. A park owner's application is not complete unless the park is current in all registration and fee requirements.

C. Within twenty (20) days of receipt of the application, the City Manager shall notify the applicant whether the application is complete. The application shall be deemed filed as of the date of notice of a complete application or, if no notice is sent, twenty (20) days after submission.



D. Within ten (10) days of filing, the City Manager shall send notice to the applicant and to each affected party of the date, time and place of hearing on the application and of the availability of the application and supporting documents for review at City Hall during normal business hours. The hearing shall be set no sooner than twenty (20) days and no later than forty (40) days after filing of a complete application.

E. Any person may order and purchase a copy of the application and supporting documents and same shall be delivered promptly to insure that those wishing to be informed prior to and participate in the hearing may do so.

#### **Section 11004. Opposition**

A. All documentary evidence presented by any individual or group or individuals opposing any application shall be received no later than fifteen (15) days prior to the scheduled hearing date.

B. Any person may order and purchase a copy of the opposing documentary evidence and the staff report, and same shall be delivered promptly to insure that those wishing to be informed prior to and participate in the hearing may do so.

#### **Section 11005. Supplemental and Rebuttal Evidence**

Documentary evidence not presented prior to the date for completion of the Staff Report may be considered if good cause is demonstrated as to why it was not submitted prior to the hearing.

#### **Section 11006. Evidence**

A. Formal rules of evidence or procedure which must be followed in court shall not apply to administrative proceedings except as follows:

1. Parties submitting documentary evidence shall execute a declaration under penalty of perjury that the matters set forth in the documents are true either to their personal knowledge or upon information and belief. If the document is a copy, the declaration shall include a statement that the document is a true copy of the original.

2. Witnesses shall be sworn and shall testify truthfully under penalty of perjury.

B. Each written statement to be considered evidence shall:

1. Be made under penalty of perjury.

2. Set forth the full name and current residence and business address and telephone number of the person making the statement.

#### **Section 11007. Hearing**

The City Manager or his designee shall conduct a duly noticed public hearing prior to rendering a decision.

**Section 11008. Decision and Findings**

The City Manager's decision and findings shall be in writing. Additionally, the findings shall set forth:

- A. The approved dollar value of the necessary infrastructure improvement.
- B. The interest rate and interest rate computation.
- C. The amortization schedule.
- D. The monthly cost for each space affected, computed by adding the total costs (including interest and application fee approved) divided by the amortization period and converted to a monthly rate.

**Section 11009. Implementation of the Payment Change**

Implementation of the change shall be in accordance with Chapters 30 and 31 of these Regulations. The necessary infrastructure improvements shall be separately billed to the homeowner. At the homeowner's option, the entire principal balance plus accrued interest to date may be paid in one sum at any time.

**Section 11010. deleted.**

## Chapter 30

### GENERAL PROCEDURES FOR RENT ADJUSTMENT APPLICATIONS

#### Section 30001. Scope of Regulations

The regulations contained in this Chapter apply to all applications for rent adjustments as authorized by M.M.C. Section 6700, et seq. These Regulations are in addition to regulations in other Chapters of the Malibu Mobilehome Rent Stabilization Commission Regulations.

#### Section 30002. Applications

A. All applications shall be in writing and in a form prescribed by the City Manager, or in letter form which shall provide the same information as required on the form prescribed by the City Manager and as required in these Regulations.

B. The applicant shall pay a filing fee with the application in the form of a check or money order made payable to the City of Malibu. The filing fee shall be determined by resolution of the Malibu City Council.

C. The application shall be in sufficient detail to permit a reasonable person to adequately review the request and shall, at a minimum, include:

1. Description and rationale for the application.
2. Total dollar amount of the application.
3. The current and proposed base rent, or service charge, as applicable, for each affected space.
4. Detailed information on leases pursuant to M.M.C. Section 6710(D).
5. Documents, books, records, invoices, canceled checks, financial statements, etc. which support the application.
6. Additional data required to support the application as set forth in the Regulations under which the application is made.
7. Proof of service signed under penalty of perjury that all affected parties have been notified pursuant to M.M.C. Section 6710(A)(2).

D. A park owner's application is not complete unless the park is current in all registration and fee requirements.

E. The application is complete if all information required in sub-sections 1 through 7 hereof is provided and all application fees have been paid to the City; and additionally upon

compliance with sub-sections (D) and (E) hereof if applicant is a park owner.

F. Within ten (10) days of receipt of a completed application, the City Manager shall send notice to the applicant and to each affected party of the date, time and place of hearing on the application and of the availability of the application and supporting documents for review at City Hall during normal business hours.

G. Any person may order and purchase a copy of the application and supporting documents and same shall be delivered within three (3) days to insure that those wishing to be informed prior to and participate in the hearing may do so.

### **Section 30003. Opposition**

A. All documentary evidence presented by any individual or group or individuals opposing any application shall be received by the City within twenty (20) days of the application being deemed complete. (Resolution RC99-02, 03-30-99)

B. Within fifteen (15) to twenty-five (25) days after the deadline for receiving opposing evidence, the City Manager shall prepare a staff report. (Resolution RC99-02, 03-30-99)

C. Any person may order and purchase a copy of the opposing documentary evidence and the staff report, and same shall be delivered within three (3) days to insure that those wishing to be informed prior to and participate in the hearing may do so.

### **Section 30004. Supplemental and Rebuttal Evidence**

Documentary evidence not presented prior to the date for completion of the Staff Report may be considered if good cause is demonstrated as to why it was not submitted on time.

### **Section 30005. Evidence**

A. Formal rules of evidence or procedure which must be followed in court shall not apply to Commission proceedings except as follows:

1. Parties submitting documentary evidence shall execute a declaration under penalty of perjury that the matters set forth in the documents are true either to their personal knowledge or upon information and belief. If the document is a copy, the declaration shall include a statement that the document is a true copy of the original.

2. Witnesses shall be sworn and shall testify truthfully under penalty of perjury.

B. Each written statement to be considered evidence shall:

1. Be made under penalty of perjury.

2. Set forth the full name and current residence and business address and telephone number of the person making the statement.

### **Section 30006. Staff Report**

A. No later than fifteen (15) days prior to the scheduled date of the hearing the City Manager shall prepare a staff report containing the following, in addition to specific matters required to be included pursuant to regulations for particular applications: (Resolution RC99-02, 03-30-99)

1. Summary of the application and the staff's recommendation.
2. Summary of the applicant's arguments in favor of the application.
3. Summary of any opposing evidence.
4. Summary of any arguments received from opponents of the application.
5. List of discrepancies or inconsistencies in the application.
6. Specific notes of any facts or figures the City Manager believes are not adequately supported by the applicant.

B. A copy of the staff report shall be made available at City Hall.

### **Section 30007. Documents to be Reviewed by Commissioners**

A. The Commissioners shall review the application, supporting documentary evidence, opposition and evidence, staff report and all correspondence and other notes prior to the scheduled hearing.

B. In order to effectuate the provisions of sub-section (A), the City Manager shall deliver to each Commissioner no later than fifteen (15) days prior to the scheduled hearing date copies of the application, supporting documentary evidence, opposition and evidence, staff report and all correspondence and other notes. (Resolution RC99-02, 03-30-99)

C. All documents relating to a hearing which arrive after the package described in sub-section (B) has been delivered shall be delivered to each Commissioner on the same day they are received with a note clearly setting forth the date and time each arrived.

### **Section 30008. Log of Applications**

The City Manager shall maintain as a public record a log setting forth each application or appeal received. This log shall contain the following:

- A. Any control number assigned.
- B. Date the application or appeal was received.
- C. Date the application or appeal was filed.

- D. Name of party/entity presenting the application or appeal to be filed.
- E. Names of affected parties.
- F. Type of application or appeal submitted.
- G. Date(s) documentary evidence supporting the application or appeal was received, including supplemental submissions.
- H. Date(s) documentary evidence and/or argument opposing the application or appeal is received, including supplemental submissions.
- I. Date scheduled for hearing.
- J. Date Staff Report is due.
- K. Date Staff Report is completed.
- L. Date(s) document package(s) must be delivered to Commissioners.
- M. Date(s) document package(s) actually delivered to Commissioners.
- N. Date(s) of receipt of request(s) for continuance and any continuance granted by the Commission.
- O. Date of hearing; include all dates if hearing occurs on more than one date.
- P. Date of receipt of Commission decision.
- Q. Date of posting notice of filing of Commission decision.

**Section 30009. Notice of Commission decision**

The City Manager shall send a copy of the final Commission decision to all parties as soon as it is available. The notice shall contain a provision as to how the decision may be appealed in civil court pursuant to Code of Civil Procedure Section 1094.5.

**Section 30010. Implementation of Change**

The City Manager shall note in the City's records for each space all adjustments in rent relating to that space and said shall be permanently maintained as a public record which shall reflect the following:

- A. The initial base rent determination.
- B. The date each increase or decrease was ordered by the Commission.

- C. The date for implementation of increases or decreases ordered by the Commission.
- D. The current maximum allowable rent.
- E. Each permitted additional charge, its date of implementation and completion.

## **Chapter 31**

### **HEARINGS AND DECISIONS**

#### **Section 31001. Scope of Regulations**

The regulations contained in this Chapter apply to all hearings before and decisions of the Malibu Mobilehome Park Rent Stabilization Commission held pursuant to M.M.C. Section 6700, et seq.

#### **Section 31002. Hearings**

A. A hearing on an application shall be scheduled no earlier than twenty (20) days and no later than forty (40) days after the completed application is accepted for filing.

B. The hearing shall be conducted according to M.M.C. Section 6711 and these Regulations.

C. The hearing shall be conducted by a quorum of the Commission.

D. The hearing shall proceed in the following order:

1. Presentation of the staff report.

2. Presentation on behalf of applicant, including testimony of any affected parties and witnesses in support of the application.

3. Presentation on behalf of opponents, including testimony of any affected parties and witnesses in opposition to the application.

4. Rebuttal by applicant.

E. The burden of proof shall be on the applicant to demonstrate its case by a preponderance of the evidence.

F. All parties to the hearing may have assistance from an attorney or such other person as may be designated by the parties in presenting evidence or arguing their position.

G. In the event that either the park owner or the homeowner(s) should fail to appear at the hearing at the specified time and place, the Commission may hear and review such evidence as may be presented and make such decisions as if both parties had been present.

H. All hearings shall be tape-recorded. Tapes shall be preserved for two (2) years.

I. Commissioners may ask questions of any witness at the end of that witnesses testimony if the need arises.



J. Formal rules of evidence or procedure which must be followed in court shall not apply to Commission proceedings except as follows:

1. Parties submitting documentary evidence shall execute a declaration under penalty of perjury that the matters set forth in the documents are true either to their personal knowledge or upon information and belief. If the document is a copy, the declaration shall include a statement that the document is a true copy of the original.

2. Witnesses shall be sworn and shall testify under penalty of perjury.

3. Each written statement used as evidence shall:

a) Be made under penalty of perjury.

b) Set forth the full name and current residence and business address and telephone number of the person making the statement.

K. Unless specifically requested by the Commission at a public meeting, no documentary evidence or written or oral argument shall be sent or made to the Commission or to any Commissioner by any party or member of the public after the conclusion of the hearing.

L. No Commissioner shall request or accept documentary evidence or written or oral argument from any party or member of the public after the conclusion of the hearing.

#### **Section 31003. Continuance**

The Commission may continue a hearing on its own motion or at the request of an applicant or affected party.

#### **Section 31004. Decorum at Hearing**

A. Hearings shall begin promptly. Late arrivals shall seat themselves quietly, without interrupting the proceedings.

B. Because the hearing must be tape recorded, and because members of the public wish to hear what is being said, all speakers (including Commissioners and staff) shall speak loudly and clearly so the record will be clear and the audience can hear. Those persons who cannot, for any reason, speak loudly and clearly may assign someone who can do so to make any oral presentation on their behalf.

C. There shall be no noise, whispering, outcries, audible expressions of approval or disapproval, or any other type of disruption by any person in the hearing room at any time during the hearing. Such disruptions are discourteous to all concerned and will not be tolerated. Offending parties shall be warned by the Chair. If disruptions continue, the Chair may remove offending parties in order to insure that the hearing may go forward without further disruption or delay.

D. There shall be no smoking at any time and no side conversations during the hearing in the hearing room, in the hallways outside the hearing room or in other rooms in the building where the hearing is held. Persons wishing to engage in these activities shall go outside the building.

E. All persons attending or participating in the hearing in any fashion shall treat others with the same courtesy and respect with which they expect to be treated.

F. Commissioners, parties and the audience shall not interrupt the presentation of a party or testimony of a witness.

G. Vulgar or offensive language and/or behavior shall not be tolerated.

H. The Chair shall enforce these regulations as is necessary and appropriate in order to insure a fair hearing to the participants and that the hearing is concluded without undue delay.

#### **Section 31005. Decision of the Commission**

A. The findings and conclusions of the Commission shall be written. The Commission may adopt a proposed resolution prepared by the Staff, may amend a proposed resolution and adopt it at the conclusion of the hearing, may direct staff to prepare a resolution consistent with the Commission's decision, or may prepare a resolution at the hearing.

B. The decision shall become final upon adoption of the resolution. The City Manager shall mail the applicant a copy of the decision.

#### **Section 31006. Implementation of Change**

A. Any increase in rent granted by the Commission shall be noticed by the park owner pursuant to state law. A rent reduction shall go into effect the next date that rent is due after the date of the Commission's final decision.

B. The City Manager shall note in the City's records for each space all adjustments in rent relating to that space and said shall be permanently maintained as a public record which shall reflect:

1. The initial base rent determination.
2. The date each increase or decrease was ordered by the Commission.
3. The date for implementation of increases or decreases ordered by the Commission.
4. The current maximum allowable rent.

## Chapter 32

### REGULATIONS GOVERNING COMMISSION MEETINGS

#### **Section 32001. Scope of Regulations**

The regulations contained in this Chapter apply to meetings, other than hearings, of the Malibu Mobilehome Park Rent Stabilization Commission.

#### **Section 32002. Preparation for Meeting**

A. Commissioner packets, including the agenda, shall be delivered to Commissioners no later than 2:00 p.m. on the day which is seven (7) days prior to each regular or adjourned Commission meeting.

B. The City Manager shall prepare the agenda for the Commission meeting pursuant to instructions from the Commission.

C. The City Manager shall post the agenda and make the meeting packet available at each of the three legal posting places of the City of Malibu no later than close of business 72 hours prior to the meeting.

#### **Section 32003. Meeting Conduct and Decorum**

A. Absent agreement of the Commissioners, no meeting shall be scheduled except on the regularly scheduled meeting day or continued meeting day of the Commission.

B. Meetings shall begin promptly. Late arrivals shall seat themselves quietly, without interrupting the proceedings. Similarly, following a break, those arriving after the meeting has resumed shall seat themselves quietly without interrupting the proceedings.

C. Because the meeting is being tape recorded, and because members of the public wish to hear what is being said, all speakers (including Commissioners and staff) shall speak loudly and clearly so the record will be clear should reference need to be made to it. Those who cannot speak loudly and clearly may ask someone else to make their oral presentation or should present their comments in writing.

D. There shall be no noise, whispering, outcries or any other type of disruption by any person at any point during the meeting. Such disruptions are discourteous to the Commissioners and attendees and may well obliterate the tape-recording being made of the meeting. Offending parties will be warned to be quiet by the Chair. If disruptions continue, the Chair may remove offending parties in order to insure that the meeting may go forward without interruption.

E. Those persons who wish to converse may do so in the parking lot outside the building as sound carries clearly into the meeting room from the hallways.

F. There shall be no smoking in the meeting room.

G. All persons attending or participating in the meeting in any fashion shall treat others with the same courtesy and respect with which they expect to be treated.

H. Commissioners and attendees shall not interrupt each other or talk over each other. They shall seek recognition by the Chair before speaking.

I. Vulgar or offensive language and/or behavior shall not be tolerated.

J. The Chair shall enforce these regulations as is necessary and appropriate in order to insure meeting decorum without unduly limiting public participation.

#### **Section 32004. Excused absences**

For good cause, the Chair, Vice Chair or a majority of the Commission members may excuse an absence of any of its members.

#### **Section 32005. Commission Agendas and Commissioner Packets**

A. Prior to preparing the Commission Agenda, the City Manager shall verify with the Commission Chair the matters to be included on the agenda, including any closed session to be noticed.

B. The City Manager shall complete the Commission Agenda and prepare Commissioner packets, which shall include the Agenda, minutes of prior meetings remaining to be approved, and all materials to be considered or discussed at the meeting no later than seven (7) days prior to each scheduled meeting, or if a special meeting, as many days as possible prior to the meeting, but in no event less than three (3) days prior to the meeting.

C. The City Manager shall make available the Commission Agenda and Commissioner packet to each Commissioner no later than 2:00 p.m. seven (7) days prior to the meeting. If a special meeting is scheduled which does not permit materials to be delivered seven (7) days prior to the meeting, they shall be available as many days as possible prior to the meeting.

## PRIOR CODE CROSS-REFERENCE TABLE

This table provides users with the current disposition of the sections in the Malibu Municipal Code contained in Ordinance 28 § 1.

Prior Code §	Herein	Prior Code §	Herein
Article I		1322	1.04.230
1100	Not codified	1323	1.04.240
1101	Not codified	1324	1.04.250
1102	Not codified	1325	1.04.260
1103	Not codified	1326	1.04.270
1104	Not codified	1327	1.04.280
1105	Not codified	1400	3.04.020
1106	Not codified	1401	3.04.030
1200	1.16.010	1500	1.12.010
1201	1.08.010—1.08.090	1600	3.08.010
1202	Not codified	1701	2.08.020
1300	1.04.010	Article II	
1301	1.04.020	2100	2.12.010
1302	1.04.030	2101	Repealed by 156
1303	1.04.040	2102	2.12.020
1304	1.04.050	2103	2.12.030
1305	1.04.060	2104	2.12.040
1306	1.04.070	2105	2.12.050
1307	1.04.080	2106	2.12.060
1308	1.04.090	2107	2.12.070
1309	1.04.100	2108	2.12.080
1310	1.04.110	2109	Repealed by 156
1311	1.04.120	2110	2.12.090
1312	1.04.130	2111	2.12.100
1313	1.04.140	2200	2.04.010
1314	1.04.150	2201	2.04.020
1315	1.04.160	2202	2.04.030
1316	1.04.170	2203	2.08.010
1317	1.04.180	2300	2.04.040
1318	1.04.190	2301	2.04.050
1319	1.04.200	2400	2.08.030
1320	1.04.210	2500	3.04.010
1321	1.04.220	2501	2.16.010

<b>Prior Code §</b>	<b>Herein</b>	<b>Prior Code §</b>	<b>Herein</b>
2502	2.16.020	2900	2.64.010
2503	2.16.030	2901	2.64.020
2600	3.08.020	2902	2.64.030
2601	3.08.030	2903	2.64.040
2602	3.08.040	2904	2.64.050
2603	3.08.050	2905	2.64.060
2604	3.08.060	2906	2.64.070
2605	3.08.070	2907	Repealed by 239
2606	3.08.080	2908	Repealed by 239
2607	3.08.090	21000	2.20.020
2620	3.32.010	21001	2.20.020
2621	3.32.020	21002	2.20.030
2622	3.32.030	21003	2.20.040
2623	3.32.040	21004	2.20.050
2624	3.32.050	21005	2.20.060
2625	3.32.060	21006	2.20.070
2701	2.56.010	210.500	2.08.040
2702	2.56.020	21100	2.36.010
2703	2.56.030	21101	2.36.020
2704	2.56.040	21102	2.36.030
2705	2.56.050	21103	2.36.040
2706	2.56.060	21104	2.36.050
2707	2.56.070	21105	2.36.060
2708	2.56.080	21106	2.36.070
2709	2.56.090	21107	2.36.080
2710	2.56.100	21108	2.36.090
2711	2.56.110	21109	2.36.100
2712	2.56.120	21110	2.36.110
2713	2.56.130	21111	2.28.010
2714	2.56.140	21112	2.28.020
2715	2.56.150	21113	2.28.030
2716	2.56.160	21114	2.44.010
2717	2.56.170	21115	2.44.020
2718	2.56.180	21116	2.44.030
2800	2.24.010	21117	2.44.040
2801	2.24.020	21118	2.44.050
2802	2.24.030	21119	2.44.060
2803	2.24.040	21120	2.44.070
2804	2.24.050	21121	2.44.080

Prior Code §	Herein
21122	2.44.090
21123	2.44.100
21124	2.44.110
21125	2.48.010
21126	2.48.020
21127	2.48.030
21128	2.48.040
21129	2.48.050
21130	2.48.060
21131	2.48.070
21132	2.48.080
21133	2.48.090
21134	2.48.100
21135	2.48.110
21136	2.32.010
21137	2.32.020
21138	2.32.030
21139	2.32.040
21140	2.32.050
21141	2.32.060
21142	2.32.070
21143	2.32.080
21144	2.32.090
21145	2.32.100
21146	2.32.110
21147	2.40.010
21148	2.40.020
21149	2.40.030
21150	2.40.040
21151	2.40.050
21152	2.40.060
21153	2.40.070
21154	2.40.080
21155	2.40.090
21156	2.40.100
21157	2.40.110
21200	5.28.010
21201	5.28.020
21202	5.28.030

Prior Code §	Herein
21203	5.28.040
21204	5.28.050
21205	5.28.060
21206	5.28.070
21207	5.28.080
21208	5.28.090
21209	5.28.100
21210	5.28.110
21211	5.28.120
21301	2.60.010
21302	2.60.020
21303	2.60.030
21304	2.60.040
21305	2.60.050
21306	2.60.060
Article III	
3100	8.12.010
3101	8.12.020
3102	8.12.030
3103	8.12.040
3200	10.04.010
3201	10.04.020
3202	5.24.010
3203	5.24.020
3204	5.24.030
3205	Repealed by 158
3206	5.24.040
3207	10.08.010—10.08.030
3300	6.04.010
3301	Repealed by 235
3302	6.04.020
3400	8.16.010
3401	8.16.020
3500	13.08.010
3501	13.08.020
3600	2.52.010
3601	2.52.020
3602	2.52.030
3603	2.52.040

<b>Prior Code §</b>	<b>Herein</b>	<b>Prior Code §</b>	<b>Herein</b>
3604	2.52.050	4113	Repealed by 229
3605	2.52.060	4114	9.16.010
3606	2.52.070	4115	9.16.020
3607	2.52.080	4116	9.16.030
3608	2.52.090	4117	9.16.040
3609	2.52.100	4118	9.16.050
3700	10.12.010	4119	9.16.060
3701	10.12.020	4120	9.16.070
3702	10.12.030	4125	9.04.040
3703	10.12.040	4126	9.04.050
3704	10.12.050	4127	9.04.060
3705	10.12.060	4128	9.04.070
3706	10.12.070	4129	9.04.080
3707	10.12.080	4130	9.04.090
3708	10.12.090	4135	9.16.050
3709	10.12.100	4136	9.16.090
3710	10.12.110	4137	9.12.010
3711	10.12.120	4138	9.12.020
3712	10.12.130	4139	9.12.030
3713	10.12.140	4200	8.24.010
3714	10.12.150	4201	8.24.020
3715	10.12.160	4202	8.24.030
3716	10.12.170	4203	8.24.040
3901	3.32.070	4204	8.24.050
Article IV		4205	8.24.060
4100	9.04.010	4206	8.24.070
4101	9.08.010	4300	8.28.010
4102	9.08.020	4301	8.28.020
4103	9.04.020	4302	8.28.030
4104	9.08.030	4303	8.28.040
4105	9.08.040	4304	8.28.050
4106	9.08.050	4305	8.28.060
4107	9.08.060	4306	8.28.070
4108	9.08.070	4307	8.28.080
4109	9.04.030	4308	8.28.090
4110	9.08.080	4309	8.28.100
4111	Reserved	4400	10.16.010
4111.5	9.08.090	4401	10.16.020
4112	Reserved	4410	10.16.030



<b>Prior Code §</b>	<b>Herein</b>	<b>Prior Code §</b>	<b>Herein</b>
4411	10.16.040	4800	8.08.010
4412	10.16.050	4801	8.08.020
4413	10.16.060	4802	8.08.030
4420	10.16.070	4803	8.08.040
4421	10.16.080	4804	8.08.050
4422	10.16.090	4805	8.08.060
4423	10.16.100	4806	8.08.070
4424	10.16.110	4807	8.08.080
4425	10.16.120	4808	8.08.090
4426	10.16.130	4809	8.08.100
4427	10.16.140	4810	8.08.110
4428	10.16.150	4811	8.08.120
4501	5.12.010	4812	8.08.130
4502	5.12.020	4813	8.08.140
4503	5.12.030	4814	8.08.150
4504	5.12.040	4815	8.08.160
4505	5.12.050	4816	8.08.170
4506	5.12.060	4900	8.20.010
4507	5.12.070	4901	8.20.020
4508	5.12.080	4902	8.20.030
4509	5.12.090	4903	8.20.040
4510	5.12.100	4904	8.20.050
4511	5.12.110	4905	8.20.060
4512	5.12.120	4906	8.20.070
4513	5.12.130	4907	8.20.080
4600	12.08.010	4908	8.20.090
4601	12.08.020	4909	8.20.100
4602	9.20.020	4910	8.20.110
4603	9.20.030	4911	8.20.120
4604	9.20.040	4912	8.20.130
4605	9.20.050	4913	8.20.140
4606	9.20.060	4914	8.20.150
4607	9.20.070	4915	8.20.160
4625	12.08.020	4916	8.20.170
4626	12.08.020	4917	8.20.180
4627	12.08.030	4918	8.20.190
4627.5	12.08.030	4919	8.20.200
4628	12.08.030	Article V	
4629	12.08.030	5100	8.04.010

<b>Prior Code §</b>	<b>Herein</b>	<b>Prior Code §</b>	<b>Herein</b>
5110	8.04.020	5246	8.32.360
5111	8.04.030	5247	8.32.370
5112	8.04.040	5248	8.32.380
5130	8.04.050	5249	8.32.390
5200	8.32.010	5250	8.32.400
5201	8.32.020	5251	8.32.410
5202	8.32.030	5252	8.32.420
5203	8.32.040	5253	8.32.430
5204	8.32.050	5254	8.32.440
5205	8.32.060	5260	8.32.450
5206	8.32.070	5261	8.32.460
5207	8.32.080	5262	8.32.470
5208	8.32.090	5263	8.32.480
5209	8.32.100	5264	8.32.490
5210	8.32.110	5265	8.32.500
5211	8.32.120	5266	8.32.510
5212	8.32.130	5267	8.32.520
5213	8.32.140	5268	8.32.530
5214	8.32.150	5269	8.32.540
5220	8.32.160	5270	8.32.550
5221	8.32.170	5271	8.32.560
5222	8.32.180	5280	8.32.570
5223	8.32.190	5281	8.32.580
5224	8.32.200	5282	8.32.590
5225	8.32.210	5283	8.32.600
5226	8.32.220	5284	8.32.610
5227	8.32.230	5285	8.32.620
5228	8.32.240	5286	8.32.630
5229	8.32.250	5287	8.32.640
5230	8.32.260	5288	8.32.650
5231	8.32.270	5289	8.32.660
5232	8.32.280	5290	8.32.670
5233	8.32.290	5291	8.32.680
5240	8.32.300	5292	8.32.690
5241	8.32.310	5293	8.32.700
5242	8.32.320	5400	13.04.010
5243	8.32.330	5401	13.04.020
5244	8.32.340	5402	13.04.030
5245	8.32.350	5403	13.04.040

<b>Prior Code §</b>	<b>Herein</b>
5404	13.04.050
5405	13.04.060
5406	13.04.070
5407	13.04.080
5408	13.04.090
5409	13.04.100
5409.5	13.04.110
5410	13.04.120
5411	13.04.130
Article VI	
6100	3.20.010
6101	3.20.020
6102	3.20.030
6103	3.20.040
6104	3.20.050
6105	3.20.060
6106	3.20.070
6107	3.20.080
6108	3.20.090
6109	3.20.100
6110	3.20.110
6111	3.20.120
6112	3.20.130
6113	3.20.140
6114	Not codified
6200	3.16.010
6201	3.16.020
6202	3.16.030
6203	3.16.040
6204	3.16.050
6205	3.16.060
6206	3.16.070
6207	3.16.080
6208	3.16.090
6209	3.16.100
6300	5.04.010
6301	5.04.020
6302	5.04.030
6303	5.04.040

<b>Prior Code §</b>	<b>Herein</b>
6304	5.04.050
6305	5.04.060
6306	5.04.070
6307	5.04.080
6308	5.04.090
6309	5.04.100
6310	5.04.110
6311	5.04.120
6312	5.04.130
6313	5.04.140
6314	5.04.150
6315	5.04.160
6325	5.08.010
6326	5.08.020
6400	3.24.010
6401	3.24.020
6402	3.24.030
6403	3.24.040
6404	3.24.050
6405	3.24.060
6406	3.24.070
6407	3.24.080
6408	3.24.090
6409	3.24.100
6410	3.24.110
6411	3.24.120
6412	3.24.130
6413	3.24.140
6500	3.28.010
6501	3.28.020
6502	3.28.030
6503	3.28.040
6504	3.28.050
6505	3.28.060
6506	3.28.070
6507	3.28.080
6508	3.28.090
6509	3.28.100
6510	3.28.110

Prior Code §	Herein	Prior Code §	Herein
6511	3.28.120	6719	5.16.180
6512	3.28.130	6720	5.16.190
6513	3.28.140	6721	5.16.200
6514	3.28.150	6722	Not codified
6515	3.28.160	6723	5.16.210
6516	3.28.170	6801	3.12.010
6517	3.28.180	6802	3.12.020
6600	Repealed by 282	6803	3.12.030
6601	Repealed by 282	6804	3.12.040
6602	Repealed by 282	6805	3.12.050
6603	Repealed by 282	6806	3.12.060
6604	Repealed by 282	6807	3.12.070
6605	Repealed by 282	6808	3.12.080
6606	Repealed by 282	6809	3.12.090
6607	Repealed by 282	6810	3.12.100
6608	Repealed by 282	6811	3.12.110
6609	Repealed by 282	6812	3.12.120
6610	Repealed by 282	6813	3.12.130
6611	Repealed by 282	Article VII	
6612	Repealed by 282	7100	12.04.010
6700	5.16.010	7101	12.04.020
6701	5.16.020	7200	13.12.010
6702	5.16.030	7201	13.12.020
6703	5.16.040	7202	13.12.030
6704	5.16.050	7203	13.12.040
6705	5.16.060	7204	13.12.050
6706	5.16.070	7205	13.12.060
6707	5.16.080	7206	13.12.070
6708	5.16.090	7207	13.12.080
6709	Repealed by 74	7208	13.12.090
6710	5.16.100	7209	13.12.100
6711	5.16.110	7210	13.12.110
6712	Repealed by 115U	7211	13.12.120
6713	5.16.120	Article VIII	
6714	5.16.130	8100	15.04.010
6715	5.16.140	8101	15.04.020
6716	5.16.150	8102	15.04.030
6717	5.16.160	8200	15.08.010
6718	5.16.170	8201	15.08.020

<b>Prior Code §</b>	<b>Herein</b>	<b>Prior Code §</b>	<b>Herein</b>
8202	15.08.030	9220	17.10.010
8300	15.12.010	9221	17.10.020
8301	15.12.020	9222	17.10.030
8302	15.12.030	9223	17.10.040
8303	15.12.040	9224	17.10.050
8304	15.12.050	9230	17.12.010
8400	15.16.010	9231	17.12.020
8401	15.16.020	9232	17.12.030
8402	15.16.030	9233	17.12.040
8403	15.16.040	9234	17.12.050
Article IX		9235	17.12.060
9100	17.02.010	9236.1	17.14.010
9101	17.02.020	9236.2	17.14.020
9102	17.02.030	9236.3	17.14.030
9110	17.02.040	9236.4	17.14.040
9111	17.04.010	9236.5	17.14.050
9112	17.04.020	9236.6	17.14.060
9113	17.04.030	9240	17.16.010
9114	17.04.040	9241	17.16.020
9115	17.04.050	9242	17.16.030
9116	17.04.060	9243	17.16.040
9117	17.04.070	9245	17.18.010
9118	17.04.080	9246	17.18.020
9119—9120	Repealed by 127	9247	17.18.030
9122	17.04.090	9248	17.18.040
9123	17.04.100	9249.1	17.20.010
9200	17.06.010	9249.2	17.20.020
9201	17.06.020	9249.3	17.20.030
9202	17.06.030	9249.4	17.20.040
9203	17.06.040	9249.5	17.20.050
9204	Reserved	9250	17.22.010
9205	17.06.050	9251	17.22.020
9210	17.08.010	9252	17.22.030
9211	17.08.020	9253	17.22.040
9212	17.08.030	9254	17.22.050
9213	17.08.040	9260	17.24.010
9214	17.08.050	9261	17.24.020
9215	17.42.010	9262	17.24.030
9216	17.42.020	9263	17.24.040

<b>Prior Code §</b>	<b>Herein</b>
9264	17.26.010
9265	17.26.020
9266	17.26.030
9267	17.26.040
9269.1	17.28.010
9269.2	17.28.020
9269.3	17.28.030
9269.4	17.28.040
9270	17.30.010
9271	17.30.020
9272	17.30.030
9273	17.30.040
9275	17.32.010
9276	17.32.020
9277	17.32.030
9280	17.34.010
9281	17.34.020
9282	17.34.030
9283	17.34.040
9285	17.36.010
9286	17.36.020
9287	17.36.030
9288	17.36.040
9290	17.38.010
9291	17.38.020
9292	17.38.030
9293	17.38.040
9300	17.40.010
9301	17.40.020
9302	17.40.030
9303	17.40.040
9304	17.40.050
9305	17.40.060
9306	17.40.070
9307	17.40.080
9308	17.40.090
9309	17.40.100
9310	17.44.010—17.44.070
9320	17.46.010

<b>Prior Code §</b>	<b>Herein</b>
9321	17.46.020
9322	17.46.030
9323	17.46.040
9324	17.46.050
9325	17.46.060
9326	17.46.070
9327	17.46.080
9328	17.46.090
9330	17.48.010
9331	17.48.020
9332	17.48.030
9333	17.48.040
9334	17.48.050
9335	17.48.060
9340	17.50.010
9341	17.50.020
9342	17.50.030
9350	17.52.010
9351	17.52.020
9352	17.52.030
9353	17.52.040
9354	17.52.050
9355	17.52.060
9356	17.52.070
9357	17.52.080
9380	17.54.010
9381	17.54.020
9382	17.54.030
9383	17.54.040
9384	17.54.050
9385	17.54.060
9410	17.56.010
9411	17.56.020
9412	17.56.030
9413	17.56.040
9414	17.56.050
9415	17.56.060
9416	17.56.070
9417	17.56.080

<b>Prior Code §</b>	<b>Herein</b>	<b>Prior Code §</b>	<b>Herein</b>
9530	17.58.010	9490	17.68.010
9531	17.58.020	9491	17.68.020
9532	17.58.030	9492	17.68.030
9533	17.58.040	9493	17.68.040
9534	17.58.050	9494	17.68.050
9535	17.58.060	9495	17.68.060
9536	17.58.070	9496	17.68.070
9537	17.58.080	9497	17.68.080
9400	17.60.010	9500	17.70.010
9401	17.60.020	9501	17.70.020
9402	17.60.030	9502	17.70.030
9403	17.60.040	9503	17.70.040
9404	17.60.050	9504	Repealed
9405	17.60.060	9505	17.70.060
9420	17.62.010	9510	17.64.010
9421	17.62.020	9511	17.64.020
9422	17.62.030	9512	17.64.030
9423	17.62.040	9513	17.64.040
9440	17.66.010	9514	17.64.050
9441	17.66.020	9515	17.64.060
9442	17.66.030	9516	17.64.070
9443	17.66.040	9517	17.64.080
9444	17.66.050	9518	17.64.090
9445	17.66.060	9519	17.64.100
9446	Repealed	9520	17.64.110
9447	17.66.080	9521	17.64.120
9448	17.66.090	9522	17.64.130
9449	17.66.100	9523	17.64.140
9450	17.66.110	9524	17.64.150
9460	17.72.010	9550	17.74.010
9461	17.72.020	9551	17.74.020
9462	17.72.030	9552	17.74.030
9463	17.72.040	9553	17.74.040
9464	17.72.050	9554	17.74.050
9465	17.72.060	9560	17.04.110
9466	17.72.070	9561	17.04.120
9467	17.72.080	9562	17.04.130
9468	17.72.090	9563	17.04.140
9469	17.72.100	9564	17.04.150

<b>Prior Code §</b>	<b>Herein</b>
9570	17.04.160
9571	17.04.170
9572	17.04.180
9573	17.04.190
9574	17.04.200
9575	17.04.210
9576	17.04.220
9577	17.04.230
9600—9605	17.02.050
9606	17.02.060
Article X	
10101	16.04.020
10102—	16.04.030
10104	
10200	16.08.010
10201	16.08.020
10202	16.08.030
10203	16.08.040
10204	16.08.050
10205	16.08.060
10206	16.08.070
10207	16.08.080
10208	16.08.090
10209	16.08.100
10210	16.08.110
10300	16.12.010
10301	16.12.020
10302	16.12.030
10303	16.12.040
10304	16.12.050
10305	16.12.060
10306	16.12.070
10307	16.12.080
10308	16.12.090
10309	16.12.100
10310	16.12.110
10311	16.12.120
10312	16.12.130
10313	16.12.140

<b>Prior Code §</b>	<b>Herein</b>
10314	16.12.150
10315	16.12.160
10316	16.12.170
10400	16.20.010
10401	16.20.020
10402	16.20.030
10403	16.20.040
10404	16.20.050
10405	16.20.060
10406	16.20.070
10407	16.20.080
10408	16.20.090
10409	16.20.100
10410	16.20.110
10500	16.16.010
10501	16.16.020
10502	16.16.030
10503	16.16.040
10504	16.16.050
10505	16.16.060
10506	16.16.070
10507	16.16.080
10508	Reserved
10509	16.16.090
10510	16.16.100
10600	16.28.010
10601	16.28.020
10602	16.28.030
10603	16.28.040
10604	16.32.010
10605	16.32.020
10606	16.08.120
10607	16.08.120
10701	16.36.010
10702	16.36.020
10703	16.36.030
10704	16.36.040
10705	16.36.050



<b>Prior Code §</b>	<b>Herein</b>
10706	16.36.060
10707	16.36.070
10800	16.24.010
10801	16.24.020
10802	16.24.030
10803	16.24.040
10804	16.24.050

**California Government Code  
Sections 54950-54962**

*As Amended January 1, 2000*

54950. In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

54950.5. This chapter shall be known as the Ralph M. Brown Act.

54951. As used in this chapter, "local agency" means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

54952. As used in this chapter, "legislative body" means:

(a) The governing body of a local agency or any other local body created by state or federal statute.

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body which are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

(c) (1) A board, commission, committee, or other multimember body that governs a private corporation or entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation or entity.

(B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.

(2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission, committee, or other multimember body that governs a private corporation or entity that receives funds from a local agency and, as of February 9, 1996, has a member of the legislative body of the local agency as a full voting member of the governing body of that private corporation or entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.

(d) The lessee of any hospital the whole or part of which is first leased pursuant to subdivision (p) of Section 32121 of the Health and Safety Code after January 1, 1994, where the lessee exercises any material authority of a legislative body of a local agency delegated to it by that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

**Intent**

**Title**

**"local agency": public agencies**

**"legislative body": governing body**

**body created by formal action**

**private corporation: exercises  
delegated authority**

**private corporation: receives public  
funds/ appointed legislative body  
member on its governing board**

**status change from voting member  
to nonvoting member: public meeting  
requirements**

**lessee of a hospital**

**newly-elected members****"meeting" defined****majority cannot use direct communication,  
personal intermediaries or  
technological devices****exceptions:****1. individual contacts****2. conferences****3. community meetings****4. another body of the local agency****5. social or ceremonial events****6. standing committee meeting****"action taken"**

54952.1. Any person elected to serve as a member of a legislative body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this chapter and shall be treated for purposes of enforcement of this chapter as if he or she has already assumed office.

54952.2. (a) As used in this chapter, "meeting" includes any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.

(b) Except as authorized pursuant to Section 54953, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body is prohibited.

(c) Nothing in this section shall impose the requirements of this chapter upon any of the following:

(1) Individual contacts or conversations between a member of a legislative body and any other person.

(2) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body of the local agency, or at an open and noticed meeting of a legislative body of another local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(5) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(6) The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

54952.6. As used in this chapter, "action taken" means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

## California Government Code

54952.7. A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body and any person elected to serve as a member of the legislative body who has not assumed the duties of office. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body.

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) No legislative body shall take action by secret ballot, whether preliminary or final.

54953.1. The provisions of this chapter shall not be construed to prohibit the members of the legislative body of a local agency from giving testimony in private before a grand jury, either as individuals or as a body.

54953.3. A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

54953.5. (a) Any person attending an open and public meeting of a legislative body of a local agency shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the legislative body of the local agency that the recording cannot continue without

**copies of the Brown Act for members, appointees**

**all meetings must be open and public**

**video teleconferencing**

**public access**

**no secret ballots**

**grand jury testimony**

**public cannot be required to register to attend meeting**

**voluntary registration**

**public can tape meetings**

**recordings are public record**

noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but, notwithstanding Section 34090, may be erased or destroyed 30 days after the taping or recording. Any inspection of a video or tape recording shall be provided without charge on a video or tape player made available by the local agency.

**broadcast of open meetings**

54953.6. No legislative body of a local agency shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

**local agencies can impose stricter requirements on themselves**

54953.7. Notwithstanding any other provision of law, legislative bodies of local agencies may impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in this chapter. In addition thereto, an elected legislative body of a local agency may impose such requirements on those appointed legislative bodies of the local agency of which all or a majority of the members are appointed by or under the authority of the elected legislative body.

**regular meetings set by ordinance or other rule**

54954. (a) Each legislative body of a local agency, except for advisory committees or standing committees, shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings. Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting pursuant to subdivision (a) of Section 54954.2, shall be considered for purposes of this chapter as regular meetings of the legislative body.

**meetings must be within local agency's territory**

(b) Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction, except to do any of the following:

**exceptions**

- (1) Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local agency is a party.
- (2) Inspect real or personal property which cannot be conveniently brought within the boundaries of the territory over which the local agency exercises jurisdiction provided that the topic of the meeting is limited to items directly related to the real or personal property.
- (3) Participate in meetings or discussions of multiagency significance that are outside the boundaries of a local agency's jurisdiction. However, any meeting or discussion held pursuant to this subdivision shall take place within the jurisdiction of one of the participating local agencies and be noticed by all participating agencies as provided for in this chapter.
- (4) Meet in the closest meeting facility if the local agency has no meeting facility within the boundaries of the territory over which the local agency exercises jurisdiction, or at the principal office of the local agency if that office is located outside the territory over which the agency exercises jurisdiction.
- (5) Meet outside their immediate jurisdiction with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.

(6) Meet outside their immediate jurisdiction if the meeting takes place in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.

(7) Visit the office of the local agency's legal counsel for a closed session on pending litigation held pursuant to Section 54956.9, when to do so would reduce legal fees or costs.

(c) Meetings of the governing board of a school district shall be held within the district except under the circumstances enumerated in subdivision (b), or to do any of the following:

(1) Attend a conference on nonadversarial collective bargaining techniques.

(2) Interview members of the public residing in another district with reference to the trustees' potential employment of the superintendent of that district.

(3) Interview a potential employee from another district.

(d) Meetings of a joint powers authority shall occur within the territory of at least one of its member agencies, or as provided in subdivision (b). However, a joint powers authority which has members throughout the state may meet at any facility in the state which complies with the requirements of Section 54961.

(e) If, by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings shall be held for the duration of the emergency at the place designated by the presiding officer of the legislative body or his or her designee in a notice to the local media that have requested notice pursuant to Section 54956, by the most rapid means of communication available at the time.

**54954.1.** Any person may request that a copy of the agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. Upon receipt of the written request, the legislative body or its designee shall cause the requested materials to be mailed at the time the agenda is posted pursuant to Section 54954.2 and 54956 or upon distribution to all, or a majority of all, of the members of a legislative body, whichever occurs first. Any request for mailed copies of agendas or agenda packets shall be valid for the calendar year in which it is filed, and must be renewed following January 1 of each year. The legislative body may establish a fee for mailing the agenda or agenda packet, which fee shall not exceed the cost of providing the service. Failure of the requesting person to receive the agenda or agenda packet pursuant to this section shall not constitute grounds for invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.

**54954.2.** (a) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.

No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other

**mailed notice**

**regular meeting agendas:  
72-hour notice and posting**

**action on non-agenda items**

**item continued from meeting  
less than 5 days earlier**

**public opportunity to address  
the legislative body**

**reasonable constraints on public testimony**

**public criticism of policies,  
procedures, programs or services**

**reimbursement of costs**

resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

54954.3. (a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

54954.4. (a) The Legislature hereby finds and declares that Section 12 of Chapter 641 of the Statutes of 1986, authorizing reimbursement to local agencies and school districts for costs mandated by the state pursuant to that act, shall be interpreted strictly. The intent of the Legislature is to provide reimbursement for only those costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986.

(b) In this regard, the Legislature directs all state employees and officials involved in reviewing or authorizing claims for reimbursement, or otherwise participating in the

reimbursement process, to rigorously review each claim and authorize only those claims, or parts thereof, which represent costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986 and for which complete documentation exists. For purposes of Section 54954.2, costs eligible for reimbursement shall only include the actual cost to post a single agenda for any one meeting.

(c) The Legislature hereby finds and declares that complete, faithful, and uninterrupted compliance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) is a matter of overriding public importance. Unless specifically stated, no future Budget Act, or related budget enactments, shall, in any manner, be interpreted to suspend, eliminate, or otherwise modify the legal obligation and duty of local agencies to fully comply with Chapter 641 of the Statutes of 1986 in a complete, faithful, and uninterrupted manner.

54954.5. For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:

## LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

## CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

## CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION

(Subdivision (a) of Section 54956.9)

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers)

—or—

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

## CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: (Specify number of potential cases)

(In addition to the information noticed above, the agency may be required to provide

**"safe harbors" for closed session agendas**

**license and permit determinations**

**real estate negotiations**

**existing litigation**

**anticipated litigation**



## California Government Code

additional information on the agenda or in an oral statement prior to the closed session pursuant to subparagraphs (B) to (E), inclusive, of paragraph (3) of subdivision (b) of Section 54956.9.)

Initiation of litigation pursuant to subdivision (c) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

### liability claims

#### LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

### threats to public services

#### THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with: (Specify name of law enforcement agency and title of officer)

### public employees

#### PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

#### PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

#### PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

#### PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

### labor negotiation conference

#### CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

—or—

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

### multijurisdictional drug law enforcement agency

#### CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

## California Government Code

### REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

### HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to Section 54956.86:

### CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to Section 54956.86.)

**54954.6.** (a) (1) Before adopting any new or increased general tax or any new or increased assessment, the legislative body of a local agency shall conduct at least one public meeting at which local officials shall allow public testimony regarding the proposed new or increased general tax or new or increased assessment in addition to the noticed public hearing at which the legislative body proposes to enact or increase the general tax or assessment.

For purposes of this section, the term "new or increased assessment" does not include any of the following:

(A) A fee that does not exceed the reasonable cost of providing the services, facilities, or regulatory activity for which the fee is charged.

(B) A service charge, rate, or charge, unless a special district's principal act requires the service charge, rate, or charge to conform to the requirements of this section.

(C) An ongoing annual assessment if it is imposed at the same or lower amount as any previous year.

(D) An assessment that does not exceed an assessment formula or range of assessments previously specified in the notice given to the public pursuant to subparagraph (G) of paragraph (2) of subdivision (c) and that was previously adopted by the agency or approved by the voters in the area where the assessment is imposed.

(E) Standby or immediate availability charges.

(2) The legislative body shall provide at least 45 days' public notice of the public hearing at which the legislative body proposes to enact or increase the general tax or assessment. The legislative body shall provide notice for the public meeting at the same time and in the same document as the notice for the public hearing, but the meeting shall occur prior to the hearing.

(b) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased general tax shall be accomplished by placing a display advertisement of at least one-eighth page in a newspaper of general circulation for three weeks pursuant to Section 6063 and by a first-class mailing to those interested parties who have filed a written request with the local agency for mailed notice of public meetings or hearings on new or increased general taxes. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the first publication of the joint notice pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. Notwithstanding paragraph (2) of

**hospital exceptions**

**hearings**

**federal law**

**tax or assessment hearings**

**new or increased taxes**

subdivision (a), the joint notice need not include notice of the public meeting after the meeting has taken place. The public hearing pursuant to subdivision (a) shall take place no earlier than 45 days after the first publication of the joint notice pursuant to this subdivision. Any written request for mailed notices shall be effective for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(2) The notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The amount or rate of the tax. If the tax is proposed to be increased from any previous year, the joint notice shall separately state both the existing tax rate and the proposed tax rate increase.

(B) The activity to be taxed.

(C) The estimated amount of revenue to be raised by the tax annually.

(D) The method and frequency for collecting the tax.

(E) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(F) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the tax.

#### **new or increased assessments**

(c) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased assessment on real property shall be accomplished through a mailing, postage prepaid, in the United States mail and shall be deemed given when so deposited. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the joint mailing pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. The envelope or the cover of the mailing shall include the name of the local agency and the return address of the sender. This mailed notice shall be in at least 10-point type and shall be given to all property owners proposed to be subject to the new or increased assessment by a mailing by name to those persons whose names and addresses appear on the last equalized county assessment roll or the State Board of Equalization assessment roll, as the case may be.

(2) The joint notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The estimated amount of the assessment per parcel. If the assessment is proposed to be increased from any previous year, the joint notice shall separately state both the amount of the existing assessment and the proposed assessment increase.

(B) A general description of the purpose or improvements that the assessment will fund.

(C) The address to which property owners may mail a protest against the assessment.

(D) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the assessment.

(E) A statement that a majority protest will cause the assessment to be abandoned if the assessment act used to levy the assessment so provides. Notice shall also state the percentage of protests required to trigger an election, if applicable.

(F) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(G) A proposed assessment formula or range as described in subparagraph (D) of paragraph (1) of subdivision (a) if applicable and that is noticed pursuant to this section.

(3) Notwithstanding paragraph (1), in the case of an assessment that is proposed exclusively for operation and maintenance expenses imposed throughout the entire local agency, or exclusively for operation and maintenance assessments proposed to be levied on 50,000 parcels or more, notice may be provided pursuant to this subdivision or pursuant to paragraph (1) of subdivision (b) and shall include the estimated amount of the assessment of various types, amounts, or uses of property and the information required by subparagraphs (B) to (G), inclusive, of paragraph (2) of subdivision (c).

(4) Notwithstanding paragraph (1), in the case of an assessment proposed to be levied pursuant to Part 2 (commencing with Section 22500) of Division 2 of the Streets and Highways Code by a regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of, or pursuant to Division 26 (commencing with Section 35100) of, the Public Resources Code, notice may be provided pursuant to paragraph (1) of subdivision (b).

(d) The notice requirements imposed by this section shall be construed as additional to, and not to supersede, existing provisions of law, and shall be applied concurrently with the existing provisions so as to not delay or prolong the governmental decisionmaking process.

(e) This section shall not apply to any new or increased general tax or any new or increased assessment that requires an election of either of the following:

(1) The property owners subject to the assessment.

(2) The voters within the local agency imposing the tax or assessment.

(f) Nothing in this section shall prohibit a local agency from holding a consolidated meeting or hearing at which the legislative body discusses multiple tax or assessment proposals.

(g) The local agency may recover the reasonable costs of public meetings, public hearings, and notice required by this section from the proceeds of the tax or assessment. The costs recovered for these purposes, whether recovered pursuant to this subdivision or any other provision of law, shall not exceed the reasonable costs of the public meetings, public hearings, and notice.

(h) Any new or increased assessment that is subject to the notice and hearing provisions of Article XIII C or XIII D of the California Constitution is not subject to the notice and hearing requirements of this section.

**54955.** The legislative body of a local agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the legislative body may declare the meeting adjourned to a stated time and place and he shall cause a written notice of the adjournment to be given in the same manner as provided in Section 54956 for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any

**adjourned meetings**

**continued hearings**

meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

54955.1. Any hearing being held, or noticed or ordered to be held, by a legislative body of a local agency at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the legislative body in the same manner and to the same extent set forth in Section 54955 for the adjournment of meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

**special meetings**

54956. A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

**emergency meetings**

54956.5. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.

For purposes of this section, "emergency situation" means any of the following:

- (a) Work stoppage or other activity which severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.
- (b) Crippling disaster which severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

However, each local newspaper of general circulation and radio or television station which has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting by telephone and all telephone numbers provided in the most recent request of such newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

Notwithstanding Section 54957, the legislative body shall not meet in closed session during a meeting called pursuant to this section.

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All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

54956.6. No fees may be charged by the legislative body of a local agency for carrying out any provision of this chapter, except as specifically authorized by this chapter.

54956.7. Whenever a legislative body of a local agency determines that it is necessary to discuss and determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license, the legislative body may hold a closed session with the applicant and the applicant's attorney, if any, for the purpose of holding the discussion and making the determination. If the legislative body determines, as a result of the closed session, that the issuance or renewal of the license should be denied, the applicant shall be offered the opportunity to withdraw the application. If the applicant withdraws the application, no record shall be kept of the discussions or decisions made at the closed session and all matters relating to the closed session shall be confidential. If the applicant does not withdraw the application, the legislative body shall take action at the public meeting during which the closed session is held or at its next public meeting denying the application for the license but all matters relating to the closed session are confidential and shall not be disclosed without the consent of the applicant, except in an action by an applicant who has been denied a license challenging the denial of the license.

54956.8. Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate.

For purposes of this section, negotiators may be members of the legislative body of the local agency.

For purposes of this section, "lease" includes renewal or renegotiation of a lease.

Nothing in this section shall preclude a local agency from holding a closed session for discussions regarding eminent domain proceedings pursuant to Section 54956.9.

54956.86. Notwithstanding any other provision of this chapter, a legislative body of a local agency which provides services pursuant to Section 14087.3 of the Welfare and Institutions Code may hold a closed session to hear a charge or complaint from a member enrolled in its health plan if the member does not wish to have his or her name, medical status, or other information that is protected by federal law publicly disclosed. Prior to holding a closed session pursuant to this section, the legislative body shall inform the member, in writing, of his or her right to have the charge or complaint heard in an open session rather than a closed session.

54956.87. (a) Notwithstanding any other provision of this chapter, the records of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act

**no fees except those specifically authorized**

**closed sessions: license applicants  
with criminal records**

**closed sessions: conference with  
negotiator over real property**

**closed sessions: health plan  
charge or complaint**

**disclosure exemption for health plan records**

## California Government Code

of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors, whether paper records, records maintained in the management information system, or records in any other form, that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulae or calculations for these payments, and contract negotiations with providers of health care for alternative rates are exempt from disclosure for a period of three years after the contract is fully executed. The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted to the board of supervisors shall be subject to this same exemption.

(b) Notwithstanding any other provision of law, the governing board of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors may order that a meeting held solely for the purpose of discussion or taking action on health plan trade secrets, as defined in subdivision (c) of Section 32106 of the Health and Safety Code, shall be held in closed session. The requirements of making a public report of action taken in closed session, and the vote or abstention of every member present, may be limited to a brief general description without the information constituting the trade secret.

(c) The governing board may delete the portion or portions containing trade secrets from any documents that were finally approved in the closed session held pursuant to subdivision (b) that are provided to persons who have made the timely or standing request.

(d) Nothing in this section shall be construed as preventing the governing board from meeting in closed session as otherwise provided by law.

(e) The provisions of this section shall not prevent access to any records by the Joint Legislative Audit Committee in the exercise of its powers pursuant to Article 1 (commencing with Section 10500) of Chapter 4 of Part 2 of Division 2 of Title 2. The provisions of this section also shall not prevent access to any records by the Department of Corporations in the exercise of its powers pursuant to Article 1 (commencing with Section 1340) of Chapter 2.2 of Division 2 of the Health and Safety Code.

### closed session: pending litigation

54956.9. Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter.

For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

### litigation formally initiated

(a) Litigation, to which the local agency is a party, has been initiated formally.

## significant exposure to litigation

### meeting to decide if closed meeting is authorized

(b) (1) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.

(2) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (1) of this subdivision.

(3) For purposes of paragraphs (1) and (2), "existing facts and circumstances" shall consist only of one of the following:

(A) Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(B) Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(C) The receipt of a claim pursuant to the Tort Claims Act or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection pursuant to Section 54957.5.

(D) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.

(E) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body so long as the official or employee of the local agency receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting, which record shall be available for public inspection pursuant to Section 54957.5. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(F) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(c) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state on the agenda or publicly announce the subdivision of this section that authorizes the closed session. If the session is closed pursuant to subdivision (a), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

A local agency shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the local agency is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

## initiating litigation



**closed session: claims  
against joint powers agencies**

54956.95. (a) Nothing in this chapter shall be construed to prevent a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, for purposes of insurance pooling, or a local agency member of the joint powers agency, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the joint powers agency or a local agency member of the joint powers agency.

(b) Nothing in this chapter shall be construed to prevent the Local Agency Self-Insurance Authority formed pursuant to Chapter 5.5 (commencing with Section 6599.01) of Division 7 of Title 1, or a local agency member of the authority, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the authority or a local agency member of the authority.

(c) Nothing in this section shall be construed to affect Section 54956.9 with respect to any other local agency.

**closed sessions: threats to  
public buildings or to public access**

54957. Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions with the Attorney General, district attorney, sheriff, or chief of police, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities, or from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

The legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. Nothing in this section shall limit local officials' ability to hold closed session meetings pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code. Closed sessions held pursuant to this section shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

**public reports on  
closed session actions, votes**

54957.1. (a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

**real estate negotiations**

(1) Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is final, as specified below:

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(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9 shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) Approval given to its legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as specified below:

(A) If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and identify the substance of the agreement.

(4) Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to Section 54957 shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(6) Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(b) Reports that are required to be made pursuant to this section may be made orally or in writing. The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 54954.1 or 54956, if the requester

**pending litigation**

**joint powers authority claims**

**personnel actions**

**labor negotiations**

**copies of closed session documents**

is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(c) The documentation referred to in paragraph (b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

(e) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this section.

**closed session minute book**

**writings distributed to a majority  
of a body are public records**

54957.2. (a) The legislative body of a local agency may, by ordinance or resolution, designate a clerk or other officer or employee of the local agency who shall then attend each closed session of the legislative body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available only to members of the legislative body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the local agency lies. Such minute book may, but need not, consist of a recording of the closed session.

(b) An elected legislative body of a local agency may require that each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body keep a minute book as prescribed under subdivision (a).

**closed session minute book**

54957.5. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, 6254.7, or 6254.22.

(b) Writings that are public records under subdivision (a) and that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person.

(c) Nothing in this chapter shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6257.

(d) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). Nothing in this chapter shall be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

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54957.6. (a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its designated representatives.

Closed sessions of a legislative body of a local agency, as permitted in this section, shall be for the purpose of reviewing its position and instructing the local agency's designated representatives.

Closed sessions, as permitted in this section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

Closed sessions with the local agency's designated representative regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of an agency's available funds and funding priorities, but only insofar as these discussions relate to providing instructions to the local agency's designated representative.

Closed sessions held pursuant to this section shall not include final action on the proposed compensation of one or more unrepresented employees.

For the purposes enumerated in this section, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

(b) For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee, but shall not include any elected official, member of a legislative body, or other independent contractors.

54957.7. (a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

(b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

(c) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.

54957.8. Nothing contained in this chapter shall be construed to prevent the legislative body of a multijurisdictional drug law enforcement agency, or an advisory body of a multijurisdictional drug law enforcement agency, from holding closed sessions to discuss the case records of any ongoing criminal investigation of the multijurisdictional drug law enforcement agency or of any party to the joint powers agreement, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.

**closed sessions: meeting with  
representatives on labor negotiations**

**advance announcement  
of closed session items**

**closed session: multijurisdictional  
drug law enforcement agency**

"Multijurisdictional drug law enforcement agency," for purposes of this section, means a joint powers entity formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, which provides drug law enforcement services for the parties to the joint powers agreement.

The Legislature finds and declares that this section is within the public interest, in that its provisions are necessary to prevent the impairment of ongoing law enforcement investigations, to protect witnesses and informants, and to permit the discussion of effective courses of action in particular cases.

**willful interruptions of meetings**

54957.9. In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

**provisions apply not  
withstanding conflicts of law**

54958. The provisions of this chapter shall apply to the legislative body of every local agency notwithstanding the conflicting provisions of any other state law.

**misdemeanor violations of the Act**

54959. Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

**civil actions to prevent violations**

54960. (a) The district attorney or any interested person may commence an action by mandamus, injunction or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to actions or threatened future action of the legislative body, or to determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the legislative body to tape record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 54956.7, 54956.8, 54956.9, 54956.95, 54957, or 54957.6, order the legislative body to tape record its closed sessions and preserve the tape recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The tapes shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the tape is sought by either the district attorney or the plaintiff in a civil action pursuant to Section 54959, 54960, or 54960.1 alleging that a violation of this chapter has occurred in a closed session which has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency which has custody and control of the tape recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

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(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency which has custody and control of the recording.

(ii) An affidavit which contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this chapter, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications which are protected by the attorney-client privilege.

54960.1. (a) The district attorney or any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956 is null and void under this section. Nothing in this chapter shall be construed to prevent a legislative body from curing or correcting an action challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the district attorney or interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation.

(c) (1) The written demand shall be made within 90 days from the date the action was taken unless the action was taken in an open session but in violation of Section 54954.2, in which case the written demand shall be made within 30 days from the date the action was taken.

(2) Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action.

(3) If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day after the 30-day period to cure or correct expires.

(4) Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, or not to cure or correct, or within 15 days of the expiration of the 30-day period to cure or correct, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(d) An action taken that is alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956 shall not be determined to be null and void if any of the following conditions exist:

action to invalidate

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(1) The action taken was in substantial compliance with Sections 54953, 54954.2, 54954.5, 54954.6, and 54956.

(2) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid other than compensation for services in the form of salary or fees for professional services, upon which a party has, in good faith and without notice of a challenge to the validity of the action, detrimentally relied.

(4) The action taken was in connection with the collection of any tax.

(5) Any person, city, city and county, county, district, or any agency or subdivision of the state alleging noncompliance with subdivision (a) of Section 54954.2, Section 54956, or Section 54956.5, because of any defect, error, irregularity, or omission in the notice given pursuant to those provisions, had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken, if the meeting was noticed pursuant to Section 54954.2, or 24 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54956, or prior to the meeting at which the action was taken if the meeting is held pursuant to Section 54956.5.

(e) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(f) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.

### **court may award attorney fees**

**54960.5.** A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to Section 54960 or 54960.1 where it is found that a legislative body of the local agency has violated this chapter. The costs and fees shall be paid by the local agency and shall not become a personal liability of any public officer or employee of the local agency.

A court may award court costs and reasonable attorney fees to a defendant in any action brought pursuant to Section 54960 or 54960.1 where the defendant has prevailed in a final determination of such action and the court finds that the action was clearly frivolous and totally lacking in merit.

### **meeting sites must be free of discrimination and accessible to disabled**

**54961.** (a) No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in Section 54951.

(b) No notice, agenda, announcement, or report required under this chapter need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

### **no closed meetings except as expressly authorized**

**54962.** Except as expressly authorized by this chapter, or by Sections 1461, 1462, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code as they apply to hospitals, or by any provision of the Education Code pertaining to school districts and community college districts, no closed session may be held by any legislative body of any local agency.